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PART I

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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter XIV—Federal Labor Relations Council and Federal Service Impasses Panel

SUBCHAPTER B—FEDERAL LABOR RELATIONS COUNCIL

PART 2412—NATIONAL CONSULTATION RIGHTS AND TERMINATION OF FORMAL RECOGNITION

Subpart A—National Consultation Rights and Termination of Formal Recognition at the National Level

NATIONAL CONSULTATION RIGHTS

In order to clarify which employees will not be counted in determining eligibility for national consultation rights and on whose behalf a labor organization may not exercise national consultation rights, the term "national exclusive recognition" is substituted for "exclusive recognition" where these words appear in § 2412.2(c) (1) and (2) and § 2412.3(d) (1) and (2). Accordingly, Part 2412 is amended as follows:

1. In § 2412.2 paragraph (c) is revised to read as follows:

§ 2412.2 Requesting; granting; criteria.

* * * * *

(c) In determining whether a labor organization meets the requirements as prescribed in paragraphs (a)(2) and (b)(2) of this section, the following will not be counted:

(1) At the agency level, employees represented by the labor organization under national exclusive recognition granted at the agency level.

(2) At the primary national subdivision level, employees represented by the labor organization under national exclusive recognition granted at the agency level or at that primary national subdivision level.

* * * * *

2. In § 2412.3 paragraph (d) is revised to read as follows:

§ 2412.3 Obligation to consult.

* * * * *

(d) A labor organization which holds national consultation rights may exercise those rights in behalf of all the employees it represents under exclusive recognition in the agency or in the primary national subdivision which has granted those rights except:

(1) At the agency level, the labor organization may not exercise those rights in behalf of employees represented under national exclusive recognition granted at the agency level.

(2) At the primary national subdivision level, the labor organization may not exercise those rights in behalf of employees represented under national exclusive recognition granted at the agency level or at the primary national subdivision level.

(5 U.S.C. 552; E.O. 11491, 34 F.R. 17605, 3 CFR 191, 1969 Comp., as amended by E.O. 11616, 36 F.R. 17319)

This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (12-9-71).

For the Council.

ROBERT E. HAMPTON,
Chairman.

[FR Doc.71-17962 Filed 12-8-71;8:45 am]

Title 7—AGRICULTURE

Chapter III—Animal and Plant Health Service,[1] Department of Agriculture

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Subpart—Citrus Blackfly

EXTENSION OF REGULATED AREA IN TEXAS

Pursuant to section 106 of the Federal Plant Pest Act (7 U.S.C. 150ee), 7 CFR 331.2, notice of existence of emergency and regulations related thereto, with respect to the citrus blackfly (36 F.R. 7508), is hereby amended by changing the introductory portion of the second sentence in paragraph (a) to read as follows:

§ 331.2 Notice of existence of emergency and regulations related thereto.

(a) * * *

Accordingly, the products and articles listed in paragraph (b) of this section shall not be moved interstate from that portion of Cameron County, Tex., bounded by a line beginning at a point in said county where U.S. Highway 281 intersects Carmen Boulevard, thence extending northerly along Carmen Boulevard to its junction with U.S. Highway 83, thence southeasterly along said highway to its intersection with Farm-to-Market Road 511, thence southeasterly and then southerly along said road to its junction with State Highway 4, thence due east along said highway and a projected imaginary line to a point where the imaginary line intersects the Rio Grande River, thence southerly and then westerly along said river to a point directly south of the aforesaid intersection of U.S. Highway 281 and Carmen Boulevard, and thence extending from said point along an imaginary line which, if projected directly north, would intersect the point of beginning at the intersection of U.S. Highway 281 and Carmen Boulevard; unless:

* * * * *

(Sec. 106, 71 Stat. 33, 7 U.S.C. 150ee; 29 F.R. 16210, as amended)

This document shall become effective upon publication in the FEDERAL REGISTER (12-9-71).

This extends the regulated area in Texas because of discoveries of further infestations outside of the area heretofore regulated. This action must be made effective as soon as possible in order to prevent the further spread of the citrus blackfly. Therefore, under the administrative procedure provisions of 5 U.S.C. 533, it is found upon good cause that public participation in rule making in connection with this action is impracticable and contrary to the public interest, and good cause is found for making this action effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of December 1971.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71-17986 Filed 12-8-71;8:47 am]

[1] The functions provided for in the Subpart—Citrus Blackfly, Part 331, Title 7, Code of Federal Regulations, have been transferred from the Agricultural Research Service to the Animal and Plant Health Service (36 F.R. 20707).

Chapter IX—Consumer and Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

[Orange Reg. 69, Amdt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Navel, Temple, Murcott Honey oranges and Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, as hereinafter provided, will tend

to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of early and midseason type oranges grown in Florida.

The recommendation by the committees for less restrictive grade limitations on fresh shipments of certain varieties of oranges during the period December 6 through December 26, 1971, is consistent with the available supply of and current and prospective demand for such fruit by fresh market outlets. The lower grade regulation reflects the internal quality of such oranges which at the present stage of maturity have low solids and the desirability of insuring a continuous supply of fruit of the better quality to consumers, while maximizing returns to producers.

Order. In § 905.536 (Orange Regulation 69; 36 F.R. 20215, 22054, 22666), the provisions of paragraph (a)(1) are amended to read as follows:

§ 905.536 Orange Regulation 69.

(a) * * *

(1) Any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1: *Provided*, That during the period December 6 through December 26, 1971, no handler may ship any oranges, except Navel, Temple, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1, except that such oranges shall meet the minimum external quality requirements prescribed by the Florida No. 1 grade for oranges;

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 3, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17982 Filed 12-8-71;8:47 am]

[Tangerine Reg. 42, Amdt. 3]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the committee established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

The recommendation by the committee for less restrictive size limitations on fresh shipments of tangerines made during the period December 6 through December 19, 1971, is consistent with the available supply of and current and prospective demand for such smaller sizes of tangerines by fresh market outlets. The recommendation is necessary to insure a continuous supply of tangerines of the preferred sizes to consumers and to improve overall returns to producers.

Order. In § 905.537 (Tangerine Regulation 42; 36 F.R. 20215, 22054, 22667, paragraph (a)(2) is amended to read as follows:

§ 905.537 Tangerine Regulation 42.

(a) * * *

(2) Any tangerines, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 3, 1971, to become effective December 6, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-17983 Filed 12-8-71;8:47 am]

[Navel Orange Reg. 243]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.543 Navel Orange Regulation 243.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order of effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 7, 1971.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which

may be handled during the period December 10, through December 16, 1971, are hereby fixed as follows:

(i) District 1: 1,128,000 cartons.

(ii) District 2: 42,589 cartons.

(iii) District 3: 72,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 8, 1971.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–18177 Filed 12–8–71;11:25 am]

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Salable and Reserve Percentages for 1971–72 Crop Year

Pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), hereinafter referred to collectively as the "order", regulating the handling of dried prunes produced in California, the salable and reserve percentages previously established (§ 993.207; 36 F.R. 14724; 22736) for California dried prunes for the 1971–72 crop year are hereby modified to 68 percent and 32 percent, respectively. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act". The modification of the salable and reserve percentages was unanimously recommended by the Prune Administrative Committee.

The salable and reserve percentages originally established for the current 1971–72 crop year, were based on estimates that the 1971 California dried prune crop would be 185,000 tons. The Committee has now estimated that such production will be about 156,800 tons. In addition, the Committee estimated that about 3,000 tons of prunes produced in 1970 were received by handlers during the 1971–72 crop year, and hence subject to the percentages established for that crop year.

The percentages originally established for the 1971–72 crop year were also based on the Committee's previous estimate that the trade demand (i.e., as salable prunes) for 1971 crop prunes would be 109,223 tons, natural condition weight. The Committee now estimates that such trade demand will be 107,539 tons, natural condition weight. Consistent with the Committee's considerations, its current estimates of the 1971 crop and of the trade demand for that crop, the salable and reserve percentages should be modified to 68 percent and 32 percent, respectively.

After consideration of all relevant information, including the information and recommendation submitted by the Committee, and other available information, it is hereby found that to modify the salable and reserve percentages for dried prunes for the 1971–72 crop year as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable and reserve percentages for the 1971–72 crop year of 60 percent and 40 percent as set forth in paragraph (a) of § 993.207 *Salable and reserve percentages for prunes and handler reserve obligation for the 1971–72 crop year* (36 F.R. 14724; 22736) are hereby modified to read "68 percent" and "32 percent", respectively.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice of this action and engage in public rule making procedure, and that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said amended marketing agreement and this part require that salable and reserve percentages established for a particular crop year shall be applicable to all dried prunes received during the crop year by handlers from producers and dehydrators, excluding the weight obligation of § 993.49(c); (2) the current crop year began on August 1, 1971, and the modified percentages will apply automatically to such dried prunes beginning with that date; (3) this action relieves restrictions on the handling of dried prunes; and (4) this action was unanimously recommended by the Prune Administrative Committee, and handlers are aware of this recommendation arrived at in an open meeting and need no additional time or notice to adjust their operations thereto.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 3, 1971.

PAUL A. NICHOLSON,
Acting Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71–17984 Filed 12–8–71;8:47 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

On November 4, 1971, there was published in the FEDERAL REGISTER (36 F.R. 21209) a notice of proposed rule making setting forth the proposed price support advance rates for 1971 crop Ohio filler tobacco, types 42–44, Connecticut Valley broadleaf tobacco, type 51, Connecticut Valley Havana seed tobacco, type 52, New York and Pennsylvania Havana seed type 53, and Southern Wisconsin tobacco, type 54, Northern Wisconsin tobacco, type 55, and Puerto Rican tobacco, type 46. Interested parties were given the opportunity to submit within 20 days, data, views and recommendations with regard to the proposed advance rates .

No unfavorable comments have been received, and the proposed advance rates are hereby adopted without change and are set forth below. The material previously appearing under the section numbers shown below remains applicable to the crop to which each refers.

Effective date: Date of filing with the Office of the Federal Register.

Signed at Washington, D.C., on December 3, 1971.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

Sec.

AUTHORITY: The provisions of this Part 1464 issued under sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c.

§ 1464.22 1971 Crop—Ohio Filler Tobacco, Types 42–44, Advance Schedule.[1]

Grade	Advance rate
(Dollars per hundred pounds, farm sales weight)	
Crop run (stripped together):	
X1	36.50
X2	33.50
X3	31.00
X4	28.50
Nondescript:	
N	18.50

§ 1464.23 1971 Crop—Connecticut Valley Broadleaf Tobacco, Type 51, Advance Schedule.[2]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Binders:	
B1	71.00
B2	62.00
B3	52.00
B4	43.00
B5	38.00
Non-Binders:	
X1	32.00

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

§ 1464.24 1971 Crop—Connecticut Valley Havana Seed Tobacco, Type 52, Advance Schedule.[4]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Binders:	
B1	66.00
B2	57.00
B3	49.00
B4	42.00
B5	38.00
Non-Binders:	
X1	32.00

§ 1464.25 1971 Crop—New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54, Advance Schedule.[1]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Crop-Run:	
X1	40.50
X2	36.50
X3	29.50
Farm Fillers:	
Y1	27.50
Y2	25.50
Y3	23.50
Nondescript:	
N1	23.50
N2	17.50

§ 1464.26 1971 Crop—Northern Wisconsin Tobacco, Type 55, Advance Schedule.[2]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Binders:	
B1	59.00
B2	54.00
B3	44.00
Strippers:	
C1	41.50
C2	38.00
C3	30.50
Crop-run:	
X1	40.00
X2	36.00
X3	28.00
Farm fillers:	
Y1	32.50
Y2	29.50
Y3	27.50
Nondescript:	
N1	22.50
N2	17.50

[2] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco graded "N1" (first quality nondescript), "N2" (second quality nondescript) or "S" (scrap), or designated "No-G" (no grade).

[1] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[3] The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower 50 cents per hundred pounds to apply against receiving and overhead costs. Only the original producer is eligible to receive advances. No advance is authorized for tobacco designated "No-G" (no grade).

[4] The cooperative associations through which price support is made available to growers are authorized to deduct $1 per hundred pounds from the advances to growers to apply against overhead and handling costs. Tobacco is eligible for advance only if consigned by the original producer. No advance is authorized for tobacco graded "S" (scrap) or designated "No-G" (no grade).

§ 1464.27 1971 Crop—Puerto Rican Tobacco, Type 46, Advance Schedule.[3]

(Dollars per hundred pounds, farm sales weight)

Grade	Advance rate
Price Block I (C1F and C1P)	43.00
Price Block II (X1F, X1P and X1S)	36.00
Price Block III (X2T, X2F, X2P and X2S)	25.00
Price Block IV (N)	13.00

[FR Doc.71-18054 Filed 12-8-71;8:50 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service,[1] Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Administrator of the Animal and Plant Health Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1971 ed.), as amended January 22, 1971 (36 F.R. 1038), April 3, 1971 (36 F.R. 6413), May 14, 1971 (36 F.R. 8861), and September 21, 1971 (36 F.R. 18716), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

WITHIN METROPOLITAN AREA

TWO HOURS

Add: Port of Cleveland, Ohio (when served from Cleveland, Ohio).

OUTSIDE METROPOLITAN AREA

TWO HOURS

Delete: Port of Cleveland, Ohio (when served from Cleveland, Ohio).

THREE HOURS

Add: Irvington, N.Y. (when served from Newburgh, N.Y.).

Add: Hastings-on-Hudson, N.Y. (when served from Newburgh, N.Y.).

Add: Alexandria, Va. (when served from Orlean, Va.).

(64 Stat. 561; 7 U.S.C. 2260)

These commuted traveltime periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Service.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (12-9-71).

Done at Washington, D.C., this 3d day of December 1971.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71-18053 Filed 12-8-71;8:50 am]

SUBCHAPTER G—ANIMAL BREEDS

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS[1]

Changes in Definitions and Forms; Deletion of Affidavit Requirement

Pursuant to the provisions of item 100.01 in part 1, schedule 1, of title I of the Tariff Act of 1930, as amended (19 U.S.C. 1202, schedule 1, part 1, item 100.01), Part 151, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. Paragraphs (a) and (k) of § 151.1 are amended to read:

§ 151.1 Definitions.

* * * * *

(a) *The Act.* Item 100.01 in part 1, schedule 1, of title I of the Tariff Act of 1930, as amended (19 U.S.C. 1202, schedule 1, part 1, item 100.01).

* * * * *

(k) *Agent.* Custom broker or other person authorized to act as agent for the importer or owner of an animal.

* * * * *

§§ 151.3, 151.7 [Amended]

2. The term "AIQ Form 338" in §§ 151.3 and 151.7(c) is changed to read "ANH

[1] The functions prescribed in Part 151 of Chapter I, 9 CFR, have been transferred from the Agricultural Research Service, U.S. Department of Agriculture, to the Animal and Plant Health Service of the Department (36 F.R. 20707).

[1] The functions prescribed in Part 97 of Chapter I, 9 CFR, have been transferred from the Agricultural Research Service, U.S. Department of Agriculture, to the Animal and Plant Health Service to the Department (36 F.R. 20707).

Form 17–338"; and the term "AIQ Form 419" in § 151.7(c) is changed to read "ANH Form 17–419".

3. The heading and text of § 151.6 are amended to read:

§ 151.6 Statement of owner, agent, or importer as to identity of animals.

The owner, agent, or importer who applies for a certificate of pure breeding for any animal offered for duty-free entry under this part, shall execute on ANH Form 17–338 a statement that the animal so offered for entry is the animal described in the pedigree certificate furnished to the inspector as prescribed in § 151.4. This form shall be presented to the inspector before the animal and pedigree certificate are examined as provided in § 151.7.

(Section 101, 76 Stat. 72, Item 100.01, Part 1, Schedule 1, Title I, Tariff Act of 1930, as amended; 19 U.S.C. 1202, Schedule 1, Part 1, Item 100.01; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (12–9–71).

The amendments make changes in the regulations in Part 151 in order to bring the regulations into conformity with current provisions under the Tariff Act of 1930. The principal change is the deletion of the requirement that the owner, agent, or importer execute an affidavit relating to the identification of purebred animals offered for importation into the United States. The amendments provide simply for the furnishing of a statement of identity by such owner, importer, or agent. The amendments also make certain nonsubstantive changes in the regulations.

The amendments relieve certain restrictions presently imposed and should be made effective as soon as possible in order to be of maximum benefit to persons desiring to import purebred animals into this country. Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3d day of December 1971.

G. H. WISE,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71–17987 Filed 12–8–71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71–WE–25–AD; Amdt. 39–1357]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Airplane Co. Model 707/720 Airplanes

During production of the Boeing Model 707/720 airplanes, drains were not incorporated in the station 360 bulkhead in some airplanes. In some 707/720 airplanes where the drain hole was incorporated, the station 360 bulkhead blanket or floor mat covers the drain hole.

Failures of the water fill system have allowed water to flow into the compartment forward of the station 360 bulkhead. In airplanes with a blocked drain or no drain the water fills the space forward of station 360 bulkhead up to the height of the bulkhead and has caused the failure of the dual vertical gyro system and the failure of two generator voltage regulators.

Since this condition is likely to exist or develop in other airplanes of the same type design an Airworthiness Directive is being issued to require: (1) inspection of all 707/720 airplanes station 360 bulkhead drains, (2) drilling drain holes in the station bulkhead as necessary, and (3) rework of the bulkhead blanket and floor mat as necessary to insure water drainage through the station 360 bulkhead. Boeing Service Bulletin 3027 or later FAA-approved revisions, should be used as a guide in the inspections and rework of the station 360 bulkhead system.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following airworthiness directive:

BOEING. Applies to Model 707/720 airplanes certified in all categories.

Compliance required within the next 300 hours' time in service after effective date of this AD, unless already accomplished.

To assure that water will not accumulate forward of the station 360 bulkhead on all Boeing Model 707/720 airplanes, accomplish one of the following:

(1) Inspect the airplane per Boeing Service Bulletin 3027, dated November 23, 1971, or later FAA-approved revisions. If the station 360 bulkhead drains are blocked or do not exist modify the station 360 bulkhead, bulkhead blanket and floor mat as described in the above service bulletin to provide the required drains.

(2) Perform an equivalent inspection and (if required as a result of the inspection finding) modification approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

This amendment becomes effective December 13, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Los Angeles, Calif., on December 1, 1971.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.71–17968 Filed 12–8–71;8:45 am]

[Airspace Docket No. 71–PC–1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Control Zone

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19614) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a Saipan Island control zone.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. There were no objections received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1971, as hereinafter set forth.

Section 71.171 (36 F.R. 2055) is amended by adding the following:

SAIPAN ISLAND

Within a 5-mile radius of Kobler Field (latitude 15°07'30" N., longitude 145°42'29" E.); within 3.5 miles each side of the Saipan RBN (latitude 15°07'32" N., longitude 145°41'58" E.) 254° bearing, extending from the 5-mile-radius zone to 12 miles southwest of the RBN, and within 2 miles each side of the extended centerline of the east/west runway, extending from the 5-mile-radius zone to 6.5 miles east of the Kobler Field. This control zone is effective from 0800 to 1630 hours, local time, daily.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 2, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71–17970 Filed 12–8–71;8:45 am]

[Airspace Docket No. 71-WE-45]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airway Segment

On October 15, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 20050) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter a segment of VOR Federal airway No. 66.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 71.123 (36 F.R. 2010, 3892, 5211, 10781, 18076), V-66 is amended by deleting "Norfolk.", and substituting "Norfolk, excluding the airspace above 13,000 feet MSL from the INT of Tucson, Ariz., 122° and Cochise, Ariz., 257° radials to the INT of Douglas, Ariz., 064° and Columbus, N. Mex., 277° radials." therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transporation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17972 Filed 12-8-71;8:45 am]

[Airspace Docket No. 71-SO-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Area and Reporting Point

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19615) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would redesignate Control 1233 and the Tadpole Intersection reporting point.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

1. In § 71.163 (36 F.R. 2048) Control 1233 is amended to read:

CONTROL 1233

That airspace extending upward from 2,000 feet MSL bounded on the north by V-35; on the east by a line 15 nautical miles east of and parallel to the 189° bearing from the Marathon, Fla., radio beacon; on the south by lat. 24°00'00" N.; on the west by a line 5 nautical miles west and parallel to the 189° bearing from the Marathon radio beacon extending from lat. 24°00'00" N. to lat. 24°25'00" N.; thence west via lat. 24°25'00" N. to the arc of a 35-statute-mile-radius circle centered at the Key West, Fla., VORTAC, thence counterclockwise via the arc to V-35.

2. In § 71.209 (36 F.R. 2311) Tadpole INT is amended to read:

Tadpole INT: INT of Marathon, Fla., RBN 189° bearing with lat. 24°00'00" N.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510; Executive Order 10854 (24 F.R. 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17971 Filed 12-8-71;8:45 am]

[Airspace Docket No. 71-EA-159]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Continental Control Area and Restricted Area

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to redesignate Restricted Area R-5201, Camp Drum, N.Y., as a joint-use restricted area and to include the area in the continental control area. The Department of the Army has concurred in these actions.

Since these actions are minor in nature and ones in which the public is not particularly interested, notice and public prodcedure hereon are unnecessary and for that reason these amendments may be made effective on less than 30-day's notice.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective upon publication in the FEDERAL REGISTER (12-9-71), as hereinafter set forth.

Section 71.151 (36 F.R. 2045) is amended by adding "R-5201, Camp Drum, N.Y.

Section 73.52 (36 F.R. 2352) R-5201, Camp Drum, N.Y., is amended by adding, "Controlling Agency: Federal Aviation Administration, Boston ARTC Center."

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C. on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17969 Filed 12-8-71;8:45 am]

[Airspace Docket No. 71-WA-38]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation of Reporting Points and Alteration of Jet Route Segments

The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations is to designate the Oliktok, Alaska, reporting points and redesignate segments of Jet Routes Nos. 502 and 507. The Jet Route segments of J-502 and J-507 which are common between Annette Island, Alaska, and Sisters Island, Alaska, overlie the Level Island, Alaska, VOR. Action is being taken herein to include the Level Island VOR in the description of these jet routes so as to provide better navigational guidance for en route traffic operating on these route segments. In addition, the Oliktok radio beacon will be designated as a high and low altitude reporting point to be utilized for air traffic control purposes.

Since these amendments are minor in nature and no substantive changes in the regulations are effected, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 75 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

1. Section 71.211 (36 F.R. 2313) is amended by adding the following: Oliktok, Alaska, RBN

2. Section 71.213 (36 F.R. 2314) is amended by adding the following: Oliktok, Alaska, RBN

3. Section 75.100 (36 F.R. 2371, 20036) is amended as follows:

a. In the text Jet Route No. 502 "Sisters Island, Alaska;" is deleted and "Level Island, Alaska; Sisters Island, Alaska;" is substituted therefor.

b. In the text Jet Route No. 507 "Sisters Island, Alaska;" is deleted and "Sisters Island, Alaska; Level Island, Alaska;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 2, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17973 Filed 12-8-71;8:46 am]

[Airspace Docket No. 71-RM-16]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

On October 2, 1971, a notice of proposed rule making was published in the

FEDERAL REGISTER (36 F.R. 19322) stating that the Federal Aviation Administration was considering amendments to Part 73 of the Federal Aviation Regulations that would alter the lateral limits and the time of designation of Restricted Area R-6403, Tooele, Utah.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

Section 73.64 (36 F.R. 2360) is amended as follows:

R-6403 TOOELE, UTAH

Boundaries: Beginning at latitude 40°31'48" N., longitude 112°29'31" W.; to latitude 40°33'14" N., longitude 112°28'20" W.; to latitude 40°29'30" N., longitude 112°25'30" W.; to latitude 40°29'29" N., longitude 112°28'28" W.; to latitude 40°30'45" N., longitude 112°28'28" W.; to latitude 40°30'45" N., longitude 112°29'33" W.; to the point of beginning.

Designated altitude: Surface to 9,000 feet MSL.

Time of designation: Continuous.

Using Agency: Commanding Officer, Tooele Army Depot, Tooele, Utah.

(Sec 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17974 Filed 12-8-71;8:46 am]

[Airspace Docket No. 71-WA-16A]

PART 75—ESTABLISHMENT OF JET ROUTES, AND AREA HIGH ROUTES

Designation of Area High Routes

On May 21, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9258) stating that the Federal Aviation Administration was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 11 area high routes in the United States.

One of the routes, J972R, has been successfully flight inspected and is being designated in this rule. Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 3, 1972, as hereinafter set forth.

In § 75.400 (36 F.R. 2370) the following area high route is added:

J972R DALLAS, TEX., TO SAN ANTONIO, TEX.

Waypoint name	N. Latitude/ W. Longitude	Reference facility
Waco, Tex.	31°39'44"/97°16'06"	Millsap, Tex.
Austin, Tex.	30°23'11"/97°41'56"	San Antonio, Tex.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17975 Filed 12-8-71;8:46 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-9395]

PART 241—INTERPRETATIVE RELEASES RELATING TO SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Statement Regarding Payment of Solicitation Fees in Tender Offers

The Commission has received a number of inquiries from broker-dealers regarding the circumstances in which a broker-dealer may receive a "soliciting dealer's fee" from a person making a tender offer. Specifically, questions have arisen as to whether an arbitrageur who purchases securities which are the subject of a tender offer in the open market and subsequently tenders such shares may sign a soliciting dealer's agreement and receive a soliciting dealer's fee for the tender of such shares.

Arbitrageurs in a tender offer typically make money on the differential between the market price at the time the tender offer is announced and the tender price, which normally includes a premium above market. Their purchases enable the public investor to elect to avoid the risk that the tender will not be consumated or that it will be prorated. The receipt of a soliciting dealer's fee by an arbitrageur enables him to enhance his profit by tendering his shares at the tender price plus the soliciting dealer's fee.[1]

The language of Rule 10b-13 (17 CFR 240.10b-13) under the Securities Exchange Act of 1934 prohibits a person making a tender offer from, directly or indirectly, purchasing or making any arrangement to purchase the securities which are the subject of the tender offer otherwise than pursuant to the tender offer. The intent of this language is to protect public investors who, if the tender offer were prorated, might lose the opportunity to tender all their shares whereas those whose shares were purchased outside the tender offer would not be prorated. In view of that intent, the Commission views purchases and subsequent tenders by arbitrageurs, accompanied by receipt of a soliciting dealer's fee, as permissible activities, provided that the payment of such soliciting dealer's fees is adequately disclosed in the context of the tender offer.

By the Commission.

RONALD F. HUNT,
Secretary.

NOVEMBER 24, 1971.

[FR Doc.71-18031 Filed 12-8-71;8:49 am]

[1] The anticipation of receipt of the soliciting dealer's fee may induce the arbitrageur to purchase the stock to be tendered at prices up to, and possibly even in excess of, the tender price.

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-428; Order No. 443]

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Annual Report for Natural Gas Companies (Classes A and B)

DECEMBER 2, 1971.

On August 30, 1971, the Commission issued a notice of proposed rule making in this proceeding (36 F.R. 17665, September 3, 1971) proposing to revise schedule pages 545 and 546, Depreciation, Depletion, and Amortization of Gas Plant (Accounts 403, 404.1, 404.2, 404.3, 405) of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B), of Federal Regulations, to require the reporting of more detail regarding depreciation practices.

Comments were invited from interested parties to be submitted not later than October 13, 1971. The Commission received comments from one respondent, the Columbia Gas System Service Corp.

The rule making, as initially proposed, would cause schedule pages 545 and 546, Depreciation, Depletion, and Amortization of Gas Plant to be expanded, in section A thereof, to include an additional plant function "Common plant—gas," so as to have this section more inclusive for depreciation, depletion, and amortization expenses. In addition, section B of the schedule, as proposed, would relate to details of depletion and amortization only rather than depreciation, depletion, and amortization, as is presently the case. And finally, a new section C to the schedule was proposed to provide reporting of depreciation details in a more comprehensive fashion by including information on the methods used in arriving at depreciation charges.

The comment received did not oppose the rule making but desired to remind the Commission that:

It should be made clear in the proposed section C that the results of actuarial studies are only one of the guides used in determining depreciation accrual rate. While statistical studies, based on past activities and under conditions that seem likely to continue to prevail, have value in making judgments, management must also consider current or anticipated changes in operating

conditions, gas supply, physical condition, technological breakthroughs, short and long range construction projects. Thus, depreciation rates cannot be fixed solely on the basis of "statistical" studies.

The Commission is mindful of the content of this comment.

The Commission finds: (1) The notice and opportunity to participate in this rule making proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendments to FPC Form No. 2 prescribed by § 260.1, in Part 260, Chapter I, Title 18 of the Code of Federal Regulations, adopted herein are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the revisions prescribed herein are for use in FPC Form No. 2 covering the calendar year beginning January 1, 1971, or for a year beginning or ending during the calendar year 1971, good cause exists for making these revisions to the form schedule Depreciation, Depletion, and Amortization of Gas Plant (Accounts 403, 404.1, 404.2, 404.3, 405) effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 8, 9(b), 10, and 16 (52 Stat. 825, 826, 830, 15 U.S.C. 717g, 717h(b), 717l, 717o), orders:

(A) Effective for the reporting year 1971, and thereafter, General Instructions page 1 and schedule pages 545 and 546, Depreciation, Depletion, and Amortization of Gas Plant (Accounts 403, 404.1, 404.2, 404.3, 405), of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, in Part 260, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations, are hereby amended as set forth in Attachment A hereto.[1]

(B) The amendments herein adopted are effective upon issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18022 Filed 12-8-71;8:53 am]

[1] Filed as part of the original document.

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-293]

PART 153—ANTIDUMPING

Clear Sheet Glass From France

DECEMBER 2, 1971.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that clear sheet glass weighing over 28 ounces per square foot from France is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of August 4, 1971 (36 F.R. 14338, F.R. Doc. 71-11243)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on November 3, 1971, it notified the Secretary of the Treasury that an industry is being injured by reason of the importation into the United States of clear sheet glass weighing over 28 ounces per square foot from France sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of November 9, 1971 (36 F.R. 21432, F.R. Doc. 71-16338)).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to clear sheet glass weighing over 28 ounces per square foot from France.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Clear sheet glass weighing over 28 ozs. per sq. ft.	France	71-293

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.71-18050 Filed 12-8-71; 8:51 am]

[T.D. 71-294]

PART 153—ANTIDUMPING

Clear Sheet Glass From Italy

DECEMBER 2, 1971.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that clear sheet glass weighing over 16 ounces per square foot from Italy is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of August 4, 1971 (36 F.R. 14338, F.R. Doc. 71-11244).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on November 3, 1971, it notified the Secretary of the Treasury that an industry is being injured by reason of the importation into the United States of clear sheet glass weighing over 16 ounces per square foot from Italy sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of November 9, 1971 (36 F.R. 21432, F.R. Doc. 71-16338).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to clear sheet glass weighing over 16 ounces per square foot from Italy.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T.D.
Clear sheet glass weighing over 16 ozs. per sq. ft.	Italy	71-294

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES, *Assistant Secretary of the Treasury.*

[FR Doc.71-18051 Filed 12-8-71;8:51 am]

[T.D. 71-295]

PART 153—ANTIDUMPING

Clear Sheet Glass From West Germany

DECEMBER 2, 1971.

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that clear sheet glass weighing over 28 ounces per square foot from West Germany is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the FEDERAL REGISTER of August 4, 1971 (36 F.R. 14339, F.R. Doc. 71-11245)).

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the U.S. Tariff Commission responsibility for determination of injury or likelihood of injury. The U.S. Tariff Commission has determined, and on November 3, 1971, it notified the Secretary of the Treasury that an industry in the United States is being injured by reason of the importation of clear sheet glass weighing over 28 ounces per square foot from West Germany sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the FEDERAL REGISTER of November 9, 1971 (36 F.R. 21432, F.R. Doc. 71-16338).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to clear sheet glass weighing over 28 ounces per square foot from West Germany.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

Merchandise	Country	T. D.
Clear sheet glass weighing over 28 ozs. per sq. ft.	West Germany.	71-205

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-18052 Filed 12-8-71;8:51 am]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Regs. No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Subpart F—Deduction-Overpayments

DETERMINATION OF FAULT

On July 13, 1971, there was published in the FEDERAL REGISTER (36 F.R. 13036) a notice of proposed rule making with proposed amendments to Subpart F of Regulations No. 4. The proposed amendments conform the regulations relating to determination of fault in deduction-overpayments to the current provisions of the law and eliminate provisions covering situations which now rarely occur. Interested parties were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed amendments. No comments were received and the proposed regulations are hereby adopted without change and are set forth below.

(Secs. 205 and 1102, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405, and 1302)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (12-9-71).

Dated: November 15, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: December 2, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Regulations No. 4 of the Social Security Administration (20 CFR 404), are further amended as follows:

1. Paragraph (c) of § 404.510 is revised and paragraphs (d) and (i) are revoked as follows:

§ 404.510 When an individual is "without fault" in a deduction-overpayment.

* * * * *

(c) The beneficiary's death caused the earnings limit applicable to his earnings for purposes of deduction and the charging of excess earnings to be reduced below $1,680 for a taxable year ending after 1967.

* * * * *

(d) [Revoked]

* * * * *

(i) [Revoked]

2. In § 404.512, paragraph (a) is revised to read as follows:

§ 404.512 When adjustment or recovery of an overpayment will be waived.

(a) *Adjustment or recovery deemed "against equity and good conscience."* In the situations described in §§ 404.510 (a), (b), and (c), and 404.510a, adjustment or recovery will be waived since it will be deemed such adjustment or recovery is "against equity and good conscience." Adjustment or recovery will also be deemed "against equity and good conscience" in the situation described in § 404.510(e), but only as to a month in which the individual's earnings from wages do not exceed the total monthly benefits affected for that month.

* * * * *

[FR Doc.71-18029 Filed 12-8-71;8:49 am]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 12—FINANCIAL ASSISTANCE TO PERSONS DISPLACED FROM THEIR HOMES, BUSINESSES AND FARMS BY GOVERNMENTAL ACQUISITION OF REAL PROPERTY

On pages 18007 through 18012 of the FEDERAL REGISTER of September 8, 1971, there was published a notice of a proposed issuance of a new Part 12 which provides for rules concerning financial assistance to persons displaced by governmental acquisition of real property. Interested persons were given 30 days in which to submit written comments, suggestions, or arguments regarding the proposed regulation.

After consideration of all such relevant matter as was presented by interested persons, the proposed new Part 12 is hereby adopted without change and is set forth below.

This regulation shall be effective upon publication as it sets up the necessary procedure for making immediately available to the public the benefits provided in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 42 U.S.C. 4601.

Signed at Washington, D.C., on this 30th day of November 1971.

J. D. HODGSON,
Secretary of Labor.

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Subpart J—Uniform Real Property Acquisition Policy

12.90 Acquisition Practice.

AUTHORITY: The provisions of this Part 12 issued under 84 Stat. 1894, 42 U.S.C. 4601 et seq.

Subpart A—General

§ 12.1 Purpose.

(a) This part prescribes policies and procedures for the U.S. Department of Labor in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 42 U.S.C. 4601 (hereinafter called the Act), and are applicable to all acquisitions or displacements occurring on or after January 2, 1971. The Act provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and establishes uniform and equitable land acquisition policies for Federal and federally assisted programs.

(b) The provisions contained in this part are based upon consideration of the following:

(1) House Report No. 91-1656, A Report to Accompany S.1, Committee on Public Works, House of Representatives, 91st Congress, second session, December 2, 1970; and

(2) Provisions of existing law, including but not limited to, title VIII of the Civil Rights Act of 1968 (Public Law 90-284), and principles of equity, including but not limited to, good faith and reasonableness.

§ 12.2 Secretary.

As used in the part "Secretary" means the Secretary of Labor, U.S. Department of Labor, or his authorized representatives. Such representatives shall include Assistant Secretaries or other officials responsible for the project which requires land acquisition or displacement, and any individual authorized to act for them in implementing the regulations in this part.

§ 12.3 General instructions.

(a) Officials responsible for programs under this Act shall give written notice of displacement to each individual family, business, or farm to be displaced. Such notice shall be served personally or by first-class mail.

(b) In order to qualify for benefits under this Act as a displaced person, either of two conditions must be fulfilled:

(1) The person must have received a written notice to vacate which notice may be given before or after initiation of negotiations for acquisition of the property as prescribed by regulations issued by the Department; or

(2) The subject real property must in fact have been acquired, and the person must have moved as a result of its acquisition.

(c) Multiple occupancy shall be treated as single occupancy in the case of individuals, not families, in regulations and procedures dealing with benefits for replacement housing. However, each individual displaced may receive benefits authorized under section 202(a) of the Act and in the case of families each family shall be considered separately.

(d) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to or include in their appraisals any allowances for the benefits provided by title II of the Act. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act.

§ 12.4 Solicitor.

The Solicitor of Labor or his authorized representative will provide legal advice and assistance to the Secretary with regard to questions regarding the application or interpretation of this part and the resolution of disputes concerning claims for benefits arising pursuant to the Act.

Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

§ 12.10 Determination.

In the implementation of sections 205 (c)(3) and 206(b) of the Act, the following criteria shall be observed:

(a) *Availability.* The Secretary shall not proceed with the phase of any project or authorize a State agency to proceed with the phase of any project which phase will cause the displacement of any person until he has determined, or received satisfactory assurance from the displacing State agency, that within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of title VIII of the Civil Rights Act of 1968 (Public Law 90-284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means (including supplements provided by law) of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in paragraph (d) of this section, equal in number to the number of, and available to, such displaced persons who require such dwellings reasonably accessible to their places of employment.

(b) *Support.* This determination or assurance shall be based on a current survey and analysis of available replacement housing, by the displacing agency. Such survey and analysis must take into account the competing demands on available housing.

(c) *Waiver.* The Secretary may, upon making findings of emergency or other extraordinary situations where immediate possession of real property is of crucial importance, waive the requirements of paragraphs (a) and (b) of this section, as authorized by section 205(c)(3) of the Act. Determintion so made shall be included in the annual report required by section 214 of the Act.

(d) *Decent, safe, and sanitary housing.* A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The following criteria shall be considered in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may only be made in the case of unusual or unique geographical areas or circumstances.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bath and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the Department.

(3) *Occupancy standards.* Occupancy standards for replacement housing shall comply with agency approved occupancy requirements or comply with local codes.

(4) *Facilities.* A dwelling unit meeting the physical and occupancy standards stated above, shall only be considered as suitable replacement housing when it is reasonably convenient to such community facilities as schools, stores, and public transportation.

(e) *Absence of local standards.* In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the Department will establish the standards.

§ 12.11 Housing provided as a last resort.

In determining when it is necessary to take action to construct replacement housing as authorized by section 206(a) of the Act the Secretary will be guided by criteria and procedures developed by the Secretary of Housing and Urban Development.

§ 12.12 Loans for planning and preliminary expenses.

The Secretary will be guided by criteria and procedures for implementing section 215 of the Act concerning loans for planning and other preliminary expenses for additional housing as are developed by the Secretary of Housing and Urban Development.

Subpart C—Moving and Related Expenses

§ 12.20 Actual reasonable expenses in moving.

In the implementation of section 202 (a) of the Act, the following provisions shall serve as guides:

(a) There shall be allowed:

(1) The cost of transportation of individuals, families, and property from acquired site, including storage, to the replacement site, not to exceed a distance of 50 miles, except where the displacing agency determines that relocation beyond the 50-mile area is justified.

(2) The cost of packing and crating of personal property.

(3) The cost of advertising for packing, crating, and transportation when the displacing agency determines that it is desirable.

(4) The cost of storage of personal property for a period generally not to exceed 6 months when the displacing agency determines that storage is necessary in connection with relocation.

(5) The cost of insurance premiums covering loss and damage of personal property while in storage or transit.

(6) The cost of removal, reinstallation, and reestablishment of machinery, equipment, appliances, and other items, not acquired as real property, including reconnection of utilities, which do not

constitute an improvement (except when required by law), to the replacement site, and which were not acquired by the displacing agency. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the Department is released from any payment for the property.

(7) The value of property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(8) Such other reasonable expenses determined to be eligible under regulations issued by the Department.

(b) The following limitations shall apply:

(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost, minus the proceeds received from the sale, or the cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the Secretary (and any other agency involved), the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junkyards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

§ 12.21 Actual direct losses by business or farm operation.

(a) When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it.

(b) When personal property is sold and the business or farm operation reestablished, the displaced person is entitled to payment provided in §12.20(b)(2).

(c) When the business or farm operation is discontinued, the displaced person is entitled to the differences between the in-place value of the personal property and the sale proceeds, or the cost of moving, whichever is less.

(d) When the personal property is abandoned, the displaced person is entitled to payment for the difference between the in-place value and the amount which would have been received from the sale of the item, or the cost of moving, whichever is less.

§ 12.22 Exclusions on moving expenses and losses.

There shall be excluded from payment:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, improvements, or other real property in which the displaced person reserved ownership.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of good will.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Modification of personal property to adapt it to replacement site, except when required by law.

(k) Such other items as the Secretary determines should be excluded.

§ 12.23 Expenses in searching for replacement business or farm.

(a) The following items shall be allowed:

(1) Travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(4) Broker or realtor fees to locate a replacement business or farm operation under circumstances prescribed in this part, excluding however realtor and brokerage fees which should normally be paid by the seller if it were not for this subparagraph. The total amount which a displaced person may be paid for searching expenses shall not exceed $500, unless the Secretary determines that a greater amount is justified based on the circumstances involved.

Subpart D—Payments in Lieu of Moving and Related Expenses

§ 12.30 Dwellings—schedules.

Section 202(b) of the Act provides that agencies may pay a moving expense allowance based on established schedules. These schedules shall be based on moving allowance schedules maintained by the respective State highway department, shall be current and shall provide for adequacy of reimbursement in every locality.

§ 12.31 Businesses.

(a) Eligibility: In order to be eligible for this payment, the business must contribute materially to the income of the displaced owner. This standard eliminates those part-time family occupations which do not contribute materially to a displaced person's income.

(b) Loss of existing patronage: Section 202(c) of the Act provides that an agency may make a fixed payment to a business if it determines that: (1) The business is not part of a commercial enterprise having another establishment not being acquired, engaged in a similar business, and (2) The business cannot be relocated without a substantial loss of existing patronage.

(c) The determination of loss of existing patronage shall be made by the Secretary only after consideration of all pertinent circumstances, including the following factors:

(1) The type of business conducted by the displaced concern.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed location to the displaced business.

§ 12.32 Farms—partial taking.

In the case where an entire farm operation is not acquired, the payment provided by section 202(c) of the Act shall be made only if the Secretary determines that the farm met the definition of a farm operation (section 101(8)) prior to the acquisition and that the property remaining after the acquisition is no longer an economic unit.

Subpart E—Replacement Housing Payments for Homeowners

§ 12.40 Eligibility.

In the implementation of section 203 (a) of the Act the following provisions shall serve as guides:

(a) A displaced owner-occupant is eligible for a replacement housing payment if he meets both of the following requirements:

(1) If he actually owned and occupied the acquired dwelling for not less than 180 days prior to the initiation of negotiations for the property. The term "initiation of negotiations" for a property means the date the acquiring agency makes the first personal contact with the owner or his representative where price of the real property to be acquired is discussed.

(2) If other eligibility requirements of section 203 of the Act are met.

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under this paragraph may be eligible for a replacement housing payment under Subpart F of this part.

§ 12.41 Comparable replacement dwelling.

A comparable replacement dwelling is one which is:

(a) Decent, safe and sanitary.

(b) Functionally equivalent and substantially the same as the acquired dwelling with respect to:

(1) Number of rooms.

(2) Area of living space.

(3) Age.

(4) State of repair.

(c) Open to all persons regardless of race, color, religion, sex or national origin and consistent with the requirements of Title VIII of the Civil Rights Act of 1968.

(d) In areas not generally less desirable than the dwelling to be acquired in regard to:

(1) Public utilities.

(2) Public and commercial facilities.

(3) Reasonably accessible to the relocatee's place of employment.

(f) Available on the market to the displaced person.

(g) Within the financial means of the displaced family or individual.

§ 12.42 Computation of replacement housing payment.

(a) *Differential payment for replacehousing.* The Secretary may determine the amount necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* The Secretary may establish a schedule of reasonable acquisition costs for comparable replacement dwellings in the various types of dwellings to be acquired and available on the private market. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling to be acquired. When more than one Federal agency is causing the displacement in a community or an area, the Secretary shall cooperate with the other agency or agencies on the method for computing the replacement housing payment. The unform schedule of sale housing in the community or areas shall be used in that cooperative effort.

(2) *Comparative method.* The Secretary may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings most representative of the dwelling unit acquired, available to the displaced person and which is a comparable replacement dwelling. Asking prices are to be adjusted to reflect the market sale experience. A single dwelling shall only be used when additional comparable dwellings are not available.

(3) *Alternate to subparagraphs (1) and (2) of this paragraph.* When neither method is feasible, the Secretary shall develop criteria for computing the payment.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment. To qualify for the full amount the displaced person must purchase and occupy a decent, safe, and sanitary dwelling equal to or higher in price than the acquisition price of the acquired dwelling.

(i) If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above the comparable replacement housing payment will be reduced to that amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person on his own voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The interest payment shall be based on the present value of the reasonable cost of the interest differential including points paid by the purchaser on the amount refinanced not to exceed the amount of the unpaid debt for its remaining term at the time of acquisition of the real property.

(c) *Incidental expenses.* (1) The incidental expense payment is the amount necessary to reimburse the homeowner for actual costs incurred by him incident to the purchase of the replacement dwelling such as:

(i) Legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation.

(ii) Lenders', FHA or VA, appraisal fees.

(iii) FHA application fee.

(iv) Certification of structural soundness when required by lender, FHA or VA.

(v) Credit report.

(vi) Title policies or abstracts of title.

(vii) Escrow agent's fee.

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable which is determined to be a part of the finance charge under the Truth in Lending Act, title I, Public Law 90–321, and Regulation "Z" issued pursuant thereto by the Board of Governors of the Federal Reserve System.

§ 12.43 Mortgage insurance. [Reserved]

Subpart F—Replacement Housing for Tenants and Certain Others

§ 12.50 Eligibility.

In the implementation of section 204 of the Act, the Secretary shall be guided by the following provisions:

(a) A displaced tenant or owner-occupant of less than 180 days is eligible for a replacement housing payment if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property. The term "initiation of negotiations" for a property means the date the Department or other acquiring agency makes the first personal contact with the owner or his representative where price of the real property to be acquired is discussed. The Secretary shall advise tenants and other persons occupying the property when negotiations for the property are initiated with the owner thereof, and

(2) The other eligibility requirements of section 204 of the Act.

(b) An owner-occupant otherwise eligible for a payment under Subpart E of this part who rents instead of purchasing a replacement dwelling is eligible for replacement housing as a tenant.

§ 12.51 Computation of replacement housing payment for displaced tenants.

(a) A displaced tenant is eligible for a rental replacement housing payment and if he purchases replacement housing, he is eligible for a downpayment, including closing costs.

(b) Rental replacement housing payment: The Secretary may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* There may be established a rental schedule for renting comparable replacement dwellings as described in § 12.41, in the various types of dwellings to be acquired and available on the private market. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiation if such rent was reasonable. For purposes of this part economic rent is defined as the amount of rent the displaced tenant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired. The schedule shall be based on current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency including the Department is causing the displacement in a community or an area, the Secretary shall cooperate with the other agencies on the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area; the Department's official affected will be immediately notified.

(2) *Comparative method.* The average month's rent may be determined by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 12.41. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. The use of economic rather than actual rent paid by the displaced tenant will be discretionary with the Secretary.

(3) *Exceptions.* The average month's rent may be established by using more than 3 months, if deemed advisable. If rent is being paid to the Department and/or another displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to subparagraphs (1) and (2) of this paragraph.* When neither method is feasible, other criteria for computing the payment shall be developed.

(5) *Disbursement of rental replacement housing payment.* All rental replacement housing payments in excess of $500 will be made in four equal annual installments. Before making each installment payment, the Secretary must verify that the tenant is in decent, safe, and sanitary housing.

(c) Purchases—replacement housing payment: If the tenant elects to purchase instead of renting, the payment shall be determined by combining the amount necessary to enable him to make a downpayment and the amount necessary to

cover incidental expenses on the purchase of replacement housing.

(1) The downpayment shall be the amount necessary to make a downpayment on a comparable replacement dwelling. Determination of the amount necessary for such downpayment shall be based on the amount of downpayments that would be required for a conventional loan.

(2) Incidental expenses of closing the transaction are those as described in § 12.42(c).

(3) The full amount of the downpayment must be applied to the purchase price and such downpayment and incidental costs shown on the closing statement.

(d) If the displaced person cannot be paid or payment computed under paragraph (c) of this section, payment should be computed as provided under § 12.52.

§ 12.52 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant not eligible under Subpart E because he elects not to purchase a replacement dwelling, but wishes to rent may receive a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as shown in § 12.51(b) with the following additional criteria:

(1) The present rental rate for the acquired dwelling shall be economic rent as determined by market data, and

(2) The payment may not exceed the amount which he would have received had he elected to receive a replacement housing payment under Subpart E of this part.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E because of the 180 day occupancy requirement and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment will be computed in the same manner as shown in § 12.51, except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(c) A displaced owner-occupant who does not qualify for a replacement housing payment under Subpart E because of the 180 day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing downpayment and closing costs not to exceed $4,000. The payment will be computed in the same manner as shown in § 12.51(c).

Subpart G—Relocation Assistance Advisory Services

§ 12.60 Coordination of Relocation Assistance Advisory Services.

Section 205 of the Act requires the head of a Federal agency to provide a relocation assistance advisory program for persons displaced as a result of Federal programs or projects. When more than one Federal agency is causing displacement in a community or an area, the Secretary shall take positive action to assure the maximum coordination of relocation activities with the other agency or agencies. To assure simplification and coordination in administering relocation activities, the Departmet should contract with a single agency if feasible to assume full responsibility for providing relocation services and assistance in a given community or area. Officials responsible for programs that displace persons, businesses and farms shall contact State and local government agencies in the community to determine the availability of housing resources and to assure coordination of all relocation activities in the community.

Subpart H—Federally Assisted Programs

§ 12.70 Assurances.

(a) *Information.* The assurances required by sections 210 and 305 of the Act should include a statement that the affected persons will be adequately informed of the benefits, policies and procedures described in the assurances.

(b) *Inability to provide assurances.* A State agency's assurances shall be accompanied by a statement in which it specifies any provision of the assurances required by sections 210 and 305 of the Act, which it is unable to provide in whole or in part, under its laws. In the event a State agency maintains that it is legally unable to provide all or any part of the required assurances, its statement shall be supported by an opinion of the chief legal official of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to provide any part of the required assurances.

(c) *Compliance with sections 301 and 302 of the Act.* A State agency shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302 of the Act. If the State agency indicates that it is unable to comply fully with any of such policies, its statement shall be supported by an opinion of the chief legal officer of the State agency. The opinion shall contain a full discussion of the issues involved, and shall cite legal authority in support of the conclusion of legal inability to comply with any of the provisions set forth in sections 301 and 302 of the Act.

(d) *Monitoring assurances.* The Secretary shall take continuing action to insure that State agencies are acting in accordance with the assurances they have provided.

§ 12.71 Administration—relocation assistance programs.

(a) *Approval.* If a State agency elects to contract for services pursuant to section 212 of the Act, it shall enter into a written contract which shall be consistent with regulations of the Department of Labor while it is administering the project or program causing the displacement. The Secretary shall take necessary action to assure that the contract will assist in providing a uniform and effective relocation program consistent with this part.

(b) *Contents.* Any such contract shall include, but is not limited to the following provisions:

(1) That payments or services shall be provided in accordance with Departmental regulations.

(2) That records required by Department of Labor regulations will be retained for a period of at least 3 years and shall be available for inspection by representatives of the Department.

(3) Clauses required by Departmental regulations implementing Title VI of the Civil Rights Act of 1964 (Public Law 88-352).

Subpart I—Annual Report

§ 12.80 Frequency.

The report required by section 214 of the Act, shall be submitted to the Office of Management and Budget on a fiscal year basis, with the first report covering the period January 2, 1971, through June 30, 1971.

§ 12.81 Preparation.

The annual report will be prepared in accordance with standards to be issued by the Office of Management and Budget which will include:

(a) Format for reporting statistics on relocation.

(b) Narrative requirements for comments, and recommendations under section 214 of the Act.

(c) Summary statements on the waiver of assurances under section 205 of the Act; and

(d) A statement of the administrative costs incident to the disbursement of rental payments under Subpart F of this part.

Subpart J—Uniform Real Property Acquisition Policy

§ 12.90 Acquisition practice.

Section 301 of the Act requires that before initiation of negotiations for acquisition of real property, the agency concerned shall establish an amount believed to be just compensation therefor. When negotiations are initiated, the owner of such real property shall be provided with a written statement of, and summary of the basis for the amount estimated as the just compensation. The summary statement of the basis for the Department's determination of just compensation will include, as a minimum, the following:

(a) Identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements on the land as well as the fixtures considered to be part of the real property.

(b) The amount of the estimated just compensation as determined by the Department or other acquiring agency, and a statement of the basis therefor.

(c) If only a portion of the property is to be acquired, a separate statement of the estimated just compensation for the real property interest to be acquired and, where appropriate, damages and benefits to the remaining real property.

[FR Doc.71-17990 Filed 12-8-71;8:47 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER M—RULES AND REGULATIONS FOR THE MAKING OF AND ADMINISTRATION OF GRANTS

PART 51—BUREAU OF MINES GRANT PROGRAMS

PART 52—GRANTS FOR SUPPORT OF RESEARCH RELATED TO AUTHORIZED BUREAU OF MINES PROGRAMS

PART 53—GRANTS FOR ADVANCEMENT OF HEALTH AND SAFETY IN COAL MINES

The regulations of Part 51—Grants for Solid Waste Disposal Projects published on May 24, 1966; of Part 52—Grants for Support of Research Related to Authorized Bureau of Mines Programs published April 29, 1967; and, of Part 53—Grants for Advancement of Health and Safety in Coal Mines published August 26, 1970, are hereby revoked and a new Part 51—Grants for Support of Research Related to Authorized Bureau of Mines Programs including Solid Waste Disposal Projects; Grants to States for Health and Safety Programs in coal mines is promulgated.

Effective date. These regulations shall become effective on the date of publication in the FEDERAL REGISTER (12-9-71).

ELBURT F. OSBORN,
Director, Bureau of Mines.

The new Part 51 reads as follows:

Subpart A—General

Subpart B—Applications for Grants

Subpart C—Approval of Applications and Limitations

Subpart D—Progress and Accomplishment Reports

Subpart E—Consultation and Coordination

Subpart F—Fiscal and Accounting

Subpart G—Audits and Inspections

AUTHORITY: The provisions of this Part 51 issued under the Solid Waste Disposal Act, Public Law 89-272, 71 Stat. 998-999, 42 U.S.C. 3253, 3255; Public Law 85-934, 72 Stat. 1793, 42 U.S.C. 1891-1893; and the Federal Coal Mine Health and Safety Act of 1969, Public Law 91-173, 83 Stat. 742, 30 U.S.C. 482.

Subpart A—General

§ 51.1 Scope.

The regulations contained in this part are issued pursuant to Public Law 85-934 (72 Stat. 1793, 42 U.S.C. 1891), the Solid Waste Disposal Act of 1965 (Public Law 89-272) and the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173, 83 Stat. 742) to provide (a) uniform procedures for award and administration of grants for scientific research and (b) uniform procedures for making grants to States under the provisions of section 503 of the Federal Coal Mine Health and Safety Act of 1969.

§ 51.1-1 Purpose—General programs.

Public Law 85-934 (72 Stat. 1793, 42 U.S.C. 1891) provides uniform procedures for the award and administration of grants for research in furtherance of the Bureau of Mines' programs as authorized by statute.

§ 51.1-2 Purpose—solid waste disposal.

The Solid Waste Disposal Act of 1965 (Public Law 89-272) authorizes appropriations to, and confers authority upon the Secretary of the Interior in order to (a) initiate and accelerate a national research and development program for new and improved methods of proper and economic solid waste disposal, including studies directed toward the conservation of natural resources by reducing the amount of waste and unsalvageable materials and by recovery and utilization of potential resources in solid wastes; and (b) provide technical and financial assistance to State and local governments and interstate agencies in the planning, development, and conduct of solid waste disposal programs.

§ 51.1-3 Purpose—Coal Mine Health & Safety.

(a) State Coal Mine Safety Programs—The Federal Coal Mine Health and Safety Act of 1969 provides authority for contributions to be made by the Secretary of the Interior with respect to projects by States in which coal mining occurs to enlarge or intensify safety education programs or to plan and implement programs for the advancement of health and safety in coal mines under the authority of subsection (e) of section 212 of the Act.

(b) Research Grants—Section 501(c) of the Federal Coal Mine Health and Safety Act of 1969 authorizes the Secretary of the Interior to make grants for research in the field of coal mine safety.

§ 51.2 Delegation of authority for Administration.

The Secretary of the Interior has delegated to the Director, Bureau of Mines his authority under the Acts cited above to enter into grant agreements. This authority may be redelegated.

§ 51.3 Definitions.

As used in the regulations in this part and in grant agreements entered into pursuant to the regulations in this part:

(a) "Government" means the United States of America.

(b) "Secretary" means the Secretary of the Interior.

(c) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Director" means the Director, Bureau of Mines.

(e) "Interstate agency" means an agency of two or more municipalities in different States, or an agency established by two or more States, with authority to provide for the disposal of solid wastes and serving two or more municipalities located in different States.

(f) "Solid waste" means refuse, and other discarded solid waste materials resulting from the extraction, processing, or utilization of minerals or fossil fuels.

(g) "Solid waste disposal" means the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

(h) "Fiscal year" means a 12-month period ending on June 30.

(i) "Bureau" means the Bureau of Mines.

(j) "Applicant" means any public (whether Federal, State, interstate, or local) authority, agency, and institution, private agency and institution, and individual who files application for a grant of Federal funds.

(k) "Construction" means (1) the erection or building of new structures or the replacement, expansion, remodeling, alteration, moderation, or extension of existing structures, and (2) the acquisition and installation of initial equipment,

required in connection with new or newly acquired structures or the expansion, remodeling, alteration, modernization, or extension of existing structures (including motor vehicles, tractors, cranes, and other machinery) necessary for the proper utilization and operation of the facility after completion of the project, and (3) the engineering, architectural, legal, fiscal, and economic investigations including any surveys, designs, plans, working drawings, and specifications, necessary for the carrying out of the project, and (4) for the inspection supervision of the completion of the project.

§ 51.4 Purpose of making, and entities eligible to receive grants.

§ 51.4–1 Public Law 85–934, 72 Stat. 1793, 42 U.S.C. 1891.

(a) Subject to the availability of appropriated funds, grants may be made pursuant to section 1 of Public Law 85–934, for the conduct of scientific or technological research into any aspect of the problems related to the programs of the Bureau which are authorized by statute.

(b) Grants may be made to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research.

§ 51.4–2 The Solid Waste Disposal Act.

(a) Research, demonstration, training, and other activities: Grants may be made pursuant to section 204 of the Solid Waste Disposal Act (Public Law 89–272, 79 Stat. 997), for the conduct of, and to promote the coordination of research, investigation, experiments, training, demonstration, surveys, and studies relating to the operation and financing of solid waste disposal programs, the development and application of new and improved methods of solid waste disposal (including devices and facilities therefor), and the reduction of the amount of such waste and unsalvageable waste materials.

(b) State and interstate planning: Grants, not to exceed 50 percent of the cost, may be made pursuant to section 206 of the Solid Waste Disposal Act to State and Interstate agencies for making surveys of solid waste disposal practices and problems within the jurisdictional areas of such States or agencies and for developing solid waste disposal plans for such areas.

(c) Subject to the availability of appropriated funds, grants may be made to any applicant qualified to perform the work contemplated in sections 204 and 206 of the Solid Waste Disposal Act.

§ 51.4–3 The Federal Coal Mine Health and Safety Act of 1969.

The Secretary (in coordination with the Secretary of Health, Education, and Welfare and the Secretary of Labor) is authorized by section 503(a) of the Coal Mine Health and Safety Act to make grants to any State in which coal mining takes place (a) to assist in developing and enforcing effective coal mine health and safety laws and regulations: (b) To improve State workmen's compensation and occupational disease laws and programs related to coal mine employment; and (c) to promote Federal-State coordination and cooperation in improving the health and safety conditions in the coal mines. In addition, grants for research in the field of coal mine safety may be made in accordance with the provisions of § 51.1–3(b).

Subpart B—Applications for Grants

§ 51.5 Submission of applications.

(a) An application should be submitted in an original and four copies to the Chief, Division of Procurement and Property Management, Bureau of Mines, Department of the Interior, Washington, D.C. 20240. A separate application must be submitted for each project.

(b) Applications made pursuant to the provisions of § 51.1–1 should include a statement as to the nature of the organization, its officers, principal business, experience, and special qualifications for conducting the project for which application is being made.

(c) Applications made pursuant to the provisions of § 51.1–2 if submitted by:

(1) An individual, the application should include a statement in reasonable detail of his education, experience, accomplishments, and special qualifications for conducting the project for which application is being made.

(2) An organization, the application should include a statement as to its nature, officers, principal business, experience, and special qualifications for conducting the project for which application is being made.

(3) A State or interstate agency submitting a proposal pursuant to section 206 of the Solid Waste Disposal Act, the application must (i) designate or establish a single State agency (which may be an interdepartmental agency) or, in the case of an interstate agency, such interstate agency, as the sole agency for carrying out the purposes of section 206 of the Solid Waste Disposal Act; (ii) indicate the manner in which provision will be made to assure full consideration of all aspects of planning essential to statewide planning (or in the case of an interstate agency jurisdiction-wide planning) for proper and effective solid waste disposal consistent with the protection of the public health, including such factors as population growth, urban and metropolitan development, land-use planning, water pollution control, air pollution control, and the feasibility of regional disposal programs; (iii) set forth the plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of section 206 of the Solid Waste Disposal Act.

(d) Applications made pursuant to § 51.1–3 must be submitted through the State's official coal mine inspection or safety agency.

(1) Set forth the programs, policies, and methods to be followed in carrying out the application in accordance with the purposes of section 503(a) of the Federal Coal Mine Health and Safety Act of 1969. An application may provide for the planning of programs for the purposes and objectives of the Federal Coal Mine Health and Safety Act of 1969, and the carrying out of programs to train State coal mine inspectors.

(2) Provide for research and planning studies to carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation to miners for occupationally caused diseases and injuries and arising out of employment in any coal mine;

(3) Designate the State coal mine inspection or safety agency as the sole agency responsible for administering grants under section 503 of the Federal Coal Mine Health and Safety Act of 1969 throughout the State, and contain satisfactory evidence that such agency will have the authority to carry out the purposes of section 503 of the Federal Coal Mine Health and Safety Act of 1969;

(4) Give assurance that such agency has or will employ an adequate and competent staff of trained inspectors qualified under the laws of such State to make coal mine inspections within such State;

(5) Provide for the extension and improvement of the State program for the improvement of Coal Mine Health and Safety in the State, and provide that no advance notice of an inspection will be provided anyone.

(6) Contain assurances that grants provided under section 503 of the Federal Coal Mine Health and Safety Act of 1969 will supplement, not supplant, existing State Coal Mine Health and Safety programs.

(7) Agree that the official coal mine inspection or safety agency designated pursuant to subparagraph (3) of this paragraph will make the reports required by § 51.15 and that it will abide by all other terms and conditions set forth in this Part 51 and such additional conditions which the Bureau may prescribe in furtherance of, and consistent with, the purposes and objectives of section 503 of the Federal Coal Mine Health and Safety Act of 1969.

(e) Information required with application: Applications shall be in the form of proposals to undertake specific projects. Such proposals shall set forth for each project:

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

(2) The period during which it shall be pursued.

(3) The name and qualifications of the person who will direct the project.

(4) The number and general qualifications of the personnel who will work on the project, with the name, education, experience, and accomplishments of the principal person who will be assigned to it.

(5) The location or locations at which the project will be pursued.

(6) The importance of the project in relation to the Nation, State, or local area concerned.

(7) The relation of the project to other known research projects theretofore

pursued or currently being pursued by the applicant and by others.

(8) The extent to which the project will provide opportunity for the training of personnel.

(9) The financial plan will include:

(i) The amount requested for direct expenses, by category of direct expense.

(ii) The amount requested for indirect expenses related to the requested direct expenses.

(iii) The total grant request.

(iv) The additional amount which the grantee proposes as its contribution from non-Federal sources.

(11) The facilities that will be devoted to the project.

(12) The salient points of the plan that will be followed in pursuing the project, including a financial plan in which expenditures are related to activity and rate of effort to be expended.

(13) The intended method of publishing the results of the project on a timely basis.

(14) The basis for a determination that the project could not be undertaken without the grant for which application is made.

(15) Assurance that, if the grant is made, the required funds from non-Federal sources will be forthcoming.

(16) Information as to whether the project or part of the project has been or will be submitted to organizations other than the Bureau for the purpose of obtaining a grant.

(17) Provision for such fiscal control and fund accounting procedures as may be necessary to comply with the requirements of this part and as may be appropriate to assure proper disbursement and accounting of grants made under this part.

Subpart C—Approval of Applications and Limitations

§ 51.6 Return of defective applications.

§ 51.6–1 Return of defective applications submitted pursuant to §§ 51.1–1 and 51.1–2.

Upon receipt of an application for a grant pursuant to Public Law 85–934 or Solid Waste Disposal Act, the Bureau shall determine whether the submission conforms to the requirements of § 51.5. Nonconforming submissions will be returned with statements of the reasons for their return.

§ 51.6–2 Defective applications and modifications submitted pursuant to § 51.1–3.

(a) Any application or request for renewal that does not meet all of the requirements of § 51.5 shall be returned promptly and the State shall be requested to modify, amend, or revise the application as necessary in order to meet the requirements and to resubmit the application.

(b) The Bureau will not finally disapprove any State application or modification, amendment or revision thereof without first affording the State agency reasonable notice and opportunity for a public hearing.

§ 51.7 Requirements for approval.

The Bureau may approve proposals submitted under these regulations after determining:

(a) The proposal meets the requirements of § 51.5.

(b) The applicant is a bona fide organization, individual, State, or interstate agency that has qualifications necessary to perform the work.

(c) The proposal was properly signed by the applicant or its duly authorized agent.

(d) The problems to be undertaken are related to the mission of the Department of the Interior.

(e) Such research is desirable and covers aspects not otherwise being studied.

(f) A reasonable relationship exists between the cost to the Government and the probable results to be achieved.

(g) The applicant has expressed a willingness and is legally authorized to enter into an agreement acceptable to the Bureau.

§ 51.8 Limitations.

Any grant made in accordance with these regulations shall be limited by the following provisions.

(a) The requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, Public Law 88–352) which provides that no person in the United States shall on the grounds of race, color, religion, sex, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (sec. 601) and the implementing regulation issued by the Secretary of the Interior with the approval of the President (43 CFR Part 17).

(b) Any grant for a project which involves a federally assisted construction contract, as defined in Executive Order 11246, September 24, 1965 (30 F.R. 12319), shall be subject to the condition that the grantee shall comply with the requirements of said Executive order and with applicable rules, regulations, and procedures prescribed pursuant thereto.

(c) Grants made pursuant to § 51.1–1.

(1) Any grant made under Public Law 85–934 shall contain provisions effective to insure that all information, uses, processes, patents, and other developments resulting from any activity taken pursuant to such grant will be made readily available on fair and equitable terms to industries engaging in furnishing devices, facilities, equipment, and supplies to be used in connection with such developments. In carrying out this provision, the Bureau will make use of and adhere to the Statement of Government Patent Policy promulgated by the President's memorandum of August 23, 1971.

(2) Any grant made under Public Law 85–934 shall contain provisions effective to insure that the Bureau may from time to time disseminate in the form of reports of publications to public or private agencies or organizations, or individuals such information as the Bureau deems desirable on the research carried out pursuant to such grant.

(d) Grants made pursuant to § 51.1–2.

(1) No grants shall be made to pay more than two-thirds of the cost of construction of any facility under the Solid Waste Disposal Act.

(2) All grants for construction under the Solid Waste Disposal Act shall be subject to the provisions of the Davis-Bacon Act, as amended (40 U.S.C. 276a to 276a–5) relating to the rates of wages paid to laborers and mechanics in connection with such construction. Wage rate determinations made by the Secretary of Labor pursuant to the Davis-Bacon Act will be provided to grantees, when applicable, by the Bureau.

(3) Any grant made under section 204 of the Solid Waste Disposal Act shall contain provisions effective to insure that all information, uses, processes, patents, and other developments resulting from any activity undertaken pursuant to such grant will be made readily available on fair and equitable terms to industries utilizing methods of solid waste disposal and industries engaging in furnishing devices, facilities, equipment, and supplies to be used in connection with solid waste disposal. In carrying out this provision, the Bureau will make use of and adhere to the Statement of Government Patent Policy promulgated by the President's memorandum of August 23, 1971.

(4) No grant shall be made under section 206 of the Solid Waste Disposal Act unless there is a satisfactory assurance that the planning of solid waste disposal will be coordinated, so far as practicable, with other related State, interstate, regional, and local planning activities, including those financed in part with funds pursuant to section 701 of the Housing Act of 1954 (40 U.S.C. 461).

(e) Grants made pursuant to § 51.1–3 excluding research grants.

(1) Applications will be considered only for programs that meet the purposes and objectives of section 503 of the Federal Coal Mine Health and Safety Act of 1969.

(2) Grants will be made on a fiscal year basis or portion thereof. Grants will be renewed where appropriate, but only upon receipt of a request for renewal in accordance with §§ 51.5(d) and 51.5(e).

(3) Each grant shall be covered by a grant agreement between the Government and the State. The grant agreement shall establish the purposes and objectives, and the total estimated cost of the program during the fiscal year for which the grant is to be made and the approved financial plan.

(4) The amount granted to any State for a fiscal year under this section shall not exceed 80 per centum of the amount expended by such State in such year for carrying out the approved programs. (The Bureau may allocate funds between States and may fix the grant at less than 80 per centum, and the percentages may be unequal between programs and between States.)

(5) None of the funds granted by the Government or provided by the State

shall be used for any purpose not specifically provided in the grant instrument.

(6) Any State accepting a grant or grants under section 503 of the Federal Coal Mine Health and Safety Act shall agree that neither the Government nor any of its officers, agents, or employees shall be responsible or liable for any loss, expense, damage to property or for death or bodily injury to persons, which may arise from or be incident to any project or grant coming hereunder and the State shall agree to hold the Government and its officers, agents, or employee harmless from all such claims.

(7) Reimbursement for travel expenses shall be in accordance with the State's regular lawfully established policies and procedures, except they may not exceed those authorized in standardized Government regulations.

§ 51.9 Appeals from decisions affecting applications made pursuant to § 51.1–3.

(a) The proposed disapproval by the Bureau of any initial State application or modification for grant funds shall be given to the State by the issuance of a notice to that effect setting forth the reasons for the proposed disapproval. The State through its designated coal mine inspection or safety agency may request a public hearing within 30 days after receipt of the notice of proposed disapproval for the purpose of appealing such decision, by the mailing of a notice of appeal to the Bureau.

(b) Any decision of the Bureau finally disapproving any initial application or modification shall be final and conclusive unless the State within 30 days from the date of such decision shall file a petition in the U.S. Court of Appeals for the District of Columbia stating that such decision should be modified or set aside in whole or in part. The filing of a petition shall not stay the application of the decision of the Bureau except as ordered by the U.S. Court of Appeals for the District of Columbia.

Subpart D—Progress and Accomplishment Reports

§ 51.10 Reports—general.

(a) Recipients of funds are encouraged to publish as technical literature, the findings, results, and conclusions relating to separately identifiable projects. Five copies of such documents shall be furnished to the Bureau together with supplementary information suitable for project documentation purposes.

(b) If a publication such as is described in paragraph (a) of this section has not been prepared with respect to a specific project, recipients of the grant funds shall, in conjunction with the completion or termination of the project, prepare a report which sets forth the findings, results, and conclusions relating to such project. Five copies of the report shall be furnished to the Bureau together with supplementary information suitable for project documentation purposes.

§ 51.11 Special reports.

At such times and in such detail as the Bureau shall require, the recipient shall furnish to the Bureau a statement capable of being reproduced with respect to each project showing the work done, the benefits derived, the status of the project, expenditures, and amounts obligated, and such other information as may be required.

§ 51.12 Acknowledgment of Federal government participation.

(a) The grantee may publish or cause to be published data developed through the use of grant funds without prior approval of the Bureau of Mines provided that the data to be published is not subject to the patent and copyright provisions of a grant.

(b) If the grantee chooses to publish or cause to be published any data developed through the use of grant funds without Bureau of Mines approval, the following notice shall be displayed prominently on the title page of each such publication or copy thereof.

> The contents contained herein were developed through the use of funds provided by the U.S. Department of the Interior, Bureau of Mines, and by this notice the Bureau does not agree or disagree with any of the ideas expressed or implied in this publication.

Such acknowledgment shall be included in news releases, and other information media developed to publicize, describe, or report upon research activities and accomplishments carried out in whole or in part with funds received under provisions of the Act.

Subpart E—Consultation and Coordination

§ 51.13 Cooperation.

§ 51.13–1 Cooperation on grants made pursuant to §§ 51.1–1 and 51.1–2.

The Bureau shall encourage and assist in the establishment and maintenance of cooperation by and between grantees and between them and other research organizations, the U.S. Department of the Interior, and other Federal establishments.

§ 51.13–2 Cooperation on grants made pursuant to § 51.1–3.

(a) As contemplated by the Federal Coal Mine Health and Safety Act of 1969, the Bureau will cooperate with the States in accomplishing the purposes of the grant, including but not limited to the furnishing of advice and assistance to promote the objectives of the Federal Coal Mine Health and Safety Act of 1969 and the coordination of projects.

(b) In addition to cooperating in carrying out the purposes of the grant, the Bureau shall, separate and apart therefrom, cooperate with such States when feasible and at the discretion of the Bureau in training Federal and State inspectors jointly, and in establishing a system by which State and Federal inspection reports of coal mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

§ 51.14 Advice, assistance, and coordination.

The Bureau shall furnish such advice and assistance as it believes will best carry out the mission of the Bureau, participate in coordinating all research initiated, and indicate the lines of inquiry which seem to be most important.

Subpart F—Fiscal and Accounting

§ 51.15 Procedure for obtaining payments.

(a) After the grant agreement has been formally signed, payments of grant funds to the grantee will be made on public vouchers prepared, signed, and submitted by the grantee in three copies to the Bureau. Such vouchers will provide for amounts to be paid to the grantee as funds are required for expenditures under an approved financial plan.

(b) In the case of lost sharing grants, the grantee will also submit evidence that a proper relationship is being maintained between expenditures of grant and non-Federal funds.

(c) When applicable, advance payments will be made under procedures prescribed by title 31, U.S.C. section 205. Payments of grants may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Bureau may determine.

(d) On grants made pursuant to § 51.1–3: Whenever the Bureau finds there is a failure by the State to expend funds in accordance with the terms and conditions governing the Government's grant, the Bureau shall notify the State that further payments will not be made to the State until it is satisfied that there will no longer be any such failure. Until the Bureau is so satisfied, payment of any grant hereunder to the State shall be withheld.

§ 51.16 Cost computation principles for grants made pursuant to § 51.1–1 and 51.1–2.

(a) The cost computation principles prescribed in this section shall be utilized in the cost accounting required with respect to grants under Public Law 85–934 or the Solid Waste Disposal Act to provide evidence that the recipient has discharged the obligation it assumed, when accepting these funds, to expend them solely for costs necessary for the accomplishment of the work for which they were received. These principles will also be applied in accounting for costs financed with non-Federal funds where those costs pertain to programs financed in part by grants under Public Law 85–934 or the Solid Waste Disposal Act.

(b) Basic cost formulas: Costs will be computed:

(1) By educational institutions, in accordance with appropriate OMB circulars and Federal procurement regulations.

(2) By all entities other than educational institutions, in accordance with the Federal procurement regulations (41 CFR 1–15.2).

§ 51.17 Title to property.

(a) Title to property purchased with funds from non-Federal sources used in the research activity shall be vested in the grantee.

(b) Title to property purchased by educational or nonprofit institutions with research grant funds shall vest in the grantee at the time of purchase unless the Bureau determines that vesting title in the grantee would not further the objectives of the Bureau. (42 U.S.C. 1892)

(c) Title to property purchased by all other grantees with grant funds shall vest in the Government.

§ 51.18 Accounting records.

(a) Recipients of funds shall be responsible for maintaining books of account that clearly, accurately, and currently reflect the financial transactions involving grants financed by the Bureau and also transactions financed with matching funds from sources other than the Federal Government. In addition, they shall maintain files of all papers necessary to explain and prove the validity of the transactions recorded.

(b) Such records, with all supporting and related documents shall, at all reasonable times, be made available, upon request, for inspection and audit by representatives of the Bureau, of the Secretary and of the Comptroller General of the United States.

(c) Records relating to each grant shall be retained and made available until the expiration of 3 years after the Government's last payment to the grantee.

(d) The books and records mantained shall include a record of all property:

(1) Received from the Federal Government.

(2) Charged as a cost of activities financed with funds provided.

(3) Included in costs paid with non-Federal funds to match grant funds.

(e) An accountability record shall be maintained for all items of property that have expected useful service life of more than 1 year and have an acquisition cost of $100 or more.

(f) The grantee further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1–20 of the Federal procurement regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

Subpart G—Audits and Inspections

§ 51.19 Introduction.

Representatives of the Bureau, of the Secretary, and of the Comptroller General of the United States may conduct onsite audits and inspections of grantees which have received Federal funds pursuant to Public Law 85–934 Solid Waste Disposal Act, or Federal Coal Mine Health and Safety Act of 1969.

§ 51.20 Audits.

Audits conducted at the direction or on behalf of the Bureau will extend to a determination and appropriate finding of fact concerning compliance with the provisions of the grant, the regularity and accuracy of financial transactions and recording, adequacy of property accountability and internal control, and reliability of financial reporting. As a part of such audits, examinations will be made on a selective basis to determine that matching funds have been received and properly expended by recipients of matching-fund grants under Public Law 85–934, Solid Waste Disposal Act, or Coal Mine Health and Safety Act of 1969 and that grantees maintain a proper relationship between costs paid with funds provided. Professional audit techniques will be applied, and accepted principles of business administration will be the governing criteria.

§ 51.21 Inspection.

In relation to the substantive scientific research operations of grantees the Bureau may, with such personnel as it considers qualified and with such procedures as it determines to be suitable, perform inspections of activities authorized and financed pursuant to these regulations. Such inspections will cover acceptability of progress, consistency with approved plans, and other factors the Bureau deems important to enable it to discharge its responsibilities for achievements consistent with purposes of Public Law 85–934, Solid Waste Disposal Act, or Federal Coal Mine Health and Safety Act of 1969.

§ 51.22 Covenants on grants made pursuant to § 51.1–3.

All grant instruments and contracts awarded thereunder by States shall contain the following provisions:

The payment of any fee, commission or compensation of any kind, or the giving of any gift or gratuity of any kind, either directly or indirectly, by or on behalf of a contractor under this grant, to any officer, employee, or agent of the grantee either as an inducement for the award of a contract under the grant or as an acknowledgement of a contract previously awarded thereunder or as an inducement or acknowledgement for a determination or any other action favorable to such contractor is prohibited. Upon a showing that a contractor under this grant paid fees, commissions, or compensation, or gave gifts or gratuities to an officer, employee, or agent of the grantee in connection with the contract award or administration under the grant, it shall be conclusively presumed that the cost of such expense was included in the contract and ultimately borne or intended to be borne by the United States, in which case the Government shall withhold from sums otherwise obligated under the grant any amount found to have been paid by a contractor as a fee, commission, or compensation, or as a gift or gratuity to an officer, employee, or agent of the grantee.

[FR Doc.71–17981 Filed 12–8–71;8:46 am]

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Fire Suppression Devices and Fire-Resistant Hydraulic Fluids on Underground Equipment; Postponement of Effective Date

On Friday, October 8, 1971 there was promulgated in the FEDERAL REGISTER (36 F.R. 19583), §§ 75.1107–1 through 75.1107–15 of Part 75 of Chapter I, Subchapter O, Title 30, Code of Federal Regulations, which set forth specifications for fire suppression devices required to be installed on attended and unattended underground equipment and designated suitable fire-resistant hydraulic fluids approved by the Secretary for use in hydraulic systems of such equipment.

It was provided that those standards shall become effective 45 days after publication in the FEDERAL REGISTER and therefore, such standards would become effective on November 22, 1971. Since publication on October 8, 1971, numerous coal mines throughout coal producing areas have been closed and unable to operate because of work stoppage during contract negotiations between management and labor, and operators of mines affected by such work stoppage have been unable to acquire and install the necessary equipment to comply with the standards. The period of time since publication of the standards which operators otherwise would have been afforded to comply with the standards has been substantially contravened.

For good cause found and pursuant to 5 U.S.C. 553, the effective date of November 22, 1971, of §§ 75.1107–1 through 75.1107–15, Part 75, Title 30, Code of Federal Regulations, promulgated in the FEDERAL REGISTER on October 8, 1971, is hereby revised and the effective date shall be December 31, 1971.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

DECEMBER 2, 1971.

[FR Doc.71–17963 Filed 12–8–71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER M—MISCELLANEOUS

PART 190—DEPARTMENT OF DEFENSE PLANT COGNIZANCE PROGRAM

The Acting Assistant Secretary of Defense approved the following:

Sec.
190.1 Purpose and objectives.
190.2 Responsibilities.
190.3 Applicability and scope.
190.4 Definitions.
190.5 Policies and procedures.
190.6 Plant cognizance questionnaire.

AUTHORITY: The provisions of this Part 190 issued under 5 U.S.C. 301.

§ 190.1 Purpose and objectives.

This part prescribes a DOD Plant Cognizance Program designed to keep at a minimum the number and variety of DOD Components with which industry has to deal on contract administration matters and to otherwise enhance achievement of the following DOD objectives:

(a) Improved administration of contracts in the field.

(b) Provision of more uniform and timely support by DOD CAS Components to purchasing offices, system/project managers and other organizations.

(c) Elimination of duplicate effort.

(d) Decreased operating costs.

(e) Improvement in Government/industry relationship through:

(1) Reduction in Government surveillance of contractors' performance.

(2) Increased uniformity in performance of Contract Administration Services.

§ 190.2 Responsibilities.

(a) The Assistant Secretary of Defense (Installations and Logistics) (ASD(I&L)) is responsible for the effective operation of the DOD Plant Cognizance Program. In accomplishing this responsibility, the ASD(I&L):

(1) Promulgates policies and procedures pertinent to the program.

(2) Determines responsibility for all field performance of CAS worldwide.

(3) Reviews cognizance assignments periodically.

(b) The Deputy Director for Contract Administration Services, Defense Supply Agency, under the direction of ASD (I&L), shall issue and maintain the DOD Directory of Contract Administration Services Components. (DOD 4105.59–H).[1]

§ 190.3 Applicability and scope.

The provisions of this part apply to all DOD Components and encompass all DOD contracts, and contracts of non-DOD organizations when performance of CAS by DOD Components is undertaken in accordance with section 20, Part 5 of the Armed Service Procurement Regulations.

§ 190.4 Definitions.

(a) *Contract administration services.* (1) All those actions accomplished in or near a contractor's plant for the benefit of the Government, which are necessary to the performance of a contract or in support of the buying offices, system/project managers, and other organizations. Contract administration services may include:

(i) Quality assurance (inspection, acceptance, etc.).

(ii) Engineering support.

(iii) Production surveillance, preaward surveys, mobilization planning.

(iv) Contract administration (price/cost analysis, termination, etc.).

(v) Property administration, plant clearance.

(vi) Industrial security.

(vii) Safety.

(viii) Small business.

(ix) Industrial labor relations.

(x) Transportation.

(xi) Equal employment opportunity contracts compliance review.

(xii) Contractor payment.

(2) Paragraph 1–406 of The Armed Services Procurement Regulation describes most of the above functions in greater detail.

(b) *Defense Contract Administration Services (DCAS).* An organizational entity of DSA, comprised of a headquarters staff, and a field organization of geographic and plant components providing CAS on contracts with private industry.

(c) *Contract Administration Services Component.* A field activity of DCAS or a Military Department, performing contract administration services on contracts with private industry in a designated geographic area or at a specific contractor's plant.

(d) *Plant cognizance.* The responsibility for performance of CAS on all contracts in a contractor's plant. This responsibility is assumed by DCAS at all plants except those specifically assigned to the Military Departments by ASD (I&L).

(e) *Plant cognizance assignment.* An assignment made by the ASD(I&L) to a Military Department as the sole DOD representative for performance of CAS in a specific plant, or at multiple facilities on the basis of a special category of contract for supplies or services.

(f) *Plant.* A structure, or group of structures, on a contiguous site, operated by a single contractor in performance of DOD contracts. Contractor-operated facilities of all types, including those owned by the Government, and including laboratories, research facilities, educational institutions, and nonprofit organizations, are considered as plants. Plants of the same corporation not located on the contiguous site, to be susceptible for assignment, must meet the basic criteria for plant assignment and require justification as such.

(g) *Major system.* One of a limited number of end-items composed of subsystems and/or other components which, for reasons of military urgency, criticality, or resource requirements, is determined by DOD as being vital to the national interest. A major system is generally characterized by technical innovation, high unit cost, large size, long lead time and great complexity.

(h) *Major sub-system.* A major first tier component of a major system. It has similar characteristics to a major system but of lesser degree.

§ 190.5 Policies and procedures.

(a) *Single plant representation.* Except for those functions assigned to DCAS for performance on an industry-wide basis, such as Industrial Security and Contracts Compliance Review, all CAS functions delineated in paragraph 1–406 of the Armed Service Procurement Regulation shall be performed in a given plant by a single DOD Component, and the head of such component shall be the sole DOD CAS representative with the contractor. With respect to matters related to CAS functions, the head of the DOD Component shall be the focal point with the contractor. Except as specifically authorized by ASD(I&L), in a given plant, a contractor shall not be required to deal with more than one DOD representative on CAS matters.

(b) *Components engaged in performance of CAS.* Since DCAS is the basic DOD organization for CAS, these services shall normally be performed by the appropriate DCAS component on all contracts and at all contractor locations except those specifically assigned to the Military Departments by ASD(I&L). A Military Department shall not undertake CAS performance at a contractor owned or operated plant without specific assignment from ASD(I&L).

(c) *Responsiveness.* CAS components shall accept requests for performance from DOD purchasing offices, and from those non-DOD organizations, including foreign countries and international organizations, listed in section 20 Part 5 of the Armed Services Procurement Regulation, and shall provide responsive services, thereto. Performance for the National Aeronautics and Space Administration shall be in accordance with the provisions of the DOD–NASA Agreement implemented by DOD Instruction 5030.42, "Performance of Contract Administration and Contract Audit Services in Support of NASA Contracts," July 3, 1969.[2]

To insure that system/project managers may exercise technical direction and control of their systems and projects with a minimum of effort, the relationship between such managers and DOD CAS components shall be in accordance with the concept and policies and procedures of DOD Instruction 4105.64, "Technical Representation at Contractors' Facilities," May 8, 1970.[2]

[1] Copies available from the Defense Supply Agency, ATTN: DSAH–XM, Cameron Station, Alexandria, Va. 22314.

[2] Filed as part of original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 300.

(d) *Reimbursement.* DOD Components shall perform CAS for all DOD customers without charge. Services performed for non-DOD organizations normally require reimbursement. Regulations concerning performance of CAS for other government agencies, foreign governments and international organizations is contained in Section 20, Part 5 of the Armed Services Procurement Regulation.

(e) *Assignment procedures*—(1) *Major system plant assignments.* The ASD (I&L) may consider assignment of a major contractor's plant to a Military Department based on the following criteria:

(i) The Military Department desiring cognizance has contract(s) in the plant for a major system or major subsystem.

(ii) The system must be designated as being of high national priority. It must involve an unusually high degree of technical innovation and complexity requiring exceptionally close technical direction and control by the appropriate system/project manager. Performance of CAS functions by other than the responsible Military Department would adversely affect the successful completion of the system and its timely delivery to its ultimate user.

(iii) Subject to the above, other factors which will be considered in cognizance determinations include:

(*a*) Undelivered dollar balance of defense contract(s) for the system on which the request is based, and undelivered dollar balance of DOD contracts in plant by Military Department.

(*b*) Portion of plant and personnel used by contractor for performance of contracts for the above items.

(*c*) Mix and duration of major DOD contracts by type and Military Department.

(*d*) Current stage of system development.

(*e*) Effect of assignment on the plant cognizance policies contained herein; and on the DOD CAS objectives listed in § 190.1.

(2) *Special plant assignments.* The ASD (I&L) may consider assignment of certain contractors' plants not involved in prime contracts for producing major systems to a Military Department subject to the following criteria:

(i) The Military Department desiring cognizance has major contracts in the plant such as those for research, exploratory development, systems engineering, management, and technical direction; and research and development operating contracts.

(ii) The service or supply under contract must be of high national priority, in itself, or related to a major system of high national priority. It must involve such a high degree of technical innovation and complexity that performance of CAS by other than the responsible Military Department would adversely affect the successful and timely completion of the contract.

(iii) Subject to the above, other factors to be considered in cognizance determinations are similar to those listed in subparagraph (1) (iii) of this paragraph.

(3) *Special category of contract assignments.* The ASD(I&L) may consider a special category of contracts such as those for construction and stevedoring, for assignment to a Military Department for performance of field CAS subject to the following criteria:

(i) The Military Department desiring cognizance has major contracts at a significant number of contractor locations involved solely in performance of contracts for a single type of supply or service, and it is unlikely that contracts for other items or from other Services/Agencies would be performed at the same locations.

(ii) The supply or service for which cognizance is desired must be of high national priority. The unusual nature of the contracts or other circumstances must be such that assignment to a Military Department is clearly in the best interests of the government.

(f) *Facilities contracts (ASPR 7-701).* Such contracts will not be considered for separate assignment by ASD(I&L). Field performance on such contracts will be by DCAS except at plants assigned to the Military Departments by ASD(I&L) under the provisions of this part.

(g) *Submission of assignment requests.* (1) Requests for assignment of major system plants and special plants shall include the information required by the Plant Cognizance Questionnaire, see § 190.6. Four copies of each questionnaire shall be submitted to the Assistant Secretary of Defense (Installations and Logistics), Attention: Directorate for Contract Administration Services.

(2) Request for assignment of a category of contracts requires the submission of a letter of justification (four copies) in sufficient detail to enable ASD(I&L) to make determinations based on the factors outlined in paragraph (e)(3) of this section.

(3) The Military Departments and DSA will be advised of ASD(I&L) cognizance determinations. Changes resulting from such decisions will be reflected, as appropriate, in the DOD Directory of CAS components.

(h) *Relinquishments.* No military Department shall retain cognizance or be required to retain cognizance of a plant or category of contracts for which it no longer qualifies or has a need, except that it shall not relinquish cognizance until ASD(I&L) transfers the plant or category of contract to another DOD component. Requests for reliquishment (four copies) shall include reasons therefor and a proposed transfer date.

§ 190.6 Plant cognizance questionnaire.

Requesting Department_____
Type of Request: Transfer _____; Continuance _____:

(a) Provide name of contractor and name and location of the plant for which cognizance is desired. When more than one building is involved, provide maps showing location of all buildings.

(b) Describe in detail what is being procured which is the basis for the plant assignment request. (If not a major system indicate its relationship to the major system.)

(c) Indicate the current status of the system or subsystem in relation to its life cycle (e.g. Research, Exploratory Development, Advanced Development, Concept Formulation, Contract Definition, Engineering Development, Operational System Development, Production). Indicate when production stage began or the approximate date when production is expected to begin.

(d) Specify any previous technical developments on which the system is based, explaining what is new and different.

(e) For systems in process, and where CAS is under another Service/Agency, provide specific evidence on how this situation adversely affects the successful completion of the system. For new systems, explain why you believe performance of CAS by other than the system/project of CAS by other would affect the successful completion of the system.

(f) In the event cognizance is assigned, indicate those system/project manager responsibilities which will be delegated to the CAS component which are over and above the normal CAS functions listed in ASPR 1-406. For each such responsibility delegated indicate the extent of the CAS component's authority, including any specific authorities to finally commit the government to a course of action significantly affecting the contract or the system.

(g) Indicate why the installation of a technical representative at the plant to perform system/project manager functions would not provide essential technical direction and control.

(h) Provide following information on the magnitude of contracts for the system or other basis for request:

(i) Undelivered dollar value of DOD contracts for the major system, or other item/service which is the basis for requested assignment. If more than one item is involved, furnish information separately.

(ii) Undelivered dollar balance on all contracts (by Service, NASA, other).

(i) Indicate the projected time span, during which the contractor will be involved in performing on the system/service for which cognizance is requested. (Include work not presently under contract but planned.)

(j)(1) Furnish following information on all CAS personnel presently in plant on full-time basis:

Functional Area_____
Number Full Time_____
Military Department/DCAS_____
Field Activity of Personnel_____

(2) Assuming cognizance would be assigned as requested, indicate the changes which would occur in (j)(1), with reasons therefor.

(k) Describe briefly the CAS component to be established, including Title, location and command relationship.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.71-18041 Filed 12-8-71;8:51 am]

Chapter XVI—Selective Service System

MISCELLANEOUS AMENDMENTS TO CHAPTER

Whereas, on November 4, 1971, the Director of Selective Service published

a notice of proposed amendments of Selective Service Regulations 36 F.R. 21216 of November 4, 1971; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. section 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 7 a.m., e.s.t., on December 10, 1971, as follows:

PART 1600—MAINTENANCE OF HIGH ETHICAL AND MORAL STANDARDS OF CONDUCT BY OFFICERS AND EMPLOYEES OF THE SELECTIVE SYSTEM

Section 1600.735–28 is amended to read as follows:

§ 1600.735–28 General conduct prejudicial to the Government.

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

PART 1604—SELECTIVE SERVICE OFFICERS

Paragraph (a) of §1604.55 *Disqualification* is amended to read as follows:

§ 1604.55 Disqualification.

(a) No member of a local board shall act on his own case or on the case of a registrant who is his first cousin or closer relation, either by blood, marriage, or adoption, or who is an employee or employer, or who is a fellow employee, or stands in the relation of superior or subordinate in connection with any employment, or is a partner or close business associate of the member. If because of this provision a majority of a local board cannot act on the case of a registrant, the local board shall request the State Director of Selective Service to designate another local board to which the registrant shall be transferred for action on his case.

* * * * *

PART 1606—GENERAL ADMINISTRATION

Section 1606.41 *Forwarding mail addressed to a registrant*, is amended to read as follows:

§ 1606.41 Addresses of registrants.

The addresses of registrants are confidential information.

PART 1609—EXPENDITURES OTHER THAN FOR PERSONAL SERVICES

Paragraph (a) (2) of § 1609.41 *Travel: authorization* is amended to read as follows:

§ 1609.41 Travel: authorization.

(a) * * *

(2) The State Director of Selective Service, for the travel of the personnel of the Selective Service System of his State to any point within the boundaries of his State, unless travel beyond such boundaries is required in answer to a subpoena issued by the United States District Court, or has been authorized by the Director of Selective Service.

* * * * *

PART 1613—REGISTRATION PROCEDURES

§§ 1613.43a, 1613.44 [Revoked]

Section 1613.43a, *Preparation and mailing of registration certificate*, is revoked.

Section 1613.44, *Person registered more than once*, is revoked.

PART 1617—REGISTRATION CERTIFICATE

Section 1617.2 is added to read as follows:

§ 1617.2 Effect of date of birth that appears on Registration Card (SSS Form 1).

The date of birth of the registrant that appears on his Registration Card (SSS Form 1) on the day before the lottery is conducted to establish his Random Selection Sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

Section 1617.11 is amended to read as follows:

§ 1617.11 Issuing of duplicate Registration Certificate.

A duplicate Registration Certificate (SSS Form 2) shall be issued to a registrant by the local board with which he is registered upon receipt of his request therefor made by letter or on a Request for duplicate Registration Certificate or Notice of Classification (SSS Form 6) and the presentation of satisfactory proof to the local board that the Registration Certificate (SSS Form 2) of the registrant has been lost, destroyed, mislaid, or stolen.

§ 1617.12 [Revoked]

Section 1617.12 *Action by local boards when request for duplicate Registration Certificate is filed*, is revoked.

PART 1619—CANCELLATION OF REGISTRATION

Part 1619 is amended to read as follows:

Sec.

1619.1 Cancellation of registration by local board.

1619.2 When cancellation authorized by Director of Selective Service.

AUTHORITY: The provision of this Part 1619 issued under the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.).

§ 1619.1 Cancellation of registration by local board.

The local board may cancel the registration of a person who has improperly registered at a time when he was exempt from registration and there has been no subsequent change in his status which would render him liable for registration, except the local board will not cancel the registration of any registrant who is 17 years of age and has volunteered for induction with the written consent of his parents or guardian, or, if such a registrant has been inducted into and remains in the Armed Forces as the result of his premature registration, while he remains in the Armed Forces.

§ 1619.2 When cancellation authorized by Director of Selective Service.

The Director of Selective Service may authorize or direct the cancellation by a local board of the registration of any particular registrant or of a registrant who comes within a specified group of registrants. Whenever the Director of Selective Service authorizes or directs the cancellation of the registration of any particular registrant or of a registrant within a specified group of registrants, the local board shall cancel the registration and shall take such other action as the Director of Selective Service may prescribe.

PART 1621—PREPARATION FOR CLASSIFICATION

Paragraph (e) of § 1621.2, *Selective service number*, is amended to read as follows:

§ 1621.2 Selective service number.

* * * * *

(e) The fourth element of the selective service number shall be the number assigned to the registrant by his local board among the other registrants of the local board having the same year of birth. Every local board shall assign each of its registrants who were born in the same year a specific identifying number in numerical sequence beginning with the numeral 1. A separate series of identification numbers shall be so assigned to registrants of each year of birth. Identification numbers shall be assigned to registrants by a method most convenient to the person assigning them, provided that each time a number is assigned the next number in sequence for a given year of birth is used.

§§ 1621.4, 1621.5, 1621.6, 1621.7, 1621.8 [Revoked]

Section 1621.4, *Placing selective service numbers on registration cards and certificates*, is revoked.

Section 1621.5, *Preparation of List of Registrants (SSS Form 3)*, is revoked.

Section 1621.6, *Classification Record (SSS Form 102)*, is revoked.

Section 1621.7, *Final arrangements of registration cards*, is revoked.

Section 1621.8, *Preparation of Cover Sheets (SSS Form 101)*, is revoked.

CURTIS W. TARR,
Director.

DECEMBER 6, 1971.

[FR Doc.71–18038 Filed 12–8–71;8:50 am]

MISCELLANEOUS AMENDMENTS TO CHAPTER

Whereas, on November 3, 1971, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 36 F.R. 21072 of November 3, 1971; and

Whereas such publication complied with the publication requirements of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

The proposed amendments to §§ 1621.11, 1625.2, and 1630.4 and Parts 1624 and 1626 which were included in the notice in the FEDERAL REGISTER on November 3, 1971, will not be made effective. The provisions of these sections and parts will be reexamined, recirculated within the Federal Government pursuant to Executive Order 11623 and will be republished later in the FEDERAL REGISTER for public comment.

Now, therefore, by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 6:59 a.m., e.s.t., on December 10, 1971, as follows:

PART 1602—DEFINITIONS

SECTION 1. Part 1602, *Definitions*, is amended as follows:

a. Section 1602.4 *Delinquent* is amended to read as follows:

§ 1602.4 Violator.

A violator is a person required to be registered under the selective service law who fails or neglects to perform any duty required of him under the provisions of the selective service law.

b. Section 1602.14 is added to read as follows:

§ 1602.14 Numbers.

Cardinal numbers may be expressed by Arabic or Roman symbols.

PART 1603—SELECTIVE SERVICE PERSONNEL IN GENERAL

SEC. 2. Section 1603.3, *Uncompensated services*, is amended to read as follows:

§ 1603.3 Uncompensated services.

The services of registrars (except as the Director of Selective Service may otherwise provide), members of local boards, medical advisors to the State Directors of Selective Service, advisors to registrants, and all other persons volunteering their services to assist in the administration of the selective service law shall be uncompensated, and no such person serving without compensation shall accept remuneration from any course for services rendered in connection with selective service matters.

PART 1604—SELECTIVE SERVICE OFFICERS

SEC. 3. Part 1604 is amended as follows:

a. Section 1604.6 is amended to read as follows:

§ 1604.6 National Selective Service Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board, hereafter referred to as the National Board. The President shall appoint members of the National Board from among citizens of the United States who are not members of the armed forces, and he shall designate one member as Chairman of the National Board. A majority of the members of the National Board shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. The National Board may sit en banc or, upon the request of the Director of Selective Service or as determined by the Chairman of the National Board, in panels, each panel to consist of at least three members. The Chairman of the National Board shall designate the members of each panel and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board, or a panel thereof, shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the Chairman of the National Board, at any other place.

(b) The National Board or a panel thereof, is authorized and directed to perform all the functions and duties vested in the President by that sentence of section 10(b)(3) of the Military Selective Service Act, which reads as follows: "The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from training and service under this title, and the determination of the President shall be final." The National Board, upon appeal to the President taken under Part 1627 of these regulations, shall classify each registrant, giving consideration to the various classifications which a local board might consider, and shall give effect to the provisions of the Military Selective Service Act and the regulations promulgated thereunder, and the established policies of the Director of Selective Service.

(c) The National Board shall be in all respects independent of the Director of Selective Service except that the Director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service shall establish the order, by category, in which appeals by registrants will be considered, but he shall not determine the sequence in which appeals within a given category shall be processed. The Director of Selective Service and the Chairman of the National Board shall furnish to each other such information, advice, and assistance as will further the attainment of the objectives of the Military Selective Service Act and promote the effective administration of the Act.

(d) Each member of the National Board shall: (1) Devote so much time to the affairs of the National Board as its responsibilities may require, (2) be compensated as provided in paragraph (e) of this section, and (3) while on the business of the National Board away from his home or regular place of business, receive actual traveling expenses and per diem in lieu of subsistence in accordance with rates established by Standardized Government Travel Regulations as amended.

(e) The compensation of each member of the National Board shall be governed by the following: (1) The member shall be compensated at an hourly rate for such time as is actually spent by him in the work of the National Board, or a panel thereof without limitation as to the number of hours compensable in any one day, (2) the member shall be compensated at an hourly rate for travel time away from his home or regular place of business while en route to or from any meeting of the National Board or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business shall be limited to 8 hours, (3) duties performed on, and travel time occurring on a Saturday, Sunday, or holiday shall be compensable as if performed or occurring on any other day of the week, (4) the compensation shall be in accord with the provisions of section 5332 of title 5, United States Code, and (5) the compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours and the compensation in any pay period shall not exceed one twenty-sixth (1/26) of the governing annual rate of compensation.

b. Section 1604.22, *Composition and appointment*, is amended to read as follows:

§ 1604.22 Composition and appointment of appeal boards.

The Director of Selective Service will prescribe the number of members for the appeal board and panels thereof for each appeal board area. The President, upon recommendation of the respective Governor, shall appoint members of appeal boards from among citizens of the United States who are residents of the area for which the respective boards have jurisdiction.

c. Section 1604.51, *Areas*, is amended to read as follows:

§ 1604.51 Areas of local boards.

The State Director of Selective Service for each State shall divide his State into local board areas and establish local boards in accord with instructions of the Director of Selective Service. There shall be at least one local board in each county except where the Director of Selective Service approves the establishment of an intercounty local board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the local boards as prescribed by the Director of Selective Service. The State Director of Selective Service may establish panels of local boards in accord with instructions of the Director of Selective Service.

d. Section 1604.52, *Composition and appointment*, is amended to read as follows:

§ 1604.52 Composition of local boards.

The Director of Selective Service shall prescribe the number of members of local boards and intercounty local boards.

§ 1604.52a [Revoked]

e. Section 1604.52a *Panels of Local Boards* is revoked.

f. Section 1604.54 is amended to read as follows:

§ 1604.54 Jurisdiction.

The jurisdiction of each local board shall extend to all persons registered with or subject to registration with that local board. It shall have full authority to do and perform all acts within its jurisdiction authorized by law.

§ 1604.71 [Revoked]

g. Section 1604.71 *Appointment and duties* is revoked.

PART 1611—DUTY AND RESPONSIBILITY TO REGISTER

SEC. 4. Part 1611 is amended as follows:

a. Section 1611.2 is amended to read as follows:

§ 1611.2 Persons not required to be registered.

(a) Under the provisions of section 6 (a) of the Military Selective Service Act the following persons are not required to be registered:

(1) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration and the Public Health Service;

(2) Cadets, U.S. Military Academy;

(3) Midshipmen, U.S. Navy;

(4) Cadets, U.S. Air Force Academy;

(5) Cadets, U.S. Coast Guard Academy;

(6) Midshipmen, Merchant Marine Reserve, U.S. Naval Reserves;

(7) Students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense;

(8) Members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service, while on active duty, provided that such active duty in the Public Health Service that commences after the enactment of the Military Selective Service Act is performed by members of the Reserve of the Public Health Service while assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or while assigned to the Coast Guard, the Bureau of Prisons of the Department of Justice, or the National Oceanic and Atmospheric Administration; and

(9) Foreign diplomatic representatives, technical attaches of foreign embassies and legations, consuls general, consuls, vice consuls, and other consular agents of foreign countries who are not citizens of the United States and members of their families.

(b) A male alien who is now in or who hereafter enters the United States and who has not been admitted for permanent residence in the United States shall not be required to be registered under section 3 of the Military Selective Service Act, and shall be relieved from liability for training and service under section 4 of said Act, provided:

(1) He is lawfully admitted to the United States as a nonimmigrant under section 101(a)(15) of the Immigration and Nationality Act, as amended (66 Stat. 163; 8 U.S.C. 1101), for so long as he continues to maintain a lawful nonimmigrant status in the United States;

(2) He is a person who has entered the United States and remains therein pursuant to the provisions of section 11 of the agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations as approved August 4, 1947 (61 Stat. 756);

(3) He is a member of a group of persons who have been temporarily admitted to the United States under an arrangement with the government of the country of which they are nationals, or an appropriate agency thereof, for seasonal or temporary employment, and continues to be employed in the work for which he was admitted;

(4) He is a national of a country with which there is in effect a treaty or international agreement exempting nationals of that country from military service while they are within the United States; or

(5) He is a person who has entered the United States and remains therein pursuant to the provisions of the Agreement between the parties to the North Atlantic Treaty Regarding the Status of their Forces, or the agreement on the Status of the North Atlantic Treaty Organization, National Representatives and International Staff, or the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty.

(c) Each alien who is in the category described in paragraph (b)(1) of this section must have in his possession and available for examination any visa or other official document which was issued to him by a diplomatic, consular, or immigration officer of the United States evidencing that he is within the United States pursuant to the provisions of section 101(a)(15) of the Immigration and Nationality Act.

(d) Each alien who is in the category described in paragraph (a)(9) of this section or who is in one of the categories described in paragraph (b) (2), (3), (4), and (5) of this section must have in his personal possession, at all times, an official document issued pursuant to the authorization of or described by the Director of Selective Service which identifies him as a person not required to present himself for and submit to registration.

b. Section 1611.4 is amended to read as follows:

§ 1611.4 Registration of male persons separated from armed forces.

Every male person who (a) has been separated from active service in the Armed Forces, the National Oceanic and Atmospheric Administration or the Public Health Service, (b) has not been registered prior to such separation, (c) would have been required to be registered except for the fact that he was in such active service on the day or days fixed for his registration by Presidential proclamation, and (d) has not discharged his current military obligation under the Military Selective Service Act shall present himself for and submit to registration before a local board within the period of 30 days following the date on which he was so separated.

PART 1617—REGISTRATION CERTIFICATE

SEC. 5. Section 1617.1 is amended to read as follows:

§ 1617.1 Effect of failure to have unaltered registration certificate in personal possession.

Every person required to present himself for and submit to registration must, after he has registered, have in his personal possession until his liability for training and service has terminated his Registration Certificate (SSS Form 2) prepared by his local board which has not been altered and on which no notation duly and validly inscribed thereon has been changed in any manner after its preparation by the local board. The failure of any person to have his Registration Certificate (SSS Form 2) in his personal possession shall be prima facie evidence of his failure to register. When a registrant is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Registration Certificate (SSS Form 2) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the certificate to the local board that issued it.

PART 1621—PREPARATION FOR CLASSIFICATION

SEC. 6. Part 1621 is amended as follows:

a. Section 1621.9 is amended to read as follows:

§ 6121.9 Mailing classification questionnaire (SSS Form 100).

(a) The local board shall mail a Classification Questionnaire (SSS Form 100) to each registrant according to the rules prescribed by the Director of Selective Service.

(b) The date upon which the Classification Questionnaire (SSS Form 100) is mailed shall be entered in the Classification Record (SSS Form 102).

b. Section 1621.12 is amended to read as follows:

§ 1621.12 Claims for, or information relating to deferment.

The registrant shall be entitled to present all written information which he believes to be necessary to assist the local board in determining his proper classification. Such information should be included in or attached to the Classification Questionnaire (SSS Form 100) and may include any documents, affidavits, or depositions. The affidavits and depositions shall be as concise and brief as possible.

PART 1622—CLASSIFICATION RULES AND PRINCIPLES

SEC. 7. Part 1622 is amended as follows:

a. Section 1622.1 is amended to read as follows:

§ 1622.1 General principles of classification.

(a) It is the local board's responsibility to decide, subject to appeal, the classification in which each registrant shall be placed. Each registrant will be considered as available for military service until his eligibility for deferment or exemption from military service is clearly established to the satisfaction of the local board. The local board will receive and consider all information, pertinent to the classification of a registrant, timely presented to it. The mailing by the local board of a Classification Questonnaire (SSS Form 100) to the latest address furnished by a registrant shall be notice to the registrant that unless information is presented to the local board, within the time specified for the return of the questionnaire, which will justify his deferment or exemption from military service the registrant will be classified in Class 1–A.

(b) In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious, or other organization. Each such registrant shall receive equal justice.

b. Section 1622.2 is amended to read as follows:

§ 1622.2 Classes.

Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1–A: Available for military service.
Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1–D: Member of reserve component or student taking military training.
Class 1–H: Registrant not currently subject to processing for induction.
Class 1–O: Conscientious objector available for alternate service.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.
Class 2–C: Registrant deferred because of agriculture occupation.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–S: Registrant deferred because of activity in study.

CLASS 3

Class 3–A: Registrant with a child or children; and registrant deferred by reason of extreme hardship to dependents.

CLASS 4

Class 4–A: Registrant who has completed military service.
Class 4–B: Officials deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 4–F: Registrant not qualified for military service.
Class 4–G: Registrant exempted from service during peace.
Class 4–W: Conscientious objector who has completed alternate service in lieu of induction.

c. Paragraph (b) of § 1622.13 *Class 1–D: Member of reserve component or student taking military training,* is amended to read as follows:

§ 1622.13 Class 1–D: Member of reserve component or student taking military training.

* * * * *

(b) In Class 1–D shall be placed any registrant who (1) has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training; (2) has agreed, in writing, to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and (3) has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C under the provisions of § 1622.12.

* * * * *

d. Section 1622.14 is amended to read as follows:

§ 1622.14 Class 1–O: Conscientious objector available for alternate service.

In Class 1–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces.

§ 1622.15 [Revoked]

e. Section 1622.15 *Class 1–S: Student deferred by statute* is revoked.

f. Section 1622.16 is amended to read as follows:

§ 1622.16 Class 1–W: Conscientious objector performing alternate service in lieu of induction.

In Class 1–W shall be placed any registrant who has entered upon and is performing alternate service contributing to the maintenance of the national health, safety, or interest, in accordance with the order of the local board.

§ 1622.17 [Revoked]

g. Section 1622.17 *Class 1–Y: Registrant not eligible for a lower class who would be qualified for military service in time of war or national emergency* is revoked.

h. By adding § 1622.18 to read as follows:

§ 1622.18 Class 1–H (holding classification): Registrant not currently subject to processing for induction.

In Class 1–H shall be placed any registrant who is not currently subject to processing for induction according to these regulations and the rules prescribed by the Director of Selective Service.

i. Section 1622.22, *Class II–A: Registrant deferred becaue of civilian occupation,* is amended to read as follows:

§ 1622.22 Class 2–A: Registrant deferred because of civilian occupation (except agriculture) or nondegree study.

(a) In Class 2–A shall be placed any registrant whose continued service is found to be necessary to the maintenance of the national health, safety, or interest in an activity identified as essential by the Director of Selective Service upon the advice of the National Security Council, provided that any registrant in Class 2–A under the provisions of this paragraph in effect prior to April 23, 1970, may be retained in such class so long as he qualified under those provisions. In

addition, any registrant qualified for classification in Class 2–A prior to such effective date may be placed and retained in such class if request thereof has been made prior to such effective date.

(b) In Class 2–A shall be placed any registrant who (1) was satisfactorily pursuing an approved full-time course of instruction, not leading to a baccalaureate degree, in a junior college, community college, or technical school during the 1970–71 academic school year, (2) is engaged in an approved apprentice training program which he began prior to July 1, 1971, or (3) is satisfactorily pursuing approved full-time training, begun prior to July 1, 1971, in a technical or trade school not on an academic year. Deferment under the authority of this paragraph will continue until such registrant fails to pursue satisfactorily such full-time course of instruction or training or until the expiration of the period of time normally required to complete such course of full-time instruction or training.

j. Paragraph (a) of § 1622.25 *Class II–S: Registrant deferred because of activity in study* is amended to read as follows:

§ 1622.25 Class II–S: Registrant deferred because of activity in study.

(a) In Class 2–S shall be placed any registrant who requests such classification, who was satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning during the 1970–1971 regular academic school year and who is satisfactorily pursuing such course, such classification to continue until such registrant completes the requirement for his baccalaureate degree, fails to pursue satisfactorily full-time course of instruction, or attains the 24th anniversary of the date of his birth, whichever occurs first.

* * * * *

§ 1622.26 [Revoked]

k. Paragraph (b) of § 1622.26 *Class II–S: Registrant deferred because of graduate study* is revoked.

l. Section 1622.27 is added which shall read as follows:

§ 162.27 Class 2–D: Registrant deferred because of study preparing for the ministry.

(a) In Class 2–D shall be placed any registrant who is a student preparing for the ministry under the direction of a recognized church or religious organization, who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school, or who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been preenrolled.

(b) A registrant will be deemed to be satisfactorily pursuing a full-time course of instruction when he is making proportionate progress. For example, if the registrant is enrolled in a 4-year course of instruction, the registrant must complete at least one-fourth of the total requirements by the end of the first academic year, at least one-half by the end of the second academic year, at least three-fourths by the end of the third academic year, and all requirements by the end of the fourth academic year. The registrant's academic year, for the purpose of this paragraph, shall terminate on the anniversary of his entrance into the course of study.

m. The title and paragraph (a)(4) of § 1622.40 *Class IV–A: Registrant who has completed service; sole surviving son,* are amended to read as follows; and paragraph (a)(10) is revoked:

§ 1622.40 Class 4–A: Registrant who has completed military service.

(a) * * *

(4) A registrant who has served on active duty subsequent to June 24, 1948, for a period of not less than 12 months in the armed forces of a nation certified by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States subsequent to June 24, 1948, for a period of not less than 12 months: *Provided,* That in computing such 12-month period, there shall be credited any active duty performed by the registrant prior to June 24, 1948, in the armed forces of a country allied with the United States during World War II and with which the United States is associated in such mutual defense activities: *And provided further,* That all information which is submitted to the local board concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language.

* * * * *

(10) [Revoked]

* * * * *

n. Paragraph (b) of § 1622.42 *Class IV–C: Aliens* is amended and paragraph (e) is added to read as follows:

§ 1622.42 Class IV–C: Aliens:

* * * * *

(b) In class IV–C shall be placed any registrant who is an alien who is certified by the Department of State to be, or otherwise establishes that he is, exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

* * * * *

(e) In Class 4–C shall be placed any registrant who is an alien lawfully admitted for permanent residence as defined in paragraph (20) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of such section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

o. Section 1622.43, *Class IV–D: Minister of religion or divinity student,* is amended to read as follows:

§ 1622.43 Class 4–D: Minister of religion.

In Class 4–D shall be placed any registrant who is a regular or duly ordained minister of religion as defined in section 16(g) of the Military Selective Service Act.

p. Section 1622.44 *Class IV–F: Registrant Not Qualified for Any Military Service* is amended to read as follows:

§ 1622.44 Class 4–F: Registrant not qualified for military service.

(a) In Class 4–F shall be placed any registrant who is found under applicable physical, mental, and moral standards to be not qualified for service in the armed forces either currently, or in time of war or national emergency declared by the Congress, except that no such registrant whose further examination or reexamination may be justified shall be placed in Class 4–F until such further examination as the Director of Selective Service deems appropriate has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4–F shall be placed any registrant in the medical, dental, and allied specialist categories who has applied for an appointment as a Reserve officer in one of the Armed Forces in any of such categories and has been rejected for such appointment on the sole ground of a physical disqualification.

q. Section 1622.45 is added which shall read as follows:

§ 1622.45 Class 4–G: Registrant exempted from service during peace.

In Class 4–G shall be placed any registrant who meets the requirements of section 6(o) of the Military Selective Service Act or section 101(d)(3) of Public Law 92–129: *Provided,* That no registrant who volunteers for induction shall be placed or retained in Class 4–G.

r. Section 1622.46 is added which shall read as follows:

§ 1622.46 Class 4–W: Registrant who has completed alternate service in lieu of induction.

In Class 4–W shall be placed any registrant who subsequent to being ordered by the local board to perform alternate service in lieu of induction has been released from such service by the local board after satisfactorily performing the work for a period of 24 consecutive months or has been released from such service by the Director of Selective Service.

§ 1622.50 [Revoked]

s. Section 1622.50 *Class V–A: Registrant over the age of liability for military service* is revoked.

§ 1622.61 [Revoked]

t. Section 1622.61 *Identifying a registrant when registration is canceled* is revoked.

§ 1622.62 [Revoked]

u. Section 1622.62 *Identifying a registrant when induction is postponed* is revoked.

§ 1622.63 [Revoked]

v. Section 1622.63 *Identifying registrants who are deceased* is revoked.

PART 1623—CLASSIFICATION PROCEDURE

SEC. 8. Part 1623, Classification Procedure, is amended as follows:

a. Section 1623.1, *Commencement of classification*, is amended to read as follows:

§ 1623.1 Commencement of classification.

(a) Each registrant shall be classified as soon as practicable after his registration.

(b) The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and such other written information as may be contained in his file; provided that the board shall proceed with the registrant's classification whenever he fails to provide the board in a timely manner with any information concerning his status which he is requested or required to furnish. Since it is imperative that appeal agencies have available to them all information on which the local board determined the registrant's classification, oral information shall not be considered unless it is summarized in writing and the summary placed in the registrant's file. Under no circumstances shall the local board rely upon information received by a member personally unless such information is reduced to writing and placed in the registrant's file. None of the provisions of this section shall impair the power of the local board to take notice of the birthday of any registrant and of the fact that the Congress has made registrants of his age liable for induction for military service and in the absence of any other information, when the registrant has failed to furnish such information within the time prescribed, to classify the registrant as available for military service.

b. Section 1623.2 *Consideration of classes* is amended to read as follows:

§ 1623.2 Consideration of classes.

Every registrant shall be placed in Class 1–A under the provisions of § 1622.10 of this chapter except that when grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 1–C considered the lowest class according to the following table:

Class		
1–A–O	3–A	4–A
1–O	4–B	4–G
2–A	4–C	1–W
2–C	4–D	4–W
2–S	1–H	1–D
2–D	4–F	1–C

c. Section 1623.4 is amended to read as follows:

§ 1623.4 Action to be taken when classification determined.

(a) As soon as practicable after the local board has classified or reclassified a registrant (except a registrant who is classified in Class 1–C because of his entry into active service in the Armed Forces) it shall mail him a notice thereof. When a registrant is classified in Class 2–A, Class 2–C, Class 2–D, or Class 2–S, the date of the termination of the deferment shall be entered on such notice.

(b) After each local board meeting, a notice listing the registrants who have been classified or whose classification has been changed, shall be posted in a conspicuous place in the office of the local board. When a person is unable to ascertain the current classification of a registrant from this posted notice, an employee of the local board, upon request shall consult the Classification Record (SSS Form 102) and shall furnish the person making the inquiry the current classification of such registrant.

(c) In the event that the local board classifies the registrant in a class other than that which he requested it shall record its reason therefor in his file. The local board shall inform the registrant of such reasons in the manner prescribed by the Director of Selective Service.

d. Section 1623.5 is amended to read as follows:

§ 1623.5 Persons required to have Notice of Classification (SSS Form 110) in personal possession.

Every person who has been classified by a local board must have in his personal possession until his liability for training and service has terminated a valid Notice of Classification (SSS Form 110) issued to him showing his current classification. When any such person is inducted into the Armed Forces or enters upon active duty in the Armed Forces, other than active duty for training and only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his Notice of Classification (SSS Form 110) to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the notice to the local board that issued it.

e. Section 1623.7 is amended to read as follows:

§ 1623.7 Issuing a duplicate of a lost, destroyed, mislaid, or stolen Notice of Classification (SSS Form 110).

A duplicate Notice of Classification (SSS Form 110) may be issued to a registrant only by the local board which mailed the original Notice of Classification (SSS Form 110) to him upon his written request therefor and the presentation of proof satisfactory to the local board that his Notice of Classification (SSS Form 110) has been lost, destroyed, mislaid, or stolen.

§ 1623.8 [Revoked]

f. Section 1623.8 *Register of conscientious objectors* is revoked.

PART 1625—REOPENING AND CONSIDERING ANEW REGISTRANT'S CLASSIFICATION

SEC. 9. Part 1625 is amended as follows:

a. Section 1625.1 is amended to read as follows:

§ 1625.1 Classification not permanent.

(a) No classification is permanent.

(b) Each classified registrant shall, within 10 days after it occurs, report to the local board in writing any fact, such as, but not limited to, any change in his occupational, marital, military, or dependency status, or in his physical condition, that might result in his being placed in a different classification.

(c) The local board shall keep informed of the status of classified registrants. Registrants may be questioned or physically or mentally reexamined, employers may be requested to furnish information, police officials or other agencies may be requested to make investigations, and other steps may be taken by the local board to keep currently informed concerning the status of classified registrants.

b. Section 1625.3 is amended to read as follows:

§ 1625.3 When registrant's classification shall be reopened and considered anew.

The local board shall reopen and consider anew the classification of a registrant upon the written request of the State Director of Selective Service or the Director of Selective Service and upon receipt of such request shall immediately cancel any order to report for induction or alternate service which may have been issued to the registrant.

c. Section 1625.4 is amended to read as follows:

§ 1625.4 Refusal to reopen and consider anew registrant's classification.

When a registrant files with the local board a written request to reopen and consider anew the registrant's classification and the local board is of the opinion that the information accompanying such request fails to present any facts in addition to those considered when the registrant was classified or, even if new facts are presented, the local board is of the opinion that such facts, if true,

would not justify a change in such registrant's classification, it shall not reopen the registrant's classification. In such a case, the local board (a) shall record in the registrant's file the reasons for its decision not to reopen his classification, and (b) shall advise the registrant by letter of its decision not to reopen his classification and the reasons therefor.

d. Section 1625.12 is amended to read as follows:

§ 1625.12 Notice of action when classification considered anew.

When the local board reopens the registrant's classification, it shall, as soon as practicable after it has again classified the registrant, mail him notice thereof.

e. Section 1625.14 *Cancellation of order to report for induction or for civilian work by reopening of classification* is amended to read as follows:

§ 1625.14 Cancellation of order to report for induction or for alternate service by reopening of classification.

The reopening of the classification of a registrant by the local board shall cancel any order to report for induction or alternate service which may have been issued to the registrant, except that if the registrant has failed to comply with either of those orders, the reopening of his classification thereafter by the local board for the purpose of placing him in Class 4–C shall not cancel the order with which he failed to comply.

PART 1627—APPEAL TO THE PRESIDENT

SEC. 10. Part 1627 is amended to read as follows:

Sec.
1627.1 Persons who may appeal to the President.
1627.2 Procedure for taking an appeal to the President.
1627.3 Procedure on appeal to the President.
1627.4 Procedures of the National Selective Service Appeal Board.
1627.5 File to be returned after appeal to the President is decided.
1627.6 Procedure of local board after file is returned.
1627.7 Appeal to the President stays induction.

AUTHORITY: The provisions of this Part 1627 issued under Military Selective Service Act, as amended, 50 App. U.S.C. secs. 451 et seq.; Executive Order 11623, October 12, 1971.

§ 1627.1 Persons who may appeal to the President.

(a) The Director of Selective Service, the State Director of Selective Service of the State in which the local board which classified the registrant is located, or the State Director of Selective Service of the State in which the appeal board is located may appeal to the President from any determination of an appeal board at any time prior to the induction of the registrant.

(b) When a registrant has been classified by the appeal board and one or more members of the appeal board dissented from that classification, he may appeal to the President within 15 days after the mailing by the local board of the Notice of Classification (SSS Form 110) notifying him of his classification by the appeal board. The local board may permit any registrant who is entitled to appeal to the President under this section to do so, even though the period of taking such an appeal has elapsed, if it is satisfied that his failure to appeal within such period was due to lack of understanding of the right to appeal or to some other cause beyond his control.

§ 1627.2 Procedure for taking an appeal to the President.

(a) An appeal to the President may be taken by the Director of Selective Service (1) by mailing to the local board, through the State Director of Selective Service, a written notice of appeal or (2) by placing in the registrant's file a written notice of appeal and, through the State Director of Selective Service, advising the local board thereof.

(b) An appeal to the President may be taken by the State Director of Selective Service (1) by mailing to the local board a written notice of appeal and directing the local board to forward the registrant's file to him for transmittal to the Director of Selective Service or (2) by placing in the registrant's file a written notice of appeal and advising the local board thereof. Before he forwards the registrant's file to the Director of Selective Service, the State Director of Selective Service shall place in such file a written statement of his reasons for taking such appeal.

(c) An appeal to the President by the registrant shall be taken by filing with the local board a written notice of appeal. Such notice need not be in any particular form but must state the name of the registrant and the fact he wishes the President to review the determination of the appeal board.

§ 1627.3 Procedure on appeal to the President.

(a) When an appeal to the President is taken by the Director of Selective Service or a State Director of Selective Service, the local board shall notify the registrant that the appeal has been taken. If the registrant's file is in the local board's possession, it shall forward the entire file to the State Director of Selective Service and the local board shall enter on the Classification Record (SSS Form 102) under "Remarks" the date the file is forwarded or the date it receives notice that an appeal to the President has been taken.

(b) When an appeal to the President is taken, the State Director of Selective Service shall check the file which is in his possession or which is forwarded to him to be sure that all procedural requirements have been properly complied with, including notice to the registrant that such an appeal has been taken, and, if he discovers any procedural defects, return the file for correction. If any information has been placed in the file which was not considered by the local board in making the classification from which the appeal to the President is taken, the State Director of Selective Service shall review such information and, if he is of the opinion that such information, if true, would justify a different classification of the registrant, return the file to the local board with instructions to reopen the registrant's classification and classify the registrant anew.

(c) When the State Director of Selective Service has complied with the provisions of paragraph (b) of this section, he shall, unless the file is returned to the local board, forward the file to the Director of Selective Service.

(d) Whenever the State Director or Director appeals to the President, the registrant shall be notified by his local board in writing of the action and informed that if he desires to appear before the National Board he must within 15 days from the date on the letter of notification, request such an appearance in writing, addressed to his local board. The local board shall forthwith notify the National Board of such request.

(e) If the registrant is taking the appeal, he may at the same time also file a written request with the local board to appear before the National Board. The local board shall forthwith notify the National Selective Service Appeal Board of such request.

§ 1627.4 Procedures of the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Board by its classification of the registrant.

(b) The National Board shall proceed forthwith to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.

(c) Not less than 15 days in advance of the meeting at which his classification will be considered, the Board shall inform any registrant who has requested a personal appearance that he may appear at such meeting and present evidence, other than witnesses, bearing on his classification. Should the registrant fail, for good cause he establishes to the satisfaction of the National Board, to appear at such meeting, he shall be afforded an opportunity to appear at a subsequent meeting. The registrant must file a written statement of the reasons for his failure to appear at his scheduled meeting within 5 days after such failure or the registrant will be deemed to have waived his right to an opportunity to appear at a subsequent meeting.

(d) The registrant is entitled to 15 minutes for his personal appearance. The National Board may, in its discretion extend the time of the registrant's personal appearance. No registrant may be represented before the National Board by anyone acting as attorney or legal counsel.

(e) At any such appearance, the registrant may discuss his classification, may point out the class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local

board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the National Board in determining his proper classification, at the time he requests a personal appearance.

(f) The National Board shall classify a registrant who has requested a personal appearance after (1) he has appeared before the National Board, (2) he withdrew his request to appear, (3) waived his right to an opportunity to appear, or (4) failed to appear without establishing to the satisfaction of the National Board good cause therefor. When a registrant appears before the National Board, only those members of the Board before whom the registrant appeared shall classify him.

(g) In reviewing the appeal and classifying the registrant, The National Board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's record received from the local board;

(2) General information concerning economic, industrial and social conditions; and

(3) Oral statements by the registrant to the National Board during his personal appearance.

(h) In the event that the National Board classifies the registrant in a class other than that he requested it shall record its reasons therefor in his file. Upon the receipt by the local board of a written request by the registrant mailed within 30 days after the mailing of a Notice of Classification (SSS Form 110) in accord with § 1627.6 it shall furnish to such registrant a brief statement of the reasons for the decision of the National Board.

§ 1627.5 File to be returned after appeal to the President is decided.

When the appeal to the President has been decided, the file shall be returned to the local board through the appropriate State Director of Selective Service.

§ 1627.6 Procedure of local board after file is returned.

When the file of the registrant is received by the local board it, shall: (a) Mail a Notice of Classification (SSS Form 110) to the registrant and (b) enter on the Classification Record (SSS Form 102) and on the Classification Questionnaire (SSS Form 100) the classification given the registrant by the President and the date of mailing of the Notice of Classification (SSS Form 110).

§ 1627.7 Appeal to the President stays induction.

The local board shall not issue an order for a registrant to report for induction either during the period afforded the registrant to take an appeal to the President or during the period such appeal is pending. Any order to report for induction which has been issued during either of such periods shall be ineffective and shall be canceled by the local board. Whenever an appeal to the President has been taken by a person entitled to do so, any order to report for induction which has previously been issued to the registrant shall be ineffective and shall be canceled by the local board.

PART 1628—EXAMINATION OF REGISTRANTS

SEC. 11. Part 1628 Physical Examination is amended to read as follows:

Sec.
1628.1 Who will be examined.
1628.2 Preliminary determination of acceptability.
1628.3 Registrants to be given medical interview.
1628.4 Duties of medical advisors to local board.
1628.5 Transfer for medical interview.
1628.6 Order to Report for Armed Forces Examination.
1628.7 Postponement of armed forces examination.
1628.8 Transfer of registrants for examination.
1628.9 Transfer for armed forces examination directed by Director of Selective Service.
1628.10 Duty of registrant to report for and submit to armed forces examination.

AUTHORITY: The provisions of this Part 1628 issued under Military Selective Service Act, as amended, 50 App. U.S.C. secs. 451 et seq.; Executive Order 11623, October 12, 1971.

§ 1628.1 Who will be examined.

(a) Every registrant, before he is ordered to report for induction or ordered to perform alternate service contributing to the maintenance of the national health, safety, or interest, shall have his acceptability for military service determined under standards of acceptability prescribed by the Secretary of Defense, except that a registrant who has volunteered for induction or a registrant who has failed or refused to report for and submit to an armed forces examination may have his acceptability determined at the time he reports for induction.

(b) The Director of Selective Service shall prescribe procedures for the selection and delivery of registrants for armed forces examination.

(c) Based on lists of various medical conditions or physical defects that disqualify registrants for service in the armed forces, as may be issued from time to time by the Surgeon General of the Department of the Army, the local board, under such rules and regulations as the Director of Selective Service may prescribe shall determine whether a registrant who has or who may have such disqualifying medical condition or defect shall be delivered for an armed forces examination.

§ 1628.2 Preliminary determination of acceptability.

(a) Whenever the local board has reason to believe that a registrant has a disqualifying medical condition or physical defect enumerated in the list described in § 1628.1(c), it shall determine whether (1) he has such medical condition or physical defect, (2) he should be delivered for armed forces examination, or (3) only the medical information in such registrant's file together with the medical advisor's recommendation, if applicable, shall be forwarded to the AFEES for review and determination. In making this determination, the local board shall consider the report and recommendation, if available, of a medical advisor following a medical interview.

§ 1628.3 Registrants to be given medical interview.

Whenever the local board is of the opinion that a registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c), it may order the registrant to present himself for medical interview at a specified time and place by mailing to such registrant a Notice to Registrant to Appear for Medical Interview (SSS Form 219). It shall be the duty of the registrant to present himself to the medical advisor to the local board at the time and place designated and to submit to examination.

§ 1628.4 Duties of medical advisors to local board.

The medical advisor to the local board shall (a) give each registrant who presents himself for medical interview such examination as he deems necessary to determine whether the registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c), or (b) review each affidavit of a reputable physician or official statement of a representative of a Federal or State agency referred to him by the local board. No laboratory or X-ray work shall be authorized but reports of laboratory or X-ray work performed previously and presented by the registrant may be given consideration by the medical advisor. From such examination or review, the medical advisor to the local board shall determine whether the registrant has one or more of the disqualifying medical conditions or physical defects which appear in the list described in § 1628.1(c) and shall report his findings to the local board.

§ 1628.5 Transfer for medical interview.

Any registrant who has received a Notice to Registrant To Appear for Medical Interview (SSS Form 219) and who is so far from his own local board that presenting himself to the medical advisor to his local board would be a hardship may file a written request with the local board having jurisdiction of the area in which he is at that time located for his transfer for medical interview to that local board. The local board with which the request for transfer for medical interview is filed shall forward the request to the registrant's own local board.

§ 1628.6 Order To Report for Armed Forces Examination.

(a) In accordance with instructions of the Director of Selective Service, the State Director of Selective Service shall periodically issue to each local board in his State an Examination Call on Local Board (SSS Form 202) for registrants

to be delivered for armed forces examination and the time and place fixed for their delivery.

(b) The local board shall select and order for armed forces examination registrants in accordance with the instructions of the Director of Selective Service. The date specified for reporting for such examination shall be at least 10 days after the date on which the Order To Report for Armed Forces Examination (SSS Form 223) is mailed, except that a registrant who has volunteered for induction may be ordered to report for such examination on any date after he has so volunteered.

(c) The local board shall also order for armed forces examination those registrants who have not attained age 26 and who have not previously had such an examination, who request such examination. Requests for examinations must be submitted in writing to the registrant's local board. The local board shall establish a specific date for the examination, which date shall be within 60 days of the receipt of the applicant's request, and the registrant shall be given written notice thereof at least 15 days prior to the date of such examination. A registrant shall have the right to receive only one preinduction examination on his own request. The Director of Selective Service may temporarily suspend the provisions of this paragraph for particular States or particular local boards if he determines that the number of such requests, if granted, would adversely affect the processing of men toward induction or would increase the total workloads of the respective Armed Forces Examining and Entrance Stations beyond their capacities. If any registrant is found acceptable upon examination at his request, he will not be selected for induction until his random sequence number is reached.

§ 1628.7 Postponement of armed forces examination.

The issuance of an Order to Report for Armed Forces Examination (SSS Form 223) may be delayed or the forwarding of a registrant under such an order may be postponed to the same extent and in the same manner as provided in § 1632.2 of this chapter with reference to an Order to Report for Induction (SSS Form 252); provided, that any such delay or postponement under the provisions of this section shall terminate whenever the local board determines that the induction of the registrant is imminent, in which event the local board shall order the registrant to report for armed forces examination.

§ 1628.8 Transfer of registrants for examination.

(a) Any registrant who has received an Order to Report for Armed Forces Examination (SSS Form 223) and who is so far from his own local board that reporting to his own local board would be a hardship may, subject to the provisions of this section, be transferred for armed forces examination to the local board having jurisdiction of the area in which he is at that time located.

(b) Any such registrant desiring to be so transferred shall immediately report to the local board having jurisdiction of the area in which he is at that time located, present his Order to Report for Armed Forces Examination (SSS Form 223) and apply for transfer by completing Part 1 of Transfer for Armed Forces Examination or Induction (SSS Form 230).

(c) The registrant shall be required to report in accordance with the Order to Report for Armed Forces Examination (SSS Form 223), which he received from his own local board, if his application for transfer is disapproved.

§ 1628.9 Transfer for armed forces examination directed by Director of Selective Service.

(a) The Director of Selective Service may direct that a particular registrant or a registrant who comes within a described group of registrants be transferred for armed forces examination to such local board or local boards as he shall designate.

§ 1628.10 Duty of registrant to report for and submit to armed forces examination.

(a) When the local board mails to a registrant an Order to Report for Armed Forces Examination (SSS Form 223), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report for Armed Forces Examination (SSS Form 223) is mailed and prior to the time fixed therein for the registrant to report for his armed forces examination, the local board cancels such Order to Report for Armed Forces Examination (SSS Form 223) or postpones that time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

(b) If the time when the registrant is ordered to report for armed forces examination is postponed, it shall be the duty of the registrant to report for armed forces examination upon the termination of such postponement and he shall report for armed forces examination at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for armed forces examination when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for armed forces examination to his local board and to each local board whose area he enters or in whose area he remains.

(c) Upon reporting for armed forces examination, it shall be the duty of the registrant (1) to follow the instructions of a member, executive secretary, or local board clerk as to the manner in which he will be transported to the location where his armed forces examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for armed forces examination, (3) to appear for and submit to such examination as the commanding officer of the examining station shall direct, and (4) to follow the instructions of a member, executive secretary, or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his armed forces examination takes place.

PART 1630—VOLUNTEERS

§ 1630.5 [Revoked]

SEC. 12. Section 1630.5, *Selection of volunteer* is revoked.

PART 1631—ALLOCATION OF INDUCTIONS

SEC. 13. Part 1631, Quotas and Calls, is amended to read as follows:

Sec.
1631.1 Random selection sequence for induction.
1631.2 Allocation of inductions under random selection.
1631.3 Calls by the Secretary of Defense.
1631.4 Allocations by the Director of Selective Service.
1631.5 Allocations by State Director of Selective Service.
1631.6 Action by local board upon receipt of allocation.
1631.7 Registrants who shall be inducted without calls.

AUTHORITY: The provisions of this Part 1630 issued under the Military Selective Service Act, as amended, 50 App. U.S.C. secs. 451 et seq.; Executive Order 11623, Oct. 12, 1971.

§ 1631.1 Random selection sequence for induction.

The Director of Selective Service shall establish a random selection sequence for induction. Such random selection sequence will be established by a drawing to be conducted in Washington, D.C., once each year on a date the Director shall fix, and shall be applied nationwide. The random selection method shall use 365 days or, when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the calendar year within which occurs the date fixed for the drawing, shall have attained their 19th but not their 20th year of age. The drawing, commencing with the first day selected and continuing until all 365 days or, when appropriate, 366 days are drawn, shall be accomplished impartially. The random selection sequence thus obtained shall, in accordance with the Selective Service Regulations, determine the order of selection of such registrants. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection. A random sequence number established for a registrant shall be equivalent, for purposes of selection, to the same random sequence established for other registrants in other drawings, including the drawings of December 1, 1969, and of July 1, 1970, and the random selection sequences obtained in those drawings shall continue to determine the order of selection of the registrants covered thereby in accordance with the Selective Service Regulations. Selection among registrants who have the same random sequence number shall be based

upon the supplemental drawing conducted December 1, 1969, which determined alphabetically a random selection sequence by name.

§ 1631.2 Allocation of inductions under random selection.

When persons are selected for training and service in accordance with random selection, allocations of inductions shall be placed under such rules and regulations as the Director of Selective Service may prescribe.

§ 1631.3 Calls by the Secretary of Defense.

The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men required for induction into the Armed Forces. The Secretary of Defense may also from time to time place with the Director of Selective Service a call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.

§ 1631.4 Allocations by the Director of Selective Service.

(a) The Director of Selective Service shall, upon receipt of a call or requisition from the Secretary of Defense for men to be inducted into the Armed Forces, issue a call or requisition to the several States.

(b) Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States.

§ 1631.5 Allocations by State Director of Selective Service.

The State Director of Selective Service shall direct each local board to select and deliver men for induction in accordance with the rules and regulations as the Director of Selective Service may prescribe.

§ 1631.6 Action by local board upon receipt of allocation.

(a) When an allocation is received from the State Director of Selective Service, the Executive Secretary or clerk, if so authorized, or a local board member shall select as provided herein, and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in Class 1–A or Class 1–A–O and have been found acceptable for service in the Armed Forces and to whom a Statement of Acceptability (DD Form 62) has been mailed: *Provided*, That notwithstanding Part 1628 or any other provision of these regulations, when a registrant in whatever classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an Armed Forces examination, he may, after he is reclassified into Class 1–A or 1–A–O be selected and ordered to report for induction even though he has not been found acceptable for service in the Armed Forces and a Statement of Acceptability (DD Form 62) has not been mailed to him, and in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined: *Provided further*, That a registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call notwithstanding the fact that he has not been found acceptable for service in the Armed Forces and regardless of whether or not a Statement of Acceptability (DD Form 62) has been mailed to him, but in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined.

(b) Registrant shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the Extended Priority Selection Group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(3) Nonvolunteers in the First Priority Selection Group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(4) Nonvolunteers in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their dates of birth with the oldest being selected first.

(6) Nonvolunteers who have attained the age of 26 years in the order of their dates of birth with the youngest being selected first.

(7) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of their dates of birth with the oldest being selected first.

(c) Definitions:

(1) Extended Priority Selection Group consists of registrants who on December 31 were members of the First Priority Selection Group whose random sequence number had been reached but who had not been issued orders to report for induction.

(2) First Priority Selection Group:

(i) *1970.* In the calendar year 1970, nonvolunteers in Class 1–A or 1–A–O born on or after January 1, 1944, and on or before December 31, 1950, who have not attained the 26th anniversary of the dates of their birth.

(ii) *1971 and later years.* In the calendar year 1971 and each calendar year thereafter, nonvolunteers in Class 1–A, Class 1–A–O, Class 1–O or Class 1–H who prior to January of each such calendar year have attained the age of 19 years but not of 20 years and nonvolunteers who prior to January 1 of each such calendar year have attained the age of 19 but not of 26 years and who during that year are classified into Class 1–A, Class 1–A–O, Class 1–O or Class 1–H.

(3) Lower priority selection groups: One or more priority selection groups lower than the First Priority Selection Group in a given year.

(4) "Reached" random sequence number: A registrant's random sequence number will be deemed to have been "reached" if such number is equal to or lower than the random sequence number set by the Director of Selective Service or the highest random sequence number to be ordered for induction for that calendar year for any registrant in that priority selection group.

(d) Procedures:

(1) Local boards shall identify registrants in the appropriate groups as provided in this section.

(2) Members of the First Priority Selection Group on December 31 in any calendar year whose random sequence numbers have not been reached by that date, or members of any subgroup which was not reached during such calendar year, shall be assigned to the priority selection group which is next below the First Priority Selection Group for the immediately succeeding calendar year.

(3) On December 31 of each year, each priority selection group below the first priority selection group shall be reduced one step further in priority. In this manner the second priority selection group would become the third, the third would become the fourth, and so on.

(4) Members of the First Priority Selection Group on December 31 in any calendar year whose random sequence number had been reached but who had not been issued order to report for induction during the calendar year shall be assigned to the Extended Priority Selection Group for the immediately succeeding calendar year.

(5) Members of the Extended Priority Selection Group who have not been issued orders to report for induction and originally scheduled for a date prior to April 1 shall forthwith be assigned to the lower priority selection group to which they would have been assigned had they never been assigned to the Extended Priority Selection Group; except that members of the Extended Priority Selection Group who would have been ordered to report for induction to fill the last call in the first quarter of the calendar year but who could not be issued orders shall remain in the Extended Priority Selection Group and shall be ordered to report for induction as soon as practicable. Circumstances which would prevent such an order shall include but not be limited to those arising from a personal appearance, appeal, preinduction physical examination, reconsideration, judicial proceeding, or inability of the local board to act.

(6) Any registrant assigned to a lower priority selection group or the Extended

Priority Selection Group, who while in such priority selection group receives a deferment or exemption, and who subsequently is reclassified into Class 1–A, Class 1–A–O, or Class 1–H, shall be assigned to the priority selection group which, at the time of such reclassification, is in the same corresponding position as was the priority selection group of which he was a member when he received such deferment or exemption.

(7) A registrant in category (b) (2), (3), or (4) (paragraph (b) (2), (3), or (4) of this section) can be inducted under those provisions after he has attained the age of 26 only if he has extended liability and has been issued an order to report for induction prior to such birthday.

(8) Within category (3) and (4) listed in (b) (paragraph (b) (3) or (4) of this section) there shall be a subgroup consisting of registrants who have a wife whom they married on or before August 26, 1965, and with whom they maintain a bona fide family relationship in their homes. Registrants in any such subgroup shall be subject in all respects to this section except that they shall be selected after other registrants in the group of which that subgroup is a part.

§ 1631.7 Registrants who shall be inducted without calls.

(a) Notwithstanding any other provision of the regulations in this chapter, any registrant enlisted or appointed after October 4, 1961, in the Ready Reserve of any reserve component of the Armed Forces (other than under section 511(b) of title 10, United States Code), the Army National Guard, or the Air National Guard, prior to attaining the age of 26 years, or any registrant enlisted or appointed in the Army National Guard or the Air National Guard prior to attaining the age of 18 years and 6 months and prior to September 3, 1963, and deferred under the provisions of section 6(c)(2)(A) of the Military Selective Service Act which were in effect prior to September 3, 1963, or any registrant enlisted in the Ready Reserve of any reserve component of the Armed Forces prior to attaining the age of 18 years and 6 months and prior to August 1, 1963, and deferred under section 262 of the Armed Forces Reserve Act of 1952, as amended, who fails to serve satisfactorily during his obligated period of service as a member of such Ready Reserve or National Guard or the Ready Reserve of another reserve component or the National Guard of which he becomes a member as certified by the respective armed force, shall be ordered to report for induction by the local board regardless of the class in which he is classified and without changing his classification. Any registrant who is ordered to report for induction under this paragraph shall be forwarded for induction at the next time the local board is forwarding other registrants for induction or at any prior time when special arrangements have been made with the induction station, without any calls being made for the delivery of such registrants. Whenever the local board desires to deliver such a registrant specially, it shall request the State Director of Selection Service to make the special arrangements for the time and place at which the registrant may be delivered for induction.

(b) At the induction station, each registrant who is forwarded for induction under paragraph (a) of this section shall be inducted into the armed force of which the reserve component in which the registrant is a member is a part.

(c) Notwithstanding any other provision of law, any registrant who has failed or refused to report for induction shall continue to remain liable for induction and when available shall be immediately inducted.

PART 1632—DELIVERY AND INDUCTION

SEC. 14. Part 1632 is amended as follows:

a. Section 1632.1 is amended to read as follows:

§ 1632.1 Order to report for induction.

(a) Immediately upon determining which men are to report for induction, the local board shall prepare for each man an Order to Report for Induction (SSS Form 252). The date specified to report for induction shall be at least 30 days after the date on which the Order to Report for Induction (SSS Form 252) is mailed, except that a registrant who has volunteered for induction may be ordered to report for induction on any date after he has so volunteered.

(b) Any registrant who has been ordered for induction and who is distant from his local board of origin, must report at the time and place specified on the notice ordering him for induction, unless he voluntarily submits to processing for induction at any Armed Forces Examining and Entrance Station and is actually inducted into the Armed Forces on or before the third day prior to the day that he was required to report in accordance with his local board's induction order.

(c) If the registrant is inducted or if the registrant is found not qualified for induction pursuant to paragraph (b) thereof, the Armed Forces Examining and Entrance Station shall inform the local board which ordered the registrant for induction of such event, and in either event the registrant shall not be required to comply with the local board's order.

§ 1632.5 [Revoked]

b. Section 1632.5 *Preparing Records for a Group Ordered To Report for Induction* is revoked.

c. Paragraph (c) of § 1632.10 *Transfer for induction* is amended to read as follows:

§ 1632.10 Transfer for induction.

* * * * *

(c) When the local board to which the registrant has been transferred for induction receives the papers from the registrant's own local board, as provided in paragraph (b) of this section, it shall proceed to deliver him for induction as soon as practicable.

d. Paragraph (a) of § 1632.14 *Duty of registrant to report for and to submit to induction* is amended to read as follows:

§ 1632.14 Duty of registrant to report for and to submit to induction.

(a) When the local board orders the registrant for induction it shall be the duty of the registrant to report for induction at the time and place ordered by the local board. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for induction at such time and place as may be ordered by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for induction to his local board.

* * * * *

PART 1642 [REVOKED]

SEC. 15. Part 1642—*Delinquents* is revoked.

PART 1655—REGISTRATION OF U.S. CITIZENS OUTSIDE THE UNITED STATES AND CLASSIFICATION OF SUCH REGISTRANTS

§ 1655.6 [Revoked]

SEC. 16. Section 1655.6 *Records to be completed by local board receiving Registration Questionnaire—Foreign (SSS Form 50) and assignment of selective service number* is revoked.

PART 1660 [REVOKED]

SEC. 17. Part 1660—*Civilian Work in Lieu of Induction* is revoked.

CURTIS W. TARR,
Director.

DECEMBER 6, 1971

[FR Doc.71-18037 Filed 12-8-71;8:50 am]

PART 1660—ALTERNATE SERVICE

Whereas, on November 5, 1971, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations 36 F.R. 21294 of November 5, 1971; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by section 6(j) of the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.), the Selective Service Regulations, constituting a portion of chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 7 a.m., e.s.t., on December 10, 1971, as follows:

Part 1660 *Alternate Service* is added to read as follows:

Sec.
1660.1 Responsibility for administration.
1660.2 Examination of registrants.
1660.3 Volunteer for alternate service.
1660.4 Selection of nonvolunteer for alternate service.
1660.5 Eligible employers of registrants performing alternate service.
1660.6 Eligible jobs for registrants performing alternate service.
1660.7 Assigning alternate service.
1660.8 Performance of alternate service.
1660.9 Administration of alternate service.
1660.10 Release from alternate service.
1660.11 Completion of alternate service.
1660.12 Information concerning alternate service.

AUTHORITY: The provision of this Part 1660 issued under section 6(j) of the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.).

§ 1660.1 Responsibility for Administration.

(a) The State director, under the supervision of the Director, will assure compliance with the law, the regulations, and Selective Service policy concerning the program of alternate service for registrants who have been classified in class 1–O.

(b) The State director of the State in which a registrant is registered will have primary responsibility for the initial placement of the registrant in alternate service. That State director will coordinate any job placement activities in any State outside his own with the State director of that State. In assigning a registrant outside his own State, the assigning State director must have the approval of the "receiving" State director or the Director of Selective Service.

(c) Alternate service to be performed outside the geographical area under the jurisdiction of a State director will be administered by the Director of Selective Service after the assignment to such work has been made by the State director.

§ 1660.2 Examination of Registrants.

A registrant classified in class 1–O shall be ordered to report for Armed Forces examination in the same manner as any other registrant. If he fails to report for or submit to this examination, or if he is found to be qualified for service, he shall be ordered to the appropriate alternate service job when his Random Sequence Number is reached.

§ 1660.3 Volunteer for Alternate Service.

Only registrants classified in Class 1–O may volunteer for alternate service in lieu of induction. Any registrant in Class 1–O may submit SSS Form 151 (Application of Volunteer for Alternate Service) to his local board. If the volunteer wishes to propose jobs which he feels would be approved for his alternate service he will submit each job on an SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) simultaneously with his completed SSS Form 151 (Application of Volunteer for Alternate Service). The State director will approve or disapprove the proposed jobs. If the registrant fails to locate a suitable job or if the jobs submitted on the SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) are not approved, the State director will take no action until 60 days after the registrant would have begun processing in accordance with § 1660.4 had he not volunteered. After the 60 days the State director may order the registrant to an available job.

§ 1660.4 Selection of Nonvolunteer for Alternate Service.

(a) A nonvolunteer will not be ordered to perform alternate service in lieu of induction before registrants with his RSN who are classified in Class 1–A or 1–A–O are ordered for induction.

(b) When a registrant in the medical, dental, or allied specialist category is classified in Class 1–O, he will be ordered to alternate service in lieu of induction at the time that he would have been called for induction if he were in Class 1–A or 1–A–O.

(c) When the RSN of a registrant classified in Class 1–O is reached ("reached" means the national cutoff number is equal to or higher than the registrant's RSN) the local board will send him SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process), and retain a copy in the cover sheet of the registrant. SSS Form 152 (Conscientious Objectors Skills Questionnaire) and three copies of SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) will also be sent to the registrant at this time.

(d) Mailing of the SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process) by the local board is the effective beginning of processing for alternate service in lieu of induction for the affected registrant. If within 270 days after the registrant has exhausted his 60 day job search an alternate service job has not been obtained and the registrant has not been ordered to such job, he will be placed in a lower priority selection group. Delays in processing due to litigation instituted by the registrant, litigation pending against the registrant, or a postponement of processing for alternate service granted the registrant under § 1660.7 will not count toward the 270-day time period.

§ 1660.5 Eligible Employers of Registrants Performing Alternate Service.

Employment which may be considered to be appropriate as alternate service in lieu of induction into the Armed Forces by registrants who have been classified in Class 1–O shall be limited to the following:

(a) Employment by the U.S. Government, or by a State, Territory, or possession of the United States or by a political subdivision thereof, or by the District of Columbia;

(b) Employment by a nonprofit organization, association, or corporation which is primarily engaged either in a charitable activity conducted for the benefit of the general public or in carrying out a program for the improvement of the public health or welfare, including educational and scientific activities in support thereof, when such activity or program is not principally for the benefit of the members of such organization, association, or corporation, or for increasing the membership thereof; or

(c) Employment in an activity of an organization, association, or corporation which is either charitable in nature performed for the benefit of the general public or is for the improvement of the public health or welfare, including educational and scientific activities in support thereof, and when such activity or program is not for profit.

§ 1660.6 Eligible Jobs for Registrants Performing Alternate Service.

(a) Five elements will be considered as a basis for determining whether a specific job is acceptable as alternate service for a registrant classified in Class 1–O:

(1) *National Health, Safety or Interest.* The job must fulfill specifications of the law and regulations.

(2) *Noninterference with the competitive labor market.* The registrant cannot be assigned to a job which is applied for by other qualified people who are not registrants in Class 1–O. This restriction does not prohibit the approval of special programs such as Peace Corps and VISTA for alternate service by registrant in Class 1–O.

(3) *Compensation.* The compensation will provide a standard of living to the registrant reasonably comparable to the standard of living the same man would have enjoyed had he gone into the service.

(4) *Skill and talent utilization.* A registrant may utilize his special skills.

(5) *Job location.* A registrant will work outside his community of residence.

Subparagraphs (3), (4), and (5) of this paragraph are waiverable by the State director when such action is determined to be in the national interest and would speed the placement of registrants in alternate service.

§ 1660.7 Assigning Alternate Service.

(a) Processing of the registrant for assignment to alternate service will continue even though he fails to return SSS Form 152 (Conscientious Objectors Skills Questionnaire) within 15 days.

(b) The registrant will submit SSS Form(s) 156 (Employer's Statement of Availability of a Job as Alternate Service) to the State director, who will determine whether the work is acceptable. A letter from an employer may, at any time, substitute for such SSS Form 156. When a job is approved, the State director will direct the Executive Secretary or clerk, if so authorized, or a local board member of a registrant's local board to issue a work order, SSS Form 153 (Order to Report for Alternate Service). The State director will issue a domestic travel request and provide meals and accommodations for a registrant,

upon his request, who has been ordered to alternate service, as would be done for a registrant ordered for induction. Any time the State director disapproves a job proposed on SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) submitted by the registrant, he will inform the registrant of his decision within 10 days after the State director receives such form.

(c) At any time following 60 days after a registrant's SSS Form 155 (Selection for Alternate Service; Rights and Obligations of Conscientious Objectors in the Alternate Service Assignment Process) has been mailed, if the registrant has submitted no SSS Form 156 (Employer's Statement of Availability of a Job as Alternate Service) or if the submitted jobs have been disapproved, the State director may direct the Executive Secretary or clerk, if so authorized, or a local board member of a registrant's local board to order him to a job which the State director selects as the registrant's alternate service.

(d) A registrant classified in Class 1–O may take a job anticipating that it might later be approved as alternate service. If such a job is approved, the registrant will be credited with having performed acceptable service, when in fact he has performed such service, from the date he started the job, or the date he was classified in Class 1–O, whichever is later. No more than 24 months of service will be required. Time spent looking for an initial job is not creditable toward the 24 months of service.

(e) A registrant who prior to the lapse of the 60-day period established in paragraph (c) of this section, finds a job (jobs), but whose job(s) is (are) not approved by his State director, may request that the State director's decision(s) be reviewed by the Director prior to his being mailed an SSS Form 153 (Order to Report for Alternate Service). The registrant's case will be considered by the Director on only one occasion prior to his initial assignment to alternate service. However, he may request a review of as many as three such adverse decisions on jobs in this one review. The Director will either approve a job proposed by the registrant or, if the 60 days have elapsed, authorize a mandatory work order. Decisions by the Director will be carried out by the appropriate State director and local boards and their employees.

(f) Any reason for granting a postponement for an induction order is sufficient for granting the postponement of processing for alternate service in lieu of induction.

§ 1660.8 Performance of Alternate Service.

Any registrant who knowingly fails or neglects to obey an order from his local board to perform alternate service contributing to the maintenance of the national health, safety, or interest in lieu of induction or who constructively fails or neglects to obey such order by his failure to comply with reasonable requirements of an employer shall be deemed to have knowingly failed or neglected to perform a duty required of him under the Military Selective Service Act. The registrant shall have failed to meet the standards or failed to perform satisfactorily if he did not meet the standards of performance demanded by the employer of his other employees in similar jobs.

§ 1660.9 Administration of Alternate Service.

(a) Whenever a registrant is refused employment by an employer who had previously agreed to hire him, whenever the registrant refuses employment, whenever a registrant's employment is terminated, or whenever he leaves his job, the State director administering the registrant's case will consider the circumstances surrounding the refusal, termination, or departure to determine whether the registrant had failed to perform his job or to conduct himself satisfactorily.

(b) Whenever the State director has reason to believe that a registrant refused or constructively refused employment, or was relieved for cause or left his job unjustifiably he will conduct an investigation which will include the following steps; obtain a statement from the former employer describing the circumstances, send such statement to the registrant; obtain a statement from the registrant in his defense, if he wishes to make one; and compile any other evidence he feels is relevant. He will then determine whether the termination was for cause or whether the departure was unjustifiable. If he determines that the registrant's departure was without justification he will report the registrant for prosecution.

(c) If the State director finds no failure of the registrant to perform satisfactorily he will order the registrant to another job as quickly as possible. If the registrant complies with the order to report to the new job, the intervening time between jobs will not constitute a break in the required period of alternate service.

(d) The State director may reassign and reorder a working registrant at any time that he determines the original job ceases to be acceptable as alternate service as defined in § 1660.6. Such determination shall be reviewed by the Director upon the request of the registrant. The Director will either authorize the registrant to remain on his job or validate the reassignment.

§ 1660.10 Release from Alternate Service.

The State director of the State in which a registrant is working or the Director, when the registrant is not under the supervision of a State director may release a registrant prior to his completion of 24 months of service upon a determination of a hardship, medical, or other bona fide basis for such early release. If the registrant is working outside the State in which he is registered, the decision should be made in consultation with the State director of the State in which the registrant is registered. When such a release takes place prior to completion of 6 months of alternate service, the State director of the State in which the registrant is registered may direct a reopening of the registrant's classification by the local board.

§ 1660.11 Completion of Alternate Service.

(a) After a registrant has completed his alternate service obligation, the State director will return (through another State director if necessary) the registrant's selective service file to the appropriate local board.

(b) When the local board receives the registrant's selective service file, it shall inform the registrant that he has satisfactorily completed his alternate service. He shall be classified in Class 4–W.

§ 1660.12 Information Concerning Alternate Service.

A registrant who is outside the area of his local board may seek information relative to any aspect of processing for alternate service from the local board or State director of his new place of residence. The assisting State director or local board will not assume the responsibility of the State director or local board of jurisdiction.

CURTIS W. TARR,
Director.

DECEMBER 6, 1971.

[FR Doc.71-18039 Filed 12-8-71;8:50 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Chief Medical Director

In Part 2, § 2.73 is revised to read as follows:

§ 2.73 Chief Medical Director delegated authority to designate Assistant Chief Medical Director for Administration and Facilities to administer overall operation of Veterans Canteen Service and to designate selected employees of Veterans Canteen Service to perform functions described in 38 U.S.C. Ch. 75, to effectively maintain and operate Veterans Canteen Service.

This delegation of authority is identical to § 17.161(b) of this chapter.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-18007 Filed 12-8-71;8:49 am]

PART 17—MEDICAL

Autopsies

1. In § 17.155, paragraph (f) is added to read as follows:

§ 17.155 Autopsies.

* * * * *

(f) The Director of a Veterans' Administration facility is authorized to cause an autopsy to be performed on a veteran who dies outside of a Veterans' Administration facility while undergoing post-hospital care under the provisions of § 17.60, if he determines such autopsy is reasonably required for any necessary purpose of the Veterans' Administration, including the completion of official records and advancement of medical knowledge. Such authority also encompasses the furnishing of transportation of the body at Veterans' Administration expense to the Veterans' Administration facility and return of the body. Consent for the autopsy will be obtained as provided for in paragraph (e) of this section.

2. In § 17.161, paragraph (b) is amended to read as follows:

§ 17.161 Delegation of authority.

* * * * *

(b) To designate the Assistant Chief Medical Director for Administration and Facilities to administer the overall operation of the Veterans Canteen Service and to designate selected employees of the Veterans Canteen Service to perform the functions described in the enabling statute, 38 U.S.C. ch. 75, so as to effectively maintain and operate the Veterans Canteen Service.

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective the date of approval.

Approved: December 3, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-18006 Filed 12-8-71;8:49 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

PART 134—THIRD CLASS

Books and Catalogs

Regulations codified in § 134.4 are amended to require books and catalogs which have less than full-sized covers to be enclosed in envelopes for mailing. Section 134.7 is revised for purposes of clarification.

1. In § 134.4 *Preparation—payment of postage*, add new paragraph (f) reading as follows:

§ 134.4 Preparation—payment of postage.

* * * * *

(f) *Catalogs and books.* Catalogs and books with covers such as "outserts," "short covers," or similar bound sheets which do not fully cover (within 0.75 inch of each edge) the main body of the catalog or book, front and back, must be enclosed in a mailing wrapper such as a full sleeve or envelope.

2. In § 134.7 *Enclosures*, amend paragraph (a) to read as follows:

§ 134.7 Enclosures.

(a) *Books and catalogs mailed at bulk rates provided by § 134.1(b)(1).* External attachments are not permitted. The covers of a catalog or book for postal purposes are the outermost bound sheets. Only the following specifically named items may be enclosed loose, provided they relate exclusively to the book or catalog they accompany:

(1) A single reply envelope or reply post card, or both.

(2) A single order form.

(3) A printed circular. Circulars fastened securely along the entire bound edge inside the book or catalog by means of paste, stitches, or staples are not loose enclosures.

(4) If no circular is enclosed, a printed price list listing only articles featured in the catalog and showing only the same prices and discounts as the catalog.

(5) An invoice. (See § 135.5(b)(2) of this chapter.)

(6) Samples of merchandise attached to pages.

* * * * *

(39 U.S.C. 401)

DAVID A. NELSON,
Senior Assistant Postmaster General and General Counsel.

[FR Doc.71-17991 Filed 12-8-71;8:47 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 54—PRIOR NOTICE OF CITIZEN SUITS

On July 8, 1971 (36 F.R. 12866) the Administrator proposed a new 42 CFR Part 415: Rules setting forth procedures for giving notice of civil actions pursuant to section 304 of the Clean Air Act, as amended (sec. 12, Public Law 91-604, 84 Stat. 1706). Six organizations commented on the proposed rules. Due consideration has been given to the comments and in response thereto a number of changes have been made in the rules as proposed. In addition, regulations of the Environmental Protection Agency were recodified in title 40, chapter I on November 25, 1971. Accordingly, the rules originally proposed as Part 415 of title 42, chapter IV will be codified as Part 54 of title 40, chapter I.

The requirement for notice to alleged violators in § 415.2(c), as proposed, has been revised to require notice to the "managing agent" of the facility. Also, if the alleged violator is a corporation, notice to its registered agent, if any, is required.

Section 415.3(b), as proposed, has been revised to require that notice of a violation include information on the specific activity alleged to be in violation.

Section 415.3(c), as proposed, which required additional information to be included in the notice, if known to the citizen, has been deleted since it is the judgment of the Administrator that the potential procedural problems outweigh the possible benefit to be gained from the information which might be submitted pursuant to this section.

Accordingly, the regulations containing procedures for giving prior notice of citizen suits are hereby promulgated, effective 30 days after promulgation. Pending such effective date, the giving of notice of citizen suits in accordance with these regulations shall be deemed to satisfy the notice requirements of section 304 of the Act.

A new Part 54 is added to Chapter I, Title 40, Code of Federal Regulations as follows:

Sec.
54.1 Purpose.
54.2 Service of notices.
54.3 Contents of notice.

AUTHORITY: The provisions of this Part 54 issued under section 304 of the Clean Air Act, as amended (sec. 12, Public Law 91-604, 84 Stat. 1706).

§ 54.1 Purpose.

Section 304 of the Clean Air Act, as amended, authorizes the commencement of civil actions to enforce the Act or to enforce certain requirements promulgated pursuant to the Act. The purpose of this part is to prescribe procedures governing the giving of notices required by subsection 304(b) of the Act (sec. 12, Public Law 91-604; 84 Stat. 1706) as a prerequisite to the commencement of such actions.

§ 54.2 Service of notice.

(a) Notice to Administrator: Service of notice given to the Administrator under this part shall be accomplished by certified mail addressed to the Administrator, Environmental Protection Agency, Washington, D.C. 20460. Where notice relates to violation of an emission standard or limitation or to violation of an order issued with respect to an emission standard or limitation, a copy of such notice shall be mailed to the Regional Administrator of the Environmental Protection Agency for the Region in which such violation is alleged to have occurred.

(b) Notice to State: Service of notice given to a State under this part regarding violation of an emission standard or limitation, or an order issued with respect to an emission standard or limitation shall be accomplished by certified mail addressed to an authorized representative of the State agency charged with responsibility for air pollution control in the State. A copy of such notice shall be mailed to the Governor of the State.

(c) Notice to alleged violator: Service of notice given to an alleged violator under this part shall be accomplished by certified mail addressed to, or by personal service upon, the owner or managing agent of the building, plant, installation, or facility alleged to be in violation of an emission standard or

limitation, or an order issued with respect to an emission standard or limitation. Where the alleged violator is a corporation, a copy of such notice shall be sent by certified mail to the registered agent, if any, of such corporation in the State in which such violation is alleged to have occurred.

(d) Notice served in accordance with the provisions of this part shall be deemed given on the postmark date, if served by mail, or on the date of receipt, if personally served.

§ 54.3 Contents of notice.

(a) *Failure to act.* Notice regarding a failure of the Administrator to perform an act or duty which is not discretionary shall identify the provisions of the Act which requires such act or creates such duty, shall describe with reasonable specificity the action taken or not taken by the Administrator which is claimed to constitute a failure to perform such act or duty, and shall state the full name and address of the person giving the notice.

(b) *Violation of standard, limitation or order.* Notices to the Administrator, States, and alleged violators regarding violation of an emission standard or limitation or an order issued with respect to an emission standard or limitation, shall include sufficient information to permit the recipient to identify the specific standard, limitation, or order which has allegedly been violated, the activity alleged to be in violation, the person or persons responsible for the alleged violation, the location of the alleged violation, the date or dates of such violation, and the full name and address of the person giving the notice.

Dated: December 6, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-18006 Filed 12-8-71;8:49 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

PART 101-27—INVENTORY MANAGEMENT

Offers of Return of GSA Stock Items and Recognition of New FEDSTRIP Forms

Subchapter E is amended to prescribe and illustrate new GSA forms used in conjunction with Federal Standard Requisitioning and Issue Procedures (FEDSTRIP) and to provide current instructions to agencies offering return of GSA stock items for credit.

The table of contents for Part 101-26 is amended by the addition of the following entries:

Sec.	
101-26.4902-1348-6	GSA Form 1348-6, Non-FSN Requisition (Manual).
101-26.4902-3127	GSA Form 3127, Supply Status.
101-26.4902-3128	GSA Form 3128, Shipment Status.

Subpart 101-26.2—Federal Requisitioning System

1. Section 101-26.203-1 is revised to read as follows:

§ 101-26.203-1 Forms prepared by ordering offices.

The forms set forth in this § 101-26.203-1 are prescribed for use in the FEDSTRIP system and may be obtained in accordance with the instructions provided in the GSA Stock Catalog.

(a) GSA Form 1348m, Single Line Item Requisition System Document (Mechanical) (illustrated at § 101-26.4902-1348m), is prepared mechanically by ADP equipment through computer output or key punch machine.

(b) The following forms are prepared manually using typewriter, ballpoint pen, or other printing process by agencies not using automatic data processing equipment:

(1) Standard Form 344, Multiuse Standard Requisitioning/Issue System Document (illustrated at § 101-26.4901-344), is a manually prepared form used for requisitioning, cancellation, or followup;

(2) GSA Form 1348 (6-PT), GSA Single Line Item Requisition System Document (Manual) (illustrated at §101-26.4902-1348 (6-PT)); and

(3) GSA Form 1348-6, Non-FSN Requisition (Manual) (illustrated at § 101-26.4902-1348-6), is used for ordering non-Federal stock numbered items when additional space is required for part numbers, nomenclature, technical data, etc., and the needed space is not provided on other FEDSTRIP requisition forms.

2. Section 101-26.203-2(b), is revised to read as follows:

§ 101-26.203-2 Forms furnished to ordering offices.

* * * * *

(b) Information with rgeard to status of requisitions and replies to followup inquiries will be furnished on GSA Form 1348m to all military activities and to civil activities having the capability to receive status information by electrical transmission. GSA Form 3127, Supply Status (illustrated at § 101-26.4902-3127), is a machine prepared punched card sent to civil activities via mail to indicate the status of a requisition for an item of supply within an activity supply system. GSA Form 3128, Shipment Status (illustrated at § 101-26.4902-3128), is a machine prepared punched card sent to civil activities via mail to indicate positive advice on shipment, mode, bill of lading number, etc., as appropriate.

Subpart 101-26.49—Illustrations of Forms

Subpart 101-26.49 is amended by addition of the following entries:

Sec.	
101-26.4902-1348-6	GSA Form 1348-6, Non-FSN Requisition (Manual).
101-26.4902-3127	Supply Status.
101-26.4902-3128	Shipment Status.

NOTE: The forms listed in §§ 101-26.4902-1348-6, 101-26.4902-3127, and 101-26.4902-3128 are filed as part of the original document.

Subpart 101-27.5—Return of GSA Stock Items

1. Section 101-27.504 is revised to read as follows:

§ 101-27.504 Notice to GSA.

When an activity elects to offer material to GSA for credit, the activity shall report offers to the National Inventory Control Center (NICC). The mailing address is General Services Administration (FXIN), Washington, DC 20406. Offers may be transmitted by transceiver using the routing identifier, GGØ. Offers shall be submitted on the appropriate 1348-series of forms in accordance with FEDSTRIP/MILSTRIP.

2. Section 101-27.505 is amended to read as follows:

§ 101-27.505 Notice to activity.

* * * * *

(a) For accepted offers the NICC will inform the offering activity of the GSA supply distribution facility to which the material shall be shipped. Prior to shipment of material authorized by GSA for return, activities shall verify the declared condition. (If the offering activity considers that the transportation costs of the material to the GSA supply distribution facility to which the material is to be returned is excessive in relation to the value of the material and withdraws the offer, the Inventory Management Branch in the GSA region that was designated to receive the offered material shall be notified accordingly.)

(b) If the return of material to GSA is rejected, the NICC will so inform the activity offering the material. Rejection replies will give the reason for such nonacceptance.

(c) When offers of material that have been authorized by GSA for return are withdrawn, offering activities shall report such cancellation to the Inventory Management Branch in the GSA region that was designated to receive the offered material.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (12-9-71).

Dated: December 3, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-18049 Filed 12-8-71;8:50 am]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5146]

ALASKA

Modification of Public Land Order No. 4582 as Amended and Extended by Public Land Order No. 4962, and by Public Land Order No. 5081

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910, 36 Stat. 847, as amended, 43 U.S.C. section 141 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Paragraph 1 of Public Land Order No. 4582 of January 17, 1969, as amended by Public Land Order No. 4962 of December 8, 1970, and by Public Land Order No. 5081 of June 17, 1971, is modified to read as follows:

"1. Subject to valid existing rights, and subject to the conditions hereinafter set forth, all public lands in Alaska which are unreserved or which would otherwise become unreserved prior to expiration of this order, are hereby withdrawn from all forms of appropriation and disposition under the public land laws (except locations for metalliferous minerals), including selections by the State of Alaska pursuant to the Alaska Statehood Act (72 Stat. 339), and from leasing under the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. section 181 et seq. (1970), and reserved under the jurisdiction of the Secretary of the Interior for the determination and protection of the rights of the Native Aleuts, Eskimos, and Indians of Alaska. The withdrawal and reservation created by this order shall expire at 12 (midnight), prevailing Alaska time, on the day the Second Session of the Ninety Second Congress of the United States shall officially be adjourned or 12 (midnight), prevailing Alaska time, on the ninetieth day after legislation for the determination and protection of the rights of the Native Aleuts, Eskimos, and Indians of Alaska shall become law, whichever shall occur first. Said date shall hereinafter be referred to as the 'Expiration date' ".

2. All other prior modifications and amendments of Public Land Order No. 4582, including Public Land Order No. 4962 and all modifications and amendments thereof, are hereby continued in full force and effect until the Expiration date.

3. This order shall become effective upon publication in the FEDERAL REGISTER (12-9-71).

HARRISON LOESCH,
Assistant Secretary of the Interior.

DECEMBER 7, 1971.

[FR Doc.71-18147 Filed 12-8-71;8:55 am]

Title 45—PUBLIC WELFARE

Chapter VI—National Science Foundation

PART 640—ENVIRONMENTAL IMPACT STATEMENT POLICY AND PROCEDURES

Title 45, Chapter VI, National Science Foundation, is amended by the addition of new Part 640, Environmental Impact Statement Policy and Procedures, as follows:

Sec.

AUTHORITY: The provisions of this Part 640 issued under the National Environmental Policy Act of 1969 (Public Law 91-190); Executive Order 11514 of March 4, 1970 (35 F.R. 4247); and the Guidelines issued by the Council on Environmental Quality appearing at 36 F.R. 7724.

§ 640.1 Purpose.

This part provides policy and procedures applicable to NSF actions requiring the preparation of environmental impact statements, in accordance with the National Environmental Policy Act of 1969 (Public Law 91-190) referred to in this part as the "Act"); Executive Order 11514 (referred to in this part as the "Executive Order"); and Guidelines and other instructions issued by the Council on Environmental Quality and the Office of Management and Budget (referred to in this part as the "Guidelines").

§ 640.2 Policy.

Before undertaking or supporting any major action that may have a significant effect on the environment, the National Science Foundation will, in consultation with other appropriate agencies, assess in detail the potential environmental impact in order that adverse effects may be avoided and environmental quality restored or enhanced, to the fullest extent practicable. In particular, alternative actions will be explored and both the long- and short-range implications will be evaluated to avoid undesirable or unintended consequences for the environment.

§ 640.3 Scope.

(a) As specified in the Act, the Executive Order, and the Guidelines, major actions requiring preparation of an environmental statement include: Proposals for legislation and appropriations; major projects and continuing activities directly undertaken by Federal agencies or supported in whole or in part through contracts, grants, subsidies, loans, or other forms of funding assistance; actions involving a lease, permit, license, certificate, or other entitlement for use; or policies and procedures.

(b) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall cumulative impact of a proposed action, even if the impact is localized. Actions deemed to be significant include those whose impact is likely to be controversial, as well as individual actions of limited impact—if repeated or continued; constitute a precedent for future major actions; represent decisions in principle for a future major course of action; or consist of several related actions by different agencies. Significant effects include those that both directly and indirectly affect human beings and those which are either beneficial or detrimental. In a course of action by several agencies whose cumulative actions can be deemed significant, the lead agency is responsible for preparing the environmental statement.

§ 640.4 Responsibilities.

(a) *Assistant Director for National and International Programs.* The Assistant Director for National and International Programs is hereby designated as the responsible official within the meaning of section 102(2)(C) of the Act and is responsible for implementation of the requirements of the Act as they relate to the preparation of environmental statements. He will consult to the extent required with the other Assistant Directors to collect information relating to activities within their areas of responsibility. He will consult with the general counsel concerning legislative actions covered by the Act and for interpretations of the Act, the Executive Order, and the Guidelines, and with the Office of Intergovernmental Science Programs concerning reviews of environmental statements by State and local agencies. In addition, he will also serve as the NSF point of contact for interagency coordination with respect to the Act.

(b) *Other officials.* NSF program officials will inform the Assistant Director for National and International Programs of new or modified projects and activities which may have a significant effect on the environment for an assessment of the situation, before final administrative action is undertaken to approve them for support.

§ 640.5 Implementation.

(a) When evaluation of programs and activities identifies actions which will have a significant effect on the environment, environmental statements will be prepared by the responsible foundation staff in accordance with section 102(2)(C) of the Act, for approval by the Assistant Director for National and International Programs.

(b) Requirements for content of environmental statements: The following points will be covered in environmental statements:

(1) A description of the proposed action including information and technical data adequate to permit a careful assessment of the environmental impact. Relevant maps and other illustrative material should be included.

(2) The probable environmental impact of the proposed action, including impact on ecological systems such as vegetation, wildlife, fish, and other aquatic life. Both primary and significant secondary consequences for the environment should be included in the analysis.

(3) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, damage to life systems, urban congestion, threats to health, and other consequences adverse to the environmental goals set forth in the Act).

(4) Alternatives to the proposed action. (The Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.") A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental effects, if any, is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects.

(5) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This stipulation in essence requires an assessment of the action for cumulative long-term effects from the perspective that each generation is trustee of the environment for succeeding generations.

(6) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This point requires identifying the extent to which the action curtails the range of beneficial uses of the environment.

(7) Where appropriate, a discussion of problems and objections raised by other Federal agencies, State and local entities, and private organizations and individuals in the review process and the disposition of the issues involved.

(c) Additional criteria: The Act requires that the decisionmaking involved should "utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts."

§ 640.6 Reviews.

(a) *Consultation with Federal agencies.* The Act requires that Federal agencies having jurisdiction by law or special expertise, with respect to any environmental impact involved, will be consulted in connection with preparation of environmental statements. Accordingly, the advice and comment of the appropriate component(s) of the following agencies will be requested:

Advisory Council on Historic Preservation.
Department of Agriculture.
Department of Commerce.
Department of Defense.
Department of Health, Education, and Welfare.
Department of Housing and Urban Development.
Department of the Interior.
Department of State.
Department of Transportation.
Atomic Energy Commission.
Federal Power Commission.
Environmental Protection Agency.
Office of Economic Opportunity.

For actions specially affecting the environment of their geographic jurisdictions, the following Federal and Federal-State agencies are also to be consulted:

Tennessee Valley Authority.
Appalachian Regional Commission.
National Capital Planning Commission.
Delaware River Basin Commission.
Susquehanna River Basin Commission.

A time limit of 30 days will be given for reply, after which it may be presumed the agency consulted has no comment to make.

(b) *Water quality aspects.* With respect to water quality aspects of the proposed action which have been previously certified by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards, the comment of the Environmental Protection Agency should also be requested.

(c) *Applicability of section 309 of the Clean Air Act, as amended.* An agency action relating to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, radiation criteria and standards, or other provisions of the authority of the Administrator of the Environmental Protection Agency must be submitted to the Administrator for his review and comment in writing. This requirement includes proposals for new Federal construction projects and other major agency actions governed by section 102(2)(C) of the National Environmental Policy Act and to proposed legislation and regulations, whether or not section 102(2)(C) applies. A period of 45 days will be allowed for such review.

(d) *Review by State and local agencies.* Review of the proposed action by the appropriate State and local agencies will utilize procedures established by the Office of Management and Budget Circulars No. A-85 and A-95, when applicable. Where these procedures are not appropriate, and where a proposed action affects matters within their jurisdiction, review of the draft environmental statement by State and local agencies will be obtained by distributing the draft to the appropriate State, regional and metropolitan clearinghouses, unless the Governor of the State involved has designated some other point for furnishing this review.

§ 640.7 Public information.

(a) *Availability to the public.* In accordance with the terms of the Act and of the Executive Order, agencies are responsible for the development of procedures insuring the fullest practicable provision of timely public information and understanding of plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings. Agencies which hold hearings on proposed actions or legislation should make the draft environmental statement available to the public at least 15 days prior to such hearings. The draft environmental statement will also be made available to the public upon request, pursuant to the provisions of the Freedom of Information Act.

(b) *Outside requests.* All outside requests for information on environmental statements while in the preparatory or review stage will be referred to the Office of Government and Public Programs in accordance with normal procedures.

§ 640.8 Submission to the Council on Environmental Quality (CEQ).

Ten copies of the draft environmental statement and 10 copies of the final text of the environmental statement, together with all comments received thereon, shall be filed with the Council on Environmental Quality. In addition, any comments requested of the Foundation on an action by another agency having an environmental impact will be forwarded in 10 copies to the Council at the time the comments are submitted to the responsible agency.

§ 640.9 Review process requirements.

(a) The review of NSF draft environmental impact statements by Federal agencies (including the Environmental Protection Agency), State and local agencies, and private organizations and individuals will commence immediately upon the completion of a draft statement. To the maximum extent practicable, no administrative action subject to section 102(2)(C) is to be taken sooner than 90 days after a draft environmental statement is circulated for comment, furnished to the Council on Environmental Quality, and made available to the public. Further, no such administrative action shall be taken sooner than 30 days after the final text of the environmental statement, together with comments received in the review process, has been made available to CEQ and to the public; however, these two periods may run concurrently.

(b) Because 90 days is the absolute minimum of time required for the review process (exclusive of preparation of drafts and revising for final submission), notification of new or modified projects and activities for which an environmental statement may be necessary should be given to the Assistant Director for National and International Programs before funding is attempted or in the event the character of the project changes.

§ 640.10 OMB requirement.

(a) OMB Bulletin No. 72-6, dated September 14, 1971, subject: "Proposed Federal Actions Affecting the Environment," establishes procedures for taking or proposing action, in connection with the submission of legislative proposals or reports on bills for OMB clearance, coming within the scope of section 102(2)(C) of the Act.

(1) (i) The Foundation is responsible for determining which of its legislative proposals or reports on bills require preparation of an environmental impact statement and for obtaining comments on such statement from appropriate Federal, State, and local agencies. When an environmental statement is required, information copies should accompany the legislative proposal or report submitted. If the statement is not ready at that time, the submission should indicate when it will be available.

(ii) OMB will consult with the Council on Environmental Quality in all cases where statements are submitted or are in preparation. Where the clearance process discloses the need for or the modification of an environmental impact statement, OMB will request the Foundation to take the necessary action. After clearance by OMB, the Foundation will submit the statement to appropriate Congressional Committees in accordance with the Guidelines of the CEQ.

(2) Annual budget estimates of Foundation projects, programs, or activities which require the preparation of a section 102(2)(C) environmental impact statement are required to be accompanied by a summary list, prepared on Exhibit 1 of the OMB Bulletin. In the case of actions for which an assessment of the potential impact on the environment is impossible or the need for a 102(2)(C) statement has not been determined, the Foundation will include a narrative statement about the general impact, and an estimate of when the need for a statement will be decided.

(b) In addition to the summary list above, the Foundation must notify the OMB budget examiner, at the earliest possible time, of any action to be included in the budget estimate which will have impact on the environment of a particularly significant or controversial nature. OMB staff may request draft and final environmental statements and information to update the summary list.

§ 640.11 Information available within NSF.

Copies of the National Environmental Policy Act, Executive Order 11514, the CEQ Guidelines and the OMB Bulletin, may be obtained from the Assistant Director for National and International Programs to assist Foundation staff responsible for preparing environmental impact statements.

Effective date. This part shall be effective upon filing with the Office of the Federal Register.

Dated: December 3, 1971.

W. D. McELROY,
Director.

[FR Doc.71-18030 Filed 12-8-71;8:54 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19150]

PART 1—PRACTICE AND PROCEDURE

Spectrum Management; Correction

In the matter of spectrum management; establishment of first Regional Spectrum Management Center in Chicago, Ill.; and amendment of Parts 1, 2, 21, 74, 89, 91, 93, and 95 of the Commission's rules relating to land mobile allocations and assignments.

Appendix A of the first report and order, FCC 71-1123, released November 10, 1971, and published in the FEDERAL REGISTER on November 12, 1971, 36 F.R. 21677, is corrected as follows:

In § 1.539, paragraph (d)(3) is corrected and paragraph (d)(4) is amended to read as follows. Paragraph (d)(9) is correct as originally printed.

§ 1.539 Application for renewal of license.

* * * * *

(d) * * *

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services." To be used for applications for renewal of licenses of auxiliary broadcast stations only when there has been a change in the information contained in the initial application for license, except as provided in subparagraph (9) of this paragraph.

(4) FCC Form 313-R "Application for Renewal of Auxiliary Radio Broadcast License (Short Form)." To be used for applications for renewal of licenses of auxiliary broadcast stations when there has been no change in the information contained in the initial application for license, except as provided in subparagraph (9) of this paragraph.

* * * * *

Released: December 1, 1971.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
Executive Director.

[FR Doc.71-18044 Filed 12-8-71;8:51 am]

[RM 1814; FCC 71-1179]

PART 93—LAND TRANSPORTATION RADIO SERVICES

Station Identification

Order. In the matter of amendment of § 93.152(a) of the Commission's rules to revise station identification requirements in the Railroad Radio Service.

1. The Association of American Railroads (AAR) has petitioned the Commission to amend its rules to permit licensees in the Railroad Radio Service to identify their stations at the beginning of transmissions or exchange of communications not exceeding 3 minutes in length, rather than at the end as the rules now require.[1] In support of its request, AAR states that in the interest of safe operation of railroad rolling stock, it is important that clear identification of the station or unit calling and of the station or unit called must be made and acknowledged before the transmission of any important instructions or information. Since railroad transmissions must be identified at the beginning, AAR argues the re-identification at the end is unreasonable and should not be required.

2. In the Railroad Radio Service, for a number of reasons, the customary method of station identification is not the station's call sign. Rather, stations and mobile units are identified by reference to a railroad operation to which the station or mobile unit is related, such as the name of the railroad and the train number, caboose number, engine number, or name of fixed wayside station, yard name, and so on. This is permissible under the rules. See § 93.152(c). Thus, the station or mobile unit identification is an integral part of the railroad operation more so than in other services. Therefore, we can appreciate the need of the railroads to establish clearly the identity of the calling unit and of the unit being called before the transmission of instructions or other information. Because of this, we agree with the petitioner that transmission of station identification at the end of short transmissions would be redundant and not a reasonable requirement. Accordingly, AAR's petition will be granted.

3. In so doing, we have omitted the customary notice of proposed rule making and public procedure as unnecessary, pursuant to section 4 of the Administrative Act, 5 U.S.C. 553(b). Compliance with the prior notice and procedure prescribed by 5 U.S.C. 553(b) is unnecessary because the rule amendment adopted herein is of minor significance, it relaxes a requirement, and it affects primarily railroad licensees which the petitioner represents. Under these circumstances, it is unlikely that prior notice for the purpose of eliciting public comments would be useful.

4. *Accordingly, it is ordered,* Pursuant to authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, That the above-

[1] In its original petition, AAR has also requested an amendment of § 91.152(c) which would have deleted the requirement for identification of mobile stations in certain situations. However, by letter dated Aug. 26, 1971, AAR withdrew this request.

described petition (RM-1214) is granted and That, effective January 7, 1972, Part 93 of the Commission's rules is amended as shown below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C.154, 303)

Adopted: November 24, 1971.

Released: November 30, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

Part 93 of the Commission's rules is amended as follows:

In § 93.152, paragraph (a) is amended to read as follows:

§ 93.152 Station identification.

(a) A base station or mobile station in the Land Transportation Radio Services must be identified at the end of each transmission, except that, in event of a continued exchange of communications, identification shall be made at the end of a series of such transmissions or at the end of each 15-minute period if the exchange continues without substantial interruption. *Provided, however,* That in the Railroad Radio Service a base and mobile station may be identified at the beginning of transmissions or exchange of communications not exceeding 3 minutes in length.

* * * * *

[FR Doc.71-18046 Filed 12-8-71;8:51 am]

[2] Commissioner Reid absent.

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Retreaded Pneumatic Tires

Correction

In F.R. Doc. 71-17612 appearing at page 22902 in the issue of Thursday, December 2, 1971, under paragraph S6.3 *Permanent labeling* of § 571.117, the paragraph designated "S6.3.2" should read "S6.3.1" and the paragraph designated "E6.3.2" should read "S6.3.2."

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-85]

PART 1062—SPECIAL REGULATIONS FOR FOR-HIRE MOTOR CARRIERS ENGAGED IN THE TRANSPORTATION FOR RECYCLING OR REUSE OF "WASTE" PRODUCTS IN FURTHERANCE OF RECOGNIZED POLLUTION CONTROL PROGRAMS

Transportation of "Waste" Products for Reuse and Recycling

Upon consideration of the record in the above-entitled proceeding, and of petition of members of Western Railroad Traffic Association, filed November 19, 1971 (36 F.R. 21596), for extension of petition date until January 5, 1972, and for postponement of effective date of order of September 30, 1971; and good cause appearing therefore:

It is ordered, That the time for filing of petitions for reconsideration be, and it is hereby, extended to December 29, 1971.

It is further ordered, That in view of the action in the first ordering paragraph, the effective date of the regulations prescribed in the report and order of the Commission of September 30, 1971, reported at 114 M.C.C. 92, be, and it is hereby, indefinitely postponed.

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 30th day of November 1971.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-18068 Filed 12-8-71;8:54 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 57]

METAL AND NONMETALLIC UNDERGROUND MINES

Notice of Public Hearing

In accordance with the provisions of section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 721–740), there was published in the FEDERAL REGISTER for July 3, 1971, a notice of proposed rule making setting forth proposals to amend § 57.24 and to add a new § 57.25 entitled "Variance; mandatory standards relating to exposure to concentrations of radon daughters."

Interested persons were afforded a period of 15 days from the date of publication in which to submit comments, suggestions and objections regarding the proposed amendments. Such period was subsequently extended to August 2, 1971 by a notice published in the FEDERAL REGISTER for July 23, 1971 (36 F.R. 13689).

In view of the comments, objections and requests for public hearings received in response to said notice, the Department has decided to hold a public hearing in order to receive further comments, suggestions and testimony relating to the proposed amendments.

Notice is hereby given that the hearing will be held commencing on Friday, January 7, 1972, at 9 a.m., m.s.t., at the Hilton Inn, 1901 University Boulevard NE., Albuquerque, NM. Donald P. Schlick, Acting Deputy Director—Health and Safety, Bureau of Mines, will preside at the hearing. The hearing will be continued on Saturday, January 8, if necessary.

Written comments (20) copies should be addressed to: Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240. Persons who desire to testify at the hearing should notify the Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240, by Monday, January 3, 1972.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

DECEMBER 6, 1971.

[FR Doc.71-18069 Filed 12-8-71;8:53 am]

[30 CFR Part 75]

MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

New Openings in Mines Located Above Watertable

Section 305(a)(2) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173), provides a period ending March 30, 1974, during which coal mine operators may continue to use nonpermissible electric face equipment inby the last open crosscut in coal mines operated entirely in coal seams located above the watertable, which were not classified as gassy at any time prior to March 30, 1970, and in which one or more openings were made prior to December 30, 1969. Such nonpermissible equipment must have been in use in the mine on or before March 30, 1971. All new, replacement or overhauled equipment used in the mine must be permissible or placed in permissible condition. Section 305 contains other provisions relating to extension of the time period during which such equipment may be used, as well as other matters not relevant here.

All mines opened since December 30, 1969 and all mines not qualifying under the other conditions of section 305(a)(2) must currently use permissible electric face equipment inby the last open crosscut. Bureau of Mines inspectors have recently encountered a number of situations in which it has been extremely difficult to determine whether a new opening from the surface in a coalbed is part of an existing mine coming under section 305(a)(2) or a new mine.

Due to the great number of variables involved in such situations it is impossible to devise a clear-cut formula for making such a determination. However, we have developed general regulations, set forth below, which will provide substantial guidance to both operators and Bureau personnel in arriving at sound and equitable decisions when confronted by these situations.

These regulations are proposed pursuant to the authority vested in the Secretary under section 508 of the Act. Interested persons may within a period of 30 days following publication of this notice in the FEDERAL REGISTER, submit written data, views, or arguments with respect to the proposals. Communications should be addressed to Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

DECEMBER 2, 1971.

It is proposed that Part 75 of Chapter I, Subchapter O, Title 30, Code of Federal Regulations be amended by adding the following:

§ 75.501–3 New openings; mines above watertable and never classed gassy.

(a) Where a new opening(s) is proposed to be developed from the surface in any coalbed and the operator considers such proposed new opening(s) to be a part of a mine coming under section 305(a)(2) of the Act and § 75.501 the operator shall so notify the District Manager for the District in which the mine is located in writing prior to the date any actual development (in coal) through such opening(s) is undertaken. Such notification shall include the following information:

(1) Name, address and identification number of the existing mine.

(2) A current map of the existing mine clearly setting out the proposed new opening(s), mining plan and planned interconnection, if any, with existing workings.

(3) A statement as to when the operator obtained the right to mine the coal which the proposed new opening(s) will traverse.

(4) The names of the coalbeds currently being mined and those which the new opening(s) will traverse.

(5) The expected life of the mine.

(6) The reason(s) for the proposed new opening(s) (for example, haulage, ventilation, drainage, to avoid bad roof, escapeway).

The District Manager shall require submission of any additional information he considers pertinent.

(b) The District Manager shall make a determination based on all of the information submitted by the operator as to whether the proposed new opening(s) will be considered as a part of the existing mine or as a new mine. The following guidelines and criteria shall be used by the District Manager in making his determination:

(1) The effect that the proposed new opening(s) will have on the safety of the men working in the existing mine shall be considered of primary importance.

(2) Whether the operator had a right to mine the coal which the proposed new openings will traverse prior to the operative date of the Act (December 30, 1969) and whether the original mining plan included mining such coal.

(3) Whether, in accordance with the usual mining practices common to the particular district, the proposed new openings would have been considered a new mine or part of the existing mine. A number of factors will be considered including, but not limited to:

(i) The relationship between the coalbeds currently being mined, and those proposed to be mined;

(ii) The distance between existing openings and the proposed new opening(s);

(iii) The projected time elapsing between the start of the new opening(s) (in coal) and planned interconnection, if any, with the existing mine; and

(iv) The projected tonnage of coal which is expected to be mined prior to interconnection where interconnection is planned.

The District Manager shall notify the operator in writing within 30 days of receiving all of the information, required and requested, of his determination. No informal notification shall be given.

(c) All new opening(s) shall be operated as a new mine prior to receiving a written notification from the District Manager that such new opening(s) will be considered part of an existing mine coming under section 305(a)(2) of the Act and § 75.501.

(d) Nothing in this § 75.501–3 shall be construed to relieve the operator from compliance with any of the mandatory standards contained in this Part 75.

[FR Doc.71–17964 Filed 12–8–71;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1207]

[PRPA 1]

POTATO RESEARCH AND PROMOTION PLAN

Extension of Time for Filing Written Exceptions to Recommended Decision

Pursuant to the rules of practice and procedure governing proceedings to formulate a plan under the Potato Research and Promotion Act (7 CFR Part 1207; 36 F.R. 3194), notice is hereby given that the time fixed in the recommended decision, dated November 17, 1971 (36 F.R. 22168), with respect to a proposed research and promotion plan for potatoes, for filing written exceptions to such decision is hereby extended ten days, from December 6 to and including December 16, 1971.

Requests for a longer extension have been made. However, if a program is to be submitted to producers for approval within a reasonable period of time, it is necessary that all exceptions to the recommended decision be filed not later than December 16, 1971. The time for filing exceptions is extended accordingly.

Dated: December 3, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71–17985 Filed 12–8–71;8:47 am]

[9 CFR Parts 307, 318, 320]

MEAT INSPECTION

Handling of Returned Meat Products at Federally Inspected Establishments

Notice is hereby given in accordance with administrative procedure provisions in 5 U.S.C. 553, that pursuant to the authority contained in the Federal Meat Inspection Act, as amended (21 U.S.C. section 601 et seq.), the Consumer and Marketing Service proposes to amend §§ 307.2(j), 318.1(b), 318.2, 318.3, and 320.1(b) (9 CFR Parts 307, 318, and 320) of the Federal meat inspection regulations as indicated below.

Statement of considerations. In view of changing marketing practices and modern production methods in official establishments subject to the act, it appears that regulatory controls for handling returned meat products in such establishments should be strengthened. The proposed amendments would impose additional requirements concerning such products and articles claimed to be returned products.

Section 307.2 of the regulations would be amended for cross-reference purposes to read as follows:

§ 307.2 Other facilities and conditions to be provided by establishment.

* * * * *

(j) Docks and receiving rooms, to be designated by the operator of the official establishment, with the approval of the officer in charge, for the receipt and inspection of all products as provided in §§ 318.2 and 318.3 of this subchapter.

* * * * *

Section 318.1 of the regulations would be amended by changing paragraph (b) to read as follows:

§ 318.1 Products and other articles entering official establishments.

* * * * *

(b) No slaughtered poultry or poultry product shall be brought into an official establishment unless it has been (1) previously inspected and passed and is identified as such in accordance with the requirements of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) and the regulations thereunder, and has not been prepared other than in an establishment inspected under said act or (2) has been inspected and passed and is identified as such in accordance with the requirements of a State law. Any poultry product diverted from its original destination or rejected at its original destination may not be brought into an official establishment.

* * * * *

A new paragraph (e) would be added to § 318.2 and the section heading would be amended to read as follows:

§ 318.2 Reinspection, retention, and disposal of meat products and poultry products at official establishments; designation of places of receipt of products and other articles (other than returned products).

* * * * *

(e) Every official establishment shall designate, with the approval of the officer in charge, a dock or place at which products and other articles (other than returned products) subject to reinspection under this section, shall be received, and such products and articles shall be received only at such dock or place.

Section 318.3 of the regulations and the title thereof would be amended to read as follows:

§ 318.3 Designation of places of receipt of returned products; handling of such products; records required.

(a) As used in § 318.2 and this section, the term "returned product" means any product prepared at an official establishment and returned to that establishment, or any product diverted from its original destination or rejected at its original destination and brought to any official establishment, for any reason; and any product claimed to be such returned product. The term "lot" as used in this section means all products of one kind and size, which is similarly labeled and received on one means of conveyance.

(b) Every official establishment shall designate, with approval of the officer in charge, an area or areas at which any returned product shall be received, and such product shall be received only at such designated area or areas and shall be reinspected there by a program employee before further entering the establishment. No product other than returned product shall be received at such area or areas. Such areas shall be in a holding cooler maintained at a temperature of 40° F. or less. Areas for return of frozen product shall be maintained at a temperature of 32° F. or less. The areas must be susceptible of being thoroughly cleaned between handling of different lots of product, and shall be cleaned as often as necesary to maintain them in a sanitary condition.

(c) All containers, tools, and other equipment must be cleaned, thoroughly washed, and sanitized after each lot of returned product is handled. Establishment employees and the program inspector must also thoroughly wash and sanitize their hands after handling each lot of returned product. All returned product shall be delivered to the returned product area immediately upon arrival on the establishment premises. Such product shall not be allowed to remain in or be accumulated in trucks, railroad cars or other means of conveyance, or elsewhere on the premises.

(d) The operator of each official establishment shall identify an employee thereof who shall maintain, in a bound ledger, a record of all returned products. For each lot of returned product, the record shall fully and correctly show: the kind of product; the date of return; the temperature of the returned product at the time of arrival at the establishment; the name and address of the establishment where the product was prepared; the name and address of the consignee or purchaser, if any, who rejected the product; the number of pounds and pieces of product returned; the identity of the carrier which returned the product; code markings; and the manner and date of disposal, and if sold, the name and address of the purchaser and quanitity purchased.

(e) (1) No sorting or other handling of any returned product shall be done until a program inspector has reinspected such product and has checked the receiving records with the actual inventories of the product and approved such handling. No returned product may be moved from the returned product area prior to such approval. To qualify for entry into other parts of the establishment, or use in the establishment, all returned product must have been prepared under Federal inspection or imported in accordance with Part 327 of

this subchapter and meet the other requirements of this section.

(2) Products not identified with official marks of Federal inspection may enter only the returned product area for inspection and removal from the establishment and disposition as provided in paragraph (f) (1) (i) or (iii) of this section, unless they are otherwise identified as having been prepared under Federal inspection or imported in accordance with Part 327 of this subchapter.

(f) (1) All returned product must be inspected as soon as practical after receipt into the returned product area and a determination made by the inspector whether the products shall be:

(i) Condemned and destroyed;

(ii) Released for unrestricted use;

(iii) Released for distribution, not in commerce and not in any State designated in § 331.2 of this subchapter, and in accordance with applicable State or local requirements; or

(iv) Released for reprocessing or reconditioning at the official establishment.

(2) Employees of the official establishment shall:

(i) Sort each lot of returned product into categories as determined by the program inspector under subparagraph (1) of this paragraph;

(ii) Maintain the identity of all such categories;

(iii) Perform any reprocessing or reconditioning required; and

(iv) Present for reinspection all products that have been reprocessed or reconditioned.

(g) The criteria for the determinations required by paragraph (f) of this section are as follows:

(1) Any unsound, unwholesome or otherwise adulterated returned products, including products in swollen cans, and all consumer-size packages of products labeled as frozen which are received in a defrosted condition or show evidence of thawing or refreezing, shall be condemned and destroyed in accordance with provisions in Part 314 of this subchapter.

(2) All fresh meat and meat byproducts and canned products, which have been prepared under Federal inspection and are identified as required by paragraph (e) of this section and found to be unadulterated and marked and labeled as required by Parts 316 and 317 of this subchapter shall be released for unrestricted use.

(3) All unadulterated returned products which have not been prepared under Federal inspection or which are not identified as required by paragraph (e) of this section may be removed from the official establishment for distribution, not in commerce and not in any State designated in § 331.2 of this subchapter, provided that this procedure does not violate any applicable State or local requirements.

(4) The following categories of returned products which have been prepared under Federal inspection and are identified as required by paragraph (e) of this section and are not disposed of under subparagraph (1) (i) or (ii) of paragraph (f) of this section and are affected by a condition which impairs their marketability, but does not render them unfit for food, may be reprocessed or reconditioned at the official establishment if the initial examination indicates that after such operations the products will not be adulterated or misbranded. The condition of the product will determine the type of reconditioning to be used. Reconditioning or reprocessing is permitted only with the prior approval and under supervision of the inspector.

(i) Fresh meats and meat byproducts may be reconditioned and used in any manner, subject to paragraph (h) of this section;

(ii) Refrigerated processed meat food products and unfrozen products, such as frankfurters and bologna, may be reconditioned and used only as an ingredient in fully cooked product, subject to paragraph (h) of this section;

(iii) Perishable canned products labeled "Perishable, Keep Under Refrigeration", such as canned hams or canned picnics, may be reconditioned and used only in shelf-stable products, subject to paragraph (h) of this section;

(iv) Miscellaneous products, such as shelf-stable products, not covered in subdivision (i), (ii), or (iii) of this subparagraph may be reconditioned and used in any manner, subject to paragraph (h) of this section.

(h) Reprocessed or reconditioned products may be used in human food products at, or removed from, the official establishment, only if they are found on final inspection to be not adulterated and may be removed from the establishment only if marked and labeled as required by the Act and the regulations in this subchapter.

(i) Code markings shall not be changed or obliterated on sound, wholesome, and otherwise unadulterated packaged products, and if they must be repackaged, they shall carry the original code markings.

Section 320.1(b) of the regulations would be amended by adding a new subparagraph (3) to read as follows:

§ 320.1 Records required to be kept.

* * * * *

(b) * * *

(3) Records of returned products as required to be kept by § 318.3(d) of this subchapter.

Any person who wishes to submit written data, views, or arguments, concerning the proposed amendments, may do so by filing them, in duplicate, with the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours in a manner convenient to the public business (7 CFR 1.27(b)). Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on December 6, 1971.

PHILIP C. OLSSON,
Deputy Assistant Secretary.

[FR Doc.71-18055 Filed 12-8-71;8:50 am]

Rural Electrification Administration

[7 CFR Part 1701]

SALES OF PROPERTY BY ELECTRIC BORROWERS

Proposed Policy and Procedure

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue revised REA Bulletin 115-1, Sales of Property by Electric Borrowers, to set forth new policy and procedure to be followed by electric borrowers in the sale of capital assets.

Persons interested in the provisions of revised REA Bulletin 115-1, may submit written data, views or comments to the Director, Power Supply, Management and Engineering Standards Division, Room 3313, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply, Management and Engineering Standards Division, during regular business hours.

A copy of the revised REA bulletin, including related forms and attachments may be secured in person or by written request from the Director, Power Supply, Management and Engineering Standards Division.

The summary of the proposed revision of REA Bulletin 115-1 is as follows:

SUMMARY OF REVISED REA BULLETIN 115-1

SUBJECT: REA Requirements for Sales of Property by Electric Borrowers.

General. This REA Bulletin sets forth the Agency's policy and procedure for the sale of capital assets by electric borrowers. The primary purpose of the proposed revision is to conform the provisions of the bulletin to the requirements of the new form of common mortgage used by REA and supplemental lenders in joint financing of rural electrification facilities.

Summary of specific changes in revised bulletin. 1. For distribution borrowers the dollar limit on sales of property for which REA gives general approval has been changed from $10,000 to $25,000 for single transactions. The aggregate value of sales during any 12-month period may not exceed $100,000 without specific REA approval.

2. For power-type borrowers the new limits for which general REA approval is given is $50,000 for single transactions and the aggregate value of sales during the 12-month period may not exceed $200,000.

3. Electric plant in place and real estate as well as all other property may be sold without specific REA approval if the selling price is within the dollar limits listed above for distribution and power-type borrowers, and the sales fulfill certain standard requirements for all sales.

4. If a borrower has concurrent loans outstanding from REA and a secured supplemental lender, and wishes to use the proceeds from cash sales as a loan prepayment, the funds must be applied on the notes of both lenders, pro rata according to the aggregate unpaid principal amount of the notes.

5. REA will coordinate joint approvals for sales made between two REA borrowers that may be treated as transfers by assumption of a portion of indebtedness where the seller has concurrent loans outstanding from REA and a secured supplemental lender.

6. REA will coordinate joint approvals for all sales where both REA and a secured supplemental lender hold liens on a borrower's property, including coordinating releases of lien with such other lenders after initial action by the Administrator.

7. For obtaining approval for sales of property requiring specific approval from REA and/or supplemental lenders, borrowers should send REA all appropriate information concerning the proposed sale with a copy of each item to the supplemental lender if applicable.

Dated: December 2, 1971.

DAVID A. HAMIL,
Administrator.

[FR Doc.71-18056 Filed 12-8-71;8:52 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 281]

[General Order 27, 2d Rev.]

INFORMATION AND PROCEDURE REQUIRED UNDER OPERATING-DIFFERENTIAL SUBSIDY AGREEMENTS

Notice of Proposed Rule Making

Pursuant to section 204 (46 U.S.C. 1114) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1101–1294) notice is hereby given that the Maritime Subsidy Board and Assistant Secretary of Commerce for Maritime Affairs are contemplating the revision of General Order 27, Rev., to provide compatibility with operating-differential subsidy procedures as encompassed in said Act both prior to and following amendment by the Merchant Marine Act of 1970 (Public Law 91-469).

While the operating subsidy program is exempt from the requirements of 5 U.S.C. 553, interested parties are invited to submit written comments on the proposed revision for consideration by the Board and Assistant Secretary. Comments are to be submitted in triplicate to the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, D.C. 20235, by the close of business on December 30, 1971.

Copies of the proposed revision of General Order 27, Rev. may be obtained from the Secretary.

Dated: December 7, 1971.

By order of the Maritime Subsidy Board and Acting Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.71-18130 Filed 12-8-71;8:54 am]

[46 CFR Part 390]

CAPITAL CONSTRUCTION FUND

Notice of Proposed Rule Making

Notice is hereby given that the Assistant Secretary of Commerce for Maritime Affairs, pursuant to sections 204 and 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1177), is considering promulgation of regulations governing the administration of the Capital Construction Fund.

The Capital Construction Fund is a program under section 607 of the Act as amended by Public Law 91-469 which provides for deferral of Federal income tax on certain moneys accumulated for the purpose of constructing, reconstructing, acquiring or replacing U.S.-flag vessels for use in certain qualified trades. The form of the Interim Capital Construction Fund Agreement has been promulgated (36 F.R. 13596, July 22, 1971) for use pending adoption by the Secretary of Commerce of a final form of Permanent Capital Construction Fund Agreement. The proposed regulations which follow are to govern both the Interim and Permanent Funds.

The Assistant Secretary of Commerce for Maritime Affairs, therefore, proposes to add new §§ 390.3 through 390.9 to Part 390 of Title 46, Chapter II, Code of Federal Regulations, to read as follows:

§ 390.3 Constructive deposits into and constructive withdrawals from the Capital Construction Fund.

(a) Constructive deposits into and constructive qualified withdrawals from a Capital Construction Fund may be made with the approval of the Secretary of Commerce (Secretary). Such deposits and withdrawals may relate to taxable year 1970 and such portions of taxable years 1971 and 1972 as occur within 90 days after notice is published in the FEDERAL REGISTER that the Secretary has adopted the final form of the Permanent Capital Construction Fund Agreement and application form, if any. In no event will constructive deposits or withdrawals be permitted with respect to any portion of such taxable years occurring after the applicant's Interim or Permanent Capital Construction Fund Agreement has been executed by the Secretary.

(b) Deposits and withdrawals made under paragraph (a) of this section for any taxable year shall be governed by the ceiling limitations set forth in section 607(b) of the Merchant Marine Act, 1936, as amended (Act), for that taxable year. The characterization of deposits shall be that required under section 607 of the Act and the agreement.

§ 390.4 Cargo handling equipment.

(a) *Purpose.* The purpose of this section is to define the cargo handling equipment which the Secretary will approve for the purposes of making qualified withdrawals from the Capital Construction Fund.

(b) *Definitions.* (1) "Cargo handling equipment intended for use primarily on the vessel" shall mean any auxiliary equipment which is normally carried from port to port on a qualified vessel and used solely in conjunction with the loading or unloading of a qualified vessel.

(2) "Qualified vessel" shall mean a vessel as defined in section 607(k)(2) of the Act.

(c) *Approval.* Upon application, the Secretary will approve for purposes of making qualified withdrawals any cargo handling equipment which meets the requirements of paragraph (b) of this section.

(d) *Limitation.* The Secretary will not approve a Capital Construction Fund application in which the applicant proposes only to acquire, construct, reconstruct or replace cargo handling equipment.

(e) *Examples.* The provisions of paragraphs (b) and (c) of this section may be illustrated by the following examples:

(1) *Example 1.* Fork lift trucks which are carried on the qualified vessel from port to port qualify. However, if such trucks remain on the pier, they do not qualify.

(2) *Example 2.* Cargo cranes which are either permanently located on or affixed to a pier or other shoreside facility and service qualified vessels do not qualify since they are not carried from port to port on the qualified vessels.

§ 390.5 Nonqualified withdrawals from the Capital Construction Fund.

(a) *Purpose.* The purpose of this section is to set forth the circumstances under which the Secretary may approve withdrawals from the Capital Construction Fund when such withdrawals are not qualified withdrawals within the meaning of section 607(f) of the Act.

(b) *Discretionary nonqualified withdrawals.* Except for the limitation stated in paragraph (c) of this section, the Secretary will normally approve an application to make a nonqualified withdrawal in the following circumstances.

(1) Where the party desires to make an expenditure for research, development and design and such expenditure is incident to new and advanced ship design, ship machinery, and equipment.

(2) Where the party has incurred actual operating losses from the operations of agreement vessels which have impaired his working capital and it becomes necessary to reimburse his general funds for such losses.

(3) Where under an agreement with the Secretary deposits are made to a Capital Construction Fund in lieu of a restricted fund and under the terms of such agreement a nonqualified withdrawal is necessary in connection with financing under title XI of the Act.

(4) Where a nonqualified withdrawal will not impair the ultimate goals for which the fund was established.

(c) *Limit on nonqualified withdrawals.* The Secretary will not agree to a nonqualified withdrawal which will substantially lessen the likelihood that the purposes and objectives for which the fund was established will be carried out.

(d) *Other nonqualified withdrawals.* A nonqualified withdrawal from the Capital Construction Fund occurs in the following circumstances.

(1) When a Capital Construction Fund is terminated, and

(2) When a withdrawal of the type provided for in section 607(g) of the Act is made.

§ 390.6 Capital Construction Funds which do not involve acquisition, construction or replacement of vessels.

(a) *Purpose.* The purpose of this section is to set forth the conditions under which the Secretary may approve a Capital Construction Fund Agreement when the application contains a program involving only the reconstruction of a qualified vessel.

(b) *Requirements.* The Secretary will not enter into a Capital Construction Fund Agreement which involves only the reconstruction of a qualified vessel unless the proposed program provides for a reconstruction which will:

(1) Be capitalized under section 263 of the Internal Revenue Code of 1954, and

(2) Make the reconstructed vessel significantly more competitive and extend its economic life.

(c) *Limitation.* The Secretary generally will not consider entering into a Capital Construction Fund Agreement for reconstruction which meets the requirements of paragraph (b) of this section unless such reconstruction involves an amount in excess of $100,000.

(d) *Examples.* The provisions of paragraph (b) of this section may be illustrated by the following examples:

(1) *Example 1.* Assume that an applicant desires to enter into a Capital Construction Fund Agreement solely for the purpose of converting a break bulk vessel to a container vessel. The cost would be over $100,000 and capitalized under the Internal Revenue Code. The applicant can show that the proposed reconstruction would make the vessel significantly more competitive and extend its economic life because, as a container vessel, it would be able to attract a greater range of cargo over its entire physical life where, as a break bulk vessel, its potential cargo is more limited to the extent that it might not be able to continue competitive operation to the end of its physical life. In such case, it could be expected that the Secretary would favorably consider the application.

(2) *Example 2.* Assume that an applicant desires to enter into a Capital Construction Fund Agreement solely for the purpose of strengthening the decks of an oceangoing break bulk vessel in order to carry containers topside. Although this reconstruction may make the vessel better able to carry cargo it would not make the vessel significantly more competitive nor extend its economic life. The Secretary would not approve an application for a Capital Construction Fund solely for this purpose.

§ 390.7 Barges and containers which are the complement of a qualified vessel.

(a) The term "complement of a qualified vessel" as used in section 607(f) of the Act, means three (3) times the number of barges or containers which constitute the capacity of the associated qualified vessel.

(b) Limitation: The Secretary will not approve a Capital Contruction Fund application in which the applicant proposes only to construct, reconstruct, acquire or replace barges or containers.

§ 390.8 Reporting procedures.

(a) The purpose of this section is to provide the format of reports concerning the overall operation of the Capital Construction Fund which are to be submitted to the Secretary.

(b) Submission dates: Reports are to be made semiannually on a fiscal year basis and should reach the Secretary not later than sixty (60) days after the close of a period.

(c) Cumulation: The report submitted following the close of the fiscal year shall be cumulative for the entire year.

(d) Certification: The semiannual report required under this section shall be accompanied by an affidavit of the official responsible for the maintenance and accuracy of the financial records of the Party and the annual report by an affidavit of an independent certified public accountant to the effect that:

(1) The exhibits and schedules composing the accounting have been prepared in accordance with this section; and

(2) The report, including all exhibits and schedules, reflects true and complete statements in accordance with all applicable orders, rules, regulations, and instructions issued or adopted by the Secretary pertaining thereto.

(e) Variance: The party may vary the design of any of these reports provided that the reports submitted conform as closely as possible to those shown herein and include all of the information required.

(f) Summary statement: The summary statement shall be entitled "Exhibit A" and contain a summation of cash on deposit (Schedule A–1), summation of securities on deposit (adjusted basis) (Schedule A–2), a subtotal of cash and securities on deposit, net amount of accrued deposits and withdrawals (Schedule A–3) and a total of the fund. The provisions of this paragraph may be illustrated by the following example:

EXHIBIT A

XYZ Steamship Corp.

(Party's name)

CONTRACT NO. MA/CCF–793.

Capital Construction Fund June 30, 197—

Cash on deposit (Schedule A–1)	$1,025,000
Securities—Adjusted basis (Schedule A–2)	2,560,000
Total cash and securities on deposit	3,585,000
Net accrued deposits and withdrawals (Schedule A–3)	450,000
Total fund—June 30, 197—	4,035,000

(g) Analysis of cash on deposit: This statement shall be entitled "Schedule A–1" and shall contain a listing of balances in all cash accounts at the end of the period. The following is an example of this statement:

SCHEDULE A–1

XYZ Steamship Corp.

(Party's name)

CONTRACT NO. MA/CCF–793.

Analysis of Cash on Deposit in Capital Construction Fund as at June 30, 197—

First National Bank of Washington—Check Account No. 654–0876–211	$622,500
Cobbler's Trust Co.—New York, time deposit	402,500
Total cash in Capital Construction Fund at June 30, 197—	1,025,000

(h) Analysis of securities: This statement shall be entitled "Schedule A–2" and shall contain a listing of the securities (adjusted basis) in the fund at the close of the period. The following is an example of this statement:

SCHEDULE A–2

XYZ Steamship Corp.

(Party's name)

CONTRACT NO. MA/CCF–793.

Analysis of Securities (adjusted basis) in Capital Construction Fund at June 30, 197—

Treasury Notes—Due July 4, 1972—$800,000 face value	$760,000
Boon Corp.—Class A common stock—9,000 Shares	1,800,000
Total securities (adjusted basis) in Capital Construction Fund at June 30, 197—	2,560,000

(i) Net accrued deposits and withdrawals: This statement shall be entitled "Schedule A–3" and shall list the accrued deposits and withdrawals at the end of the period. The following is an example of this statement.

SCHEDULE A–3

XYZ Steamship Corp.

(Party's name)

Contract No. MA/CCF–793

Analysis of Net Accrued Deposits and Withdrawals in Capital Construction Fund at June 30, 197—

Accrued deposits:		
197— income (6 months ended June 30, 197—)	$500,000	
Depreciation	200,000	
		$700,000
Accrued Withdrawals:		
Progress payment made from General Fund—Hull 3603	250,000	
Net accrued deposits and withdrawals in Capital Construction Fund at June 30, 197—		450,000

(j) Transcript of transactions: This statement shall be entitled "Exhibit B" and shall contain a summary of all transactions occurring in the period by date. The following is an example of this statement:

EXHIBIT B

CONTRACT NO. MA/CCF-703.

XYZ Steamship Corp.

(Party's name)

Transcript of Transactions in the Capital Construction Fund for 6 Months Ended June 30, 197_

Date	Description of transaction	Cash		Securities (at Cost)		MA ADP	Detail
		Debit	Credit	Debit	Credit	Coding columns	
1- 1-7_	Balances brought forward	$1,800,000		$2,000,000			
1- 3-7_	Deposit 1971 depreciation	300,000					
1- 4-7_	Purchased Treasury notes 90 days @ 6% discount.		$782,000	782,000			$800,000 @ 6% discount.
2-28-7_	Dividends earned	4,500					$0.45 per share on 10,000 shares Boon Corp.
3-15-7_	Progress payment—Hull 3003		302,500				
4- 4-7_	Sale of Treasury notes—cost	752,000			752,000		
	Income from sale	48,000					
4- 4-7_	Purchased Treasury notes 90 days @ 5% discount.		760,000	760,000			
4-15-7_	Deposit from 1971 earnings	310,000					
5-15-7_	Progress payment—Hull 3003		300,000				
6-15-7_	Sale of stock—cost	200,000			200,000		1,000 shares at $225 per share—Boon Corp.
	Gain on sale of stock	25,000					
	Balance carried forward	1,025,000		2,560,000			

(k) Transactions affecting tax account balances: This statement shall be entitled "Exhibit C" and shall show total transactions within the Fund by three separate accounts, the ordinary income account, capital gains account and capital account. The following is an example of this statement:

EXHIBIT C

CONTRACT NO. MA/CCF-703.

XYZ Steamship Corp.

(Party's name)

Analysis of Transactions Affecting the Tax Account Balances in the Capital Construction Fund for the 6 Months Ended June 30, 197_

	Ordinary income	Capital gain	Capital	Total
Opening Balance—Jan. 1, 197_	$1,000,000	$1,000,000	$1,500,000	$3,500,000
Deposits—income transfers in, etc	362,500	25,000	300,000	687,500
Total	1,362,500	1,025,000	1,800,000	4,187,500
Withdrawals—losses, transfers out, etc			602,500	602,500
Balance at June 30, 197_	1,362,500	1,025,000	1,197,500	3,585,000

§ 390.9 Penalties for operation in the prohibited domestic trade.

(a) *Purpose and policy.* (1) Section 607 of the Act provides that Federal income tax may be deferred on certain funds deposited under a Capital Construction Fund Agreement with the Secretary when those funds are used to construct, reconstruct, acquire, or replace U.S.-flag vessels operated in foreign commerce, noncontiguous commerce, the Great Lakes, and commence between the islands of Hawaii. In the event, however, of the operation of these vessels in the prohibited domestic trades, the party to the Fund acquires an unfair competitive position with respect to domestic vessel operators who cannot obtain the tax benefits of the Fund. The purpose of this regulation is to reestablish a status quo by penalizing, on a daily basis, a party who operates a qualified vessel in the prohibited domestic trades.

(2) Section 607 provides for Federal income tax deferral and the benefit acquired under the section is the time value of deferring the payment of taxes. The penalty is the amount of interest determined on a daily basis on the sum of tax deferred funds actually invested in the vessel as of the date of prohibited use, plus such funds anticipated to be invested in the vessel under the agreement.

(b) *Imposition of penalty.* A daily penalty shall be imposed on the owner of a vessel acquired, constructed, or reconstructed with the aid of qualified withdrawals from a Capital Construction Fund for each day the vessel is used in the prohibited domestic trades. For purposes of this section the prohibited domestic trades consist of all domestic trades other than the Great Lakes trade, the noncontiguous domestic trade, and domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under the first sentence of section 506 of the Act.

(c) *Basis of penalty.* The penalty is based on the following:

(1) The actual amount, to date of violation, of tax deferred funds in the vessel.

(2) Any unpaid principal which, pursuant to the Capital Construction Fund Agreement, may be paid with qualified withdrawals from the fund (anticipated tax deferred funds).

(3) In the case of construction, acquisition or replacement, the length of the time value is twenty (20) years for all vessels. In the case of all reconstructions, the length of the time value is ten (10) years for all vessels.

(4) An interest rate of eight (8) percent compounded annually is used.

(5) An effective tax rate of thirty (30) percent is assumed representing a weighted average between Federal ordinary income and capital gains tax rates.

(d) *Computation of penalty.* The daily penalty is determined in the following manner:

(1) The actual and anticipated tax deferred funds are added to determine the total tax deferred funds.

(2) The tax savings is determined by applying the assumed effective tax rate to the total tax deferred funds.

(3) The tax savings is compounded at eight (8) percent annually for twenty (20) or ten (10) years, as the case may be.

(4) The tax savings is then subtracted from the result of subparagraph (3) of this paragraph as this amount represents, in effect, depreciation which would have been taken for Federal income tax purposes but for the operation of the Capital Construction Fund.

(5) The result of subparagraph (4) of this paragraph is then divided by 2 to achieve an average of the tax savings interest.

(6) The amount thus determined is then divided by 7,300 days (20 years) or 3,650 days (10 years) as the case may be to achieve a daily rate of penalty.

(e) *Formula.* The foregoing calculations may be expressed in the following formula:

$$X=\frac{E[(AB)-C]}{2D}$$

Where:

X = Daily rate of penalty in dollars.
A = Total tax deferred funds.
B = Assumed effective tax rate of thirty (30) percent.
C = Tax savings amount = $(A)(B)$.
D = 3,650 days for reconstruction and 7,300 days in all other cases.
E = 2.158925 (value of $1 compounded annually at eight (8) percent for ten (10) years) for reconstructions and 4.660957 (value of $1 compounded annually at eight (8) percent for twenty (20) years) in all other cases.

The formula may be further reduced to:

$$X=\frac{AB(E-1)}{2D} \text{ or } \frac{0.1738388A}{3,650}$$

for reconstructions and

$$\frac{0.5491436A}{7,300}$$ in all other cases.

(f) *Example.* The provisions of this section may be illustrated by the following example:

Assume that a vessel has been constructed under a Capital Construction Fund Agreement. The total cost of the vessel was $20 million. Of this amount $6 million represents a qualified withdrawal from the Fund for a down payment. Under the terms of the Agreement, an additional $4 million will be withdrawn in the form of qualified withdrawals to make mortgage payments. Thus, the total tax deferred funds in the vessel is $10 million. The daily penalty rate for use of the vessel in the prohibited domestic trades would be calculated as follows:

$$X=\frac{0.5491436(10,000,000)}{7,300} \text{ or } X=\$752.25$$

(g) *Penalty on leased or chartered vessels.* If the owner of a leased or chartered vessel maintains a Capital Construction Fund, then he shall be liable for any penalty imposed under this section.

(h) *Limitation.* Nothing in this section shall limit the Secretary from taking other actions under the Act and the regulations thereunder.

(i) *Contract provisions.* The Secretary will make the operative portions of this section a part of each Permanent Capital Construction Fund Agreement.

While the Capital Construction Fund Program is exempt from the provisions of 5 U.S.C. 553, the Assistant Secretary of Commerce for Maritime Affairs invites all interested parties to submit written comments on the proposed regulation, in triplicate, to the Secretary, Maritime Administration, Department of Commerce, Washington, D.C. 20235, within 30 days from date of publication.

Dated: December 2, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc.71-17944 Filed 12-8-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-165]

FEDERAL AIRWAY SEGMENT

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 7, west alternate segment between Birmingham, Ala., and Muscle Shoals, Ala.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to realign V-7 west alternate segment from Birmingham, Ala., via the intersection of Birmingham 298° T(295° M) and Muscle Shoals 178° T(175° M) radials; to Muscle Shoals, Ala. This realignment will provide flexible use of the airspace northwest of Birmingham, Ala., and enhance the overall arrival and departure procedures for the Birmingham Terminal Area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17976 Filed 12-8-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-WE-51]

FEDERAL AIRWAY SEGMENTS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter segments of VOR Federal airway Nos. 135 and 137.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of the comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes the following airspace actions:

1. Alter the segment of V-135 airway between Yuma, Ariz., and Parker, Calif., by terminating its upper limits at 9,000 feet MSL.

2. Alter the segment of V-137 airway between Imperial, Calif., and Mortmar, Calif., intersection by terminating its upper limits at 7,000 feet MSL.

These proposed actions would provide off-airway airspace above these airway segments wherein air combat training activity may be conducted.

The en route traffic volume along these segments of V-135 and V-137 is limited. The latest FAA peak day airway traffic survey shows 13 aircraft movements on V-135 between Yuma, Ariz., and Blythe, Calif., and six aircraft movements between Blythe, Calif., and Parker, Calif.; and four aircraft movements on V-137 between Imperial and the Mortmar Intersection. In addition, it has been determined that the en route traffic along those airway segments can be adequately accommodated at altitudes of 9,000 feet and below on V-135 and at altitudes of 7,000 feet and below on V-137.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).

Issued in Washington, D.C., on December 3, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-17977 Filed 12-8-71;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 115]

STATE CERTIFICATION OF ACTIVITIES REQUIRING FEDERAL LICENSE OR PERMIT

Notice of Proposed Rule Making

Notice is hereby given that the Administrator of the Environmental Protection Agency (the Administrator) proposes to amend Chapter V of Title 40, Code of Federal Regulations, by amending § 115.1 (g) of Part 115 thereof, as set forth below. The proposed amendment would clarify the application of section 21 (b)(1) of the Federal Water Pollution Control Act (the Act) as amended, 33 U.S.C. section 1171(b)(1), by amending the definition of "Water Quality Standards" as presently set forth in § 115.1(g) of Part 115, Chapter I, Title 40, Code of Federal Regulations.

Applicable water standards referred to in the first sentence of section 21(b)(1) include any State water quality standard presently in force. These may be standards adopted by a State for interstate waters and approved by the Administrator pursuant to section 10(c) of the Act, or may be standards adopted by a State for intrastate waters which are beyond the scope of section 10. In addition, situations may arise wherein a Federal license or permit is applied for at a time when water quality standards for interstate waters have been adopted by the State but not yet finally reviewed and approved by the Administrator pursuant to section 10. Although such standards are not federally enforceable until approved by the Administrator, they are

nevertheless enforceable by the State and are thus "applicable water quality standards" for purposes of section 21(b)(1) of the Act.

Accordingly, it is proposed to amend § 115.1(g) of Part 115, Chapter I, Title 40, Code of Federal Regulations to read as follows:

§ 115.1 Definitions.

* * * * *

(g) "Water Quality Standards" means (1) standards established pursuant to section 10(c) of the Act; (2) standards adopted by a State but not approved by the Administrator pursuant to said section; and (3) State-adopted water quality standards for navigable waters which are not interstate waters.

Interested persons are invited to submit, in triplicate, their written views, comments and recommendations concerning the proposed amendment to the Administrator, Environmental Protection Agency, Waterside Mall, Washington, D.C. 20460. All relevant material received not later than 30 days after publication of this notice will be considered, and will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the Office of Public Affairs, Room 3241, Waterside Mall, Fourth and M Streets SW., Washington, DC.

Dated: December 6, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-18004 Filed 12-8-71;8:49 am]

[40 CFR Part 115]

STATE CERTIFICATION OF ACTIVITIES REQUIRING FEDERAL LICENSE OR PERMIT

Notice of Proposed Rule Making

On May 8, 1971, there was published in the FEDERAL REGISTER the text of regulations constituting a new Part 615 of Title 18, Chapter V, and relating to the requirements of section 21(b) of the Federal Water Pollution Control Act, as amended, Public Law 91-224, 33 U.S.C. 1171(b). Those regulations were recodified as Part 115 of Title 40, Chapter I, on November 25, 1971.

Under section 21(b), any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States is required to provide the licensing or permitting agency a certification that there is reasonable assurance that such activity will be conducted in a manner which will not violate applicable water quality standards. This certification will in most instances be obtained from the States involved, although in certain situations specified in the statute it must be obtained from the appropriate interstate water pollution control agency or from the Environmental Protection Agency.

Section 21(b)(1) of the Federal Water Pollution Control Act, 33 U.S.C. 1171(b)(1), requires the State or interstate agency to establish "procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications." No reference to the public notice requirement was included in the regulations as promulgated. In order to insure compliance with the notice requirement, and to provide a more complete set of regulations applicable to section 21(b), it is proposed to amend the regulations to make explicit reference to the notice requirement. The proposed amendment would amend § 115.2(a) in Part 115—State Certification of Activities Requiring a Federal License or Permit, Chapter I, Title 40, Code of Federal Regulations in the manner set forth below:

1. Subparagraphs (3), (4), and (5) would be redesignated subparagraphs (4), (5), and (6).

2. A new subparagraph (3) would be inserted after present subparagraph (2) to read as follows:

§ 115.2 Contents of certification.

(a) * * *

(3) A statement setting forth the date and manner of public notice by the State or interstate agency and the procedure or regulation pursuant to which such notice was given.

* * * * *

Interested persons are invited to submit, in triplicate, their written views, comments, and recommendations concerning the proposed amendment to the Administrator, Environmental Protection Agency, Waterside Mall, Washington, D.C. 20460. All relevant material received not later than 30 days after publication of this notice will be considered, and will be available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the Office of Public Affairs, Room 3241, Waterside Mall, Fourth and M Streets SW., Washington, DC.

Dated: December 6, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-18005 Filed 12-8-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19314]

TELEVISION BROADCAST STATIONS

Program Identification Patterns in Visual Transmissions; Order Extending Time for Filing of Comments and Reply Comments

In the matter of amendment of Part 73, § 73.682(a)(22) of the Commission's rules and regulations concerning the inclusion of program identification patterns in the visual transmissions of television broadcast stations Docket No. 19314, RM-1783.

1. The notice of proposed rule making in the above-entitled proceeding, adopted September 8, 1971, and published in the FEDERAL REGISTER on September 18, 1971, 36 F.R. 18657, specified dates of December 8, 1971, and January 7, 1972, as the deadlines for filing comments and reply comments, respectively.

2. In a petition filed November 30, 1971, International Digisonics Corp. (IDC), which presently provides a service to advertisers and others utilizing information obtained from identification patterns transmitted pursuant to §73.682(a)(22) of our rules, requests that the time for filing comments be extended until March 8, 1972, and the time for filing reply comments be extended until April 10, 1972.

3. In support of this request, IDC states that the Notice in the subject proceeding presented a number of controversial issues concerning various aspects of video program identification which can be commented on usefully only in the light of a comprehensive program of research and statistical sampling. The Commission, notes IDC, suggested that such studies be undertaken.

4. IDC is diligently engaged in studies in several relevant areas, but estimates that an additional 90 days, beyond the present specified deadline, will be required for their completion, and the preparation of comments based on the results of its efforts. Its personnel, furthermore, is engaged in the preparation of comments in Docket 18859, which are due on December 15, 1971, thus making more difficult the meeting of the present deadline in the instant proceeding.

5. We have had several informal inquiries which indicate that a number of persons who intend to file comments in this proceeding would welcome additional time for their preparation. Furthermore, we wish to insure that parties engaged in factual studies of the performance of the video identification system be allowed to complete them in an orderly manner. Accordingly, we will extend the comment and reply comment dates applicable.

6. However, we believe that the additional period of time IDC seeks is unnecessarily long for the purpose requested (certain of the studies it is conducting are only a continuation of programs which had their inception long before this proceeding was initiated), and to grant the full period requested would unduly prolong the resolution of this matter.

7. *Accordingly, it is ordered,* That the time for filing comments in this proceeding is extended to and including February 8, 1972, and the time for filing reply comments is extended to and including March 8, 1972.

8. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act

of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: December 2, 1971.

Released: December 3, 1971.

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[FR Doc.71-18047 Filed 12-8-71;8:51 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 113]

[Amdt. 3]

NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS

Notice of Proposed Rule Making

Notice is hereby given that the Small Business Administration proposes to amend Part 113 of Chapter 1 of Title 13 of the Code of Federal Regulations, pertaining to Nondiscrimination in Financial Assistance Program of SBA Effectuating Policies of Federal Government and SBA Administrator.

The proposed amendment reflects parallel changes proposed for Part 112, Code of Federal Regulations effectuating title VI of the Civil Rights Act of 1964.

Part 113 of Chapter 1 of Title 13 CFR is hereby amended by:

1. Adding the following paragraph (c) to § 113.3:

§ 113.3 Discrimination prohibited.

* * * * *

(c) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of this regulation.

2. Revising § 113.5 (a), (b), and (d) thereof to read as follows:

§ 113.5 Compliance information.

(a) *Cooperation and assistance.* * * *

(b) *Compliance reports.* * * *

(c) *Access to sources of information.* * * *

(d) *Information to the public.* Each recipient shall make available to persons entitled under this part to protection against discrimination by the recipient such information as SBA may find necessary to apprise them of their rights to such protection. (1) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of equal opportunity. If the efforts required of the applicant or recipient under § 113.3(c) to provide information as to the availability of equal opportunity, and the rights of individuals under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make equal opportunity fully available to racial and nationality groups previously subjected to discrimination. (2) Even though an applicant or recipient has never used discriminatory policies, the opportunities in the business it operates may not in fact be equally available to some racial or nationality groups. In such circumstances a recipient may properly give special consideration to race, color, or national origin to make the opportunities more widely available to such groups.

3. Revising § 113.7(d) thereof to read as follows:

§ 113.7 Procedure for effecting compliance.

* * * * *

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until: (1) SBA has determined that compliance cannot be secured by voluntary means; (2) the action has been approved by the Administrator or his designee; (3) the applicant or recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and (4) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the applicant or recipient or other person to comply with this part and to take such corrective action as may be appropriate.

4. Revising § 113.8(d)(1) thereof to read as follows:

§ 113.8 Hearings.

* * * * *

(d) *Procedures, evidence, and record.* (1) The hearing, decision and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554 through 557 (sections 5-8 of the Administrative Procedure Act), and in accordance with such rules or procedures as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section ,taking of testimony, exhibits, arguments and briefs, request for findings and other related matters. Both SBA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

* * * * *

5. Adding to § 113.9 the following paragraph (f):

§ 113.9 Decisions and notices.

* * * * *

(f) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Administrator determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the Administrator. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

6. Revising § 113.10 (a) and (c) thereof to read as follows:

§ 113.10 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color or national origin and which authorize the suspension or termination of a refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction or like direction prior to the effective date of this part.

* * * * *

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government, with the consent of such agencies, responsibilities in connection with the effectuation of the purposes of this part (other than responsibility for first decisions as

provided in § 113.9) including the achievement of effective coordination and maximum uniformity within SBA and within the executive branch of the Government in the application of this part and of comparable regulations issued by other agencies of the Government to similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Administrator of SBA.

* * * * *

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Office of Equal Employment Opportunity and Compliance, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within 30 days after date of publication of this notice in the FEDERAL REGISTER.

Dated: October 20, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-17746 Filed 12-8-71;8:47 am]

[13 CFR Parts 115, 121]

SURETY BOND

Proposed Definition of Small Business For Purpose of Surety Bond Guarantee Assistance

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Administrator of the Small Business Administration. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto.

Interested parties may file with the Small Business Administration within 30 days of publication of this proposal in the FEDERAL REGISTER, written statements of facts, opinions, or arguments concerning this proposal.

All correspondence shall be addressed:

Small Business Administration, Underwriting Division, 1441 L Street NW., Washington, DC 20416.

Dated: November 24, 1971.

THOMAS S. KLEPPE,
Administrator.

PART 115—SURETY BOND GUARANTEE

TITLE IV—PART B—SURETY BOND GUARANTEES

DEFINITIONS

§ 115.1 Statutory provisions.

SEC. 410. As used in this part—

(1) The term "bid bond" means a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

(2) The term "payment bond" means a bond conditioned upon the payment by the principal of money to persons under contract with him.

(3) The term "performance bond" means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

(4) The term "surety" means the person who, (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, or (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment.

(5) The term "obligee" means (A) in the case of a bid bond, the person requesting bids for the performance of a contract, or (B) in the case of a payment bond or performance bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

(6) The term "principal" means (A) in the case of a bid bond, a person bidding for the award of a contract, or (B) the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

(7) The term "prime contractor" means the person with whom the obligee has contracted to perform the contract.

(8) The term "subcontractor" means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.

AUTHORITY OF THE ADMINISTRATION

SEC. 411. (a) The Administration may, in consultation with the Secretary of Housing and Urban Development and upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereinafter provided, as the result of the breach of the terms of a bid bond, payment bond, or performance bond by a principal on any contract up to $500,000 in amount, subject to the following conditions:

(1) The person who would be the principal of the bond is a small business concern.

(2) The bond is required in order for such person to bid on a contract or to serve as a prime contractor or subcontractor thereon.

(3) Such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

(4) The Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required.

(5) The contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost.

(6) The terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

(b) Any contract of guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred by the surety in fulfilling the terms of his contract as the result of the breach by the principal of the terms of a bid bond, performance bond, or payment bond.

(c) The Administration shall fix a uniform annual fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. Any contract of guarantee under this section shall obligate the surety to pay the Administration such portions of the bond fee as the Administration determines to be reasonable in the light of the relative risks and costs involved.

(d) The provisions of section 402 shall apply in the Administration of this section.

§ 115.2 Policy.

It is the intent of Congress to strengthen the competitive free enterprise system by assisting qualified small business concerns to obtain certain bid, payment or performance bonds that are otherwise not obtainable by authorizing the Small Business Administration to guarantee surety companies up to 90 percent of their losses incurred by reason of the breach of certain surety bonds executed on behalf of such small business concerns on contracts up to $500,000 in amount.

§ 115.3 Definitions.

(a) "Administration" shall mean the Small Business Administration.

(b) "Administrator" shall mean the Administrator of the Small Business Administration.

(c) "SBA" means the Small Business Administration.

(d) "Small business concern" means a concern which would qualify as a small business under § 121.3-14 of this chapter.

(e) "Surety" means a corporation with a Certificate of Authority from the Secretary of the Treasury under sections 6 to 13 of title 6 of the United States Code, or as otherwise qualified by the Small Business Administration.

§ 115.4 Eligibility.

In order to be eligible for a surety bond guarantee, the applicant must:

(a) Qualify as a small business under § 121.3-14 of this chapter.

(b) Operate or propose operation of a business in conformity with Part 120—Loan Policy, of this chapter.

(c) Represent that a bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor thereon.

(d) Represent that a bond is not obtainable on reasonable terms and conditions without SBA's bond guarantee assistance.

§ 115.5 Procedure for surety bond guarantee assistance.

(a) An application for surety bond guarantee assistance shall be made on the appropriate SBA forms and shall include any additional information required in supporting schedules and forms. The application shall be submitted to an appropriate surety company agent

in triplicate, plus all other supporting material. Except for the District of Columbia, the agent will forward one copy of the same to the SBA District Office and Regional Office serving the area in which the applicant is located, and one copy to the surety company. In the District of Columbia Standard Metropolitan Statistical Area, the agent will forward one copy of the same to the SBA District Office and one copy to the SBA Central Office.

§ 115.6 Guarantee agreement.

Any agreement by SBA to guarantee a surety company shall provide that:

(a) Surety shall represent that such bond or bonds when executed by it as to terms and conditions will be in accord with those executed by professional sureties for that type of contract for which such bond or bonds are required to be furnished by principal.

(b) Surety shall affirm that without the SBA guarantee to surety it will not issue any of said bonds to principal.

(c) That the term "loss" shall mean any and all liability, damages, court costs, counsel fees, charges and expenses of whatever kind or nature which the surety shall or may at any time, sustain or incur by reason, or in consequence, of having executed the bond or bonds guaranteed by SBA.

(d) Unless otherwise agreed, surety shall take charge of all claim matters arising under said bonds; determine its liability and the amount thereof; compromise, settle or defend any claim or suit; and, take such action as it deems necessary to minimize loss.

(e) Surety shall pay SBA 10 percent of its bond(s) premium for and in consideration of SBA's agreement to guarantee the bid, payment or performance bond contemplated by this agreement. It is further agreed by SBA and surety that surety will pay SBA an additional like percentage of the additional premiums on any increase in contract price and SBA will make a like percentage refund on any premium reductions resulting from a reduction in the contract price. Where SBA or surety's share of any additional premium increase or decrease is five dollars ($5.00) or less, there shall be no adjustment.

§ 115.7 Processing fee and guarantee fees.

(a) The applicant small business concern shall pay to SBA an annual processing fee in the amount of five dollars ($5.00).

(b) The applicant small business concern shall pay to SBA a guarantee fee of 0.2 percent of the contract price, not to exceed five hundred dollars ($500), said fee to be paid only by the applicant ultimately obtaining the contract.

(c) The Surety Company shall pay to SBA a guarantee fee of 10 percent of its bond premium.

§ 115.8 Approval or decline of applications.

(a) No application for bond guarantee assistance shall be approved unless the following determinations have been made by SBA:

(1) That there is a reasonable expectation that the applicant will perform the covenants and conditions of the contract with respect to which a bond is required;

(2) That the contract meets requirements established by SBA for feasibility of successful completion and reasonableness of cost;

(3) That the terms and conditions of any bond guaranteed under the authority of this legislation are reasonable in light of the risks involved and the extent of the surety's participation.

PART 121—SMALL BUSINESS SIZE STANDARDS

§ 121.3–14 Definition of small business for the purpose of surety bond guarantee assistance.

A small business concern for the purpose of surety bond guarantee assistance is a concern that qualifies as a small business under § 121.3–10, with the following exception:

(a) *Construction.* Any construction concern is small if its annual receipts do not exceed $750,000 for the preceding fiscal year or annually average over the preceding 3 fiscal years.

§ 121.3–15 [Redesignated]

Renumber present § 121.3–14 to § 121.3–15.

[FR Doc.71–18000 Filed 12–8–71;8:48 am]

[13 CFR Part 120]

LOAN POLICY

Eligibilty of Amusement and Recreational Enterprises

Notice is hereby given that the Small Business Administration proposes to amend Part 120 (Revision 5) of Chapter 1 of Title 13 of the Code of Federal Regulations, pertaining to the eligibility of amusement and recreational enterprises for SBA financial assistance.

The proposed revision would delete § 120.2(d), which states that "Financial assistance will not be granted by SBA * * * (4) If the purpose of the financial assistance is to finance the construction, acquisition, conversion, or operation of recreational or amusement facilities, unless such facilities contribute to the health or general well-being of the public * * *." In lieu thereof, a new § 120.2(c)(3) will be added, to read as follows: "Where the purpose of the financial assistance is to finance the construction, acquisition, conversion, or operation of recreational or amusement enterprises, any such enterprise must be open to the general public, it must be properly licensed by appropriate State or local authority, and the character and reputation of the applicant will be given special consideration." Also, the title of § 120.2(c) will be changed from "Assurance of repayment, and change of ownership" to "Assurance of repayment, change of ownership, and amusement and recreational enterprises."

Under the limitation in § 120.2(d)(4) certain enterprises, such as carnivals or circuses, billiard parlors or racetracks, bands or orchestras, amusement parlors or professional athletic teams, have been ineligible for business loans. If the proposed amendment is adopted such enterprises will be eligible where they meet credit, character and licensing requirements.

Prior to final adoption of said amendment, consideration will be given to any comments, suggestions or objections submitted in writing, in triplicate, to Jack Eachon, Jr., Associate Administrator for Financial Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within 30 days after date of publication of this notice in the FEDERAL REGISTER.

Dated: November 30, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71–18001 Filed 12–8–71;8:48 am]

Notices

DEPARTMENT OF STATE

Agency for International Development

LIST OF INELIGIBLE SUPPLIERS

The following "List of Ineligible Suppliers" under AID Regulation 8 is currently in effect. All persons who anticipate AID financing for a transaction involving any person whose name appears on this list should take special notice of its contents.

LIST OF INELIGIBLE SUPPLIERS

SECTION 1. *Purpose of the list.* The List of Ineligible Suppliers implements the provisions of AID Regulation 8, "Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing" (22 CFR Part 208). Subject to the conditions described below AID will not make funds available to finance the cost of commodities or commodity-related services furnished by any supplier whose name appears on the list. A debarred supplier whose name appears in section 3 of a printed or published list has been placed thereon for the causes specified in § 208.5 of Regulation 8; a suspended supplier whose name appears in section 4 of a printed or published list has been placed thereon for the causes specified in § 208.7 of Regulation 8. AID has taken such action in accordance with the procedures described in subpart D of Regulation 8.

With respect to the interest of any U.S. bank which holds an AID letter of commitment, special attention is called to the fact that the list as periodically modified by AID constitutes a special amendment to every letter of commitment to the effect that AID will not provide reimbursement to a bank for payment to any supplier whose name appears on the list, excepting only (a) a payment made to a supplier on or before the initial date of suspension indicated for that supplier under an AID letter of commitment issued prior to that date, and (b) a payment made to a supplier under an irrevocable letter of credit opened or confirmed on or before the initial date of suspension indicated for that supplier under an AID letter of commitment issued prior to that date. A bank which receives copies of the list and the periodic modifications thereto shall be held in its relationship with AID to the standard of care described in § 201.73(f) of Regulation 1 (22 CFR 201.73(f)) with respect to every transaction governed by an AID letter of commitment issued to that bank.

SEC. 2. *Contents of the list.* The List of Ineligible Suppliers consists of all suppliers and affiliates who have been debarred or suspended by AID. Additions to or deletions from the list are communicated directly to every U.S. bank holding an AID letter of commitment as they occur. AID endeavors to keep printed and published lists as current as possible by superseding or supplementary issuance. No prejudice whatsoever shall attach to a supplier whose name has been removed from this list.

SEC. 3. *Suppliers debarred from AID financing.*

NAME, ADDRESS, INITIAL DATE OF SUSPENSION, AND PERIOD OF DEBARMENT

Cerco, Inc., 1124 Ashford Avenue, Santurce, P.R. 00907, August 5, 1969, 9-12-69—9-12-72.

Chin Ui Sae Tan, Mr. (a.k.a. Thao Chue), 1024 Songwad Road, Bangkok, Thailand, July 31, 1969, 9-8-69—9-8-72.

Eagan, Mr. Edward, 101 Maiden Lane, New York, NY 10038, February 14, 1968, 2-13-69—2-13-72.

Eam-Hung, Mr., 1024 Songwad Road, Bangkok, Thailand, July 31, 1969, 9-8-69—9-8-72.

Eastern Tinplate Distributors, 431 60th Street, West New York, NJ 07093, February 14, 1968, 2-13-69—2-13-72.

Ets. L. Richoux, 22 Cite Trevise, 22, Paris 9, France, December 8, 1967, 1-20-69—1-20-72.

Fox, Mr. Arnold M., 431 60th Street, West New York, NJ 07093, February 14, 1968, 2-13-69—2-13-72.

International Tinplate Sales Co., 101 Malden Lane, New York, NY 10038, February 14, 1968, 2-13-69—2-13-72.

Khotpanya, Mr. Thao, No. 513 Sam Sene Tkai Road, Vientiane, Laos, December 30, 1968, 2-1-69—2-1-72.

Ly, Mr. Kouang Sae, No. 513 Sam Sene Tkai Road, Vientiane, Laos, December 30, 1968, 2-1-69—2-1-72.

Mane Fils, Inc., 250 Park Avenue South, New York, NY, January 7, 1969, 2-6-70—2-6-73.

Mutual International, Inc., 420-444 Market Street, San Francisco, CA 94111, September 23, 1968, 12-1-69—12-1-72.

North American Inspection Agency, 431 60th Street, West New York, NJ 07093, February 14, 1968, 2-13-69—2-13-72.

Palmetto Industry Co., 32 Broadway, Suite 808, New York, NY 10004, March 15, 1968, 10-26-69—10-26-72.

Priyathanaphong, Mr. Boonsak, Proprietor, Roong Riang Registered Ordinary Partnership, 535-537 Suntipaph Road, Bangkok, Thailand, December 30, 1968, 2-1-69—2-1-72.

Richoux Co., Inc., 1133 Broadway, New York, NY 10010, December 8, 1967, 1-20-69—1-20-72.

Roong Riang Registered Ordinary Partnership, 535-537 Suntipaph Rd., Bangkok, Thailand, December 30, 1968, 2-1-69—2-1-72.

Saharojn Weaving Factory Limited Partnership (a.k.a. Hah Heng Weaving Factory), No. 65 Buntuttong Road, Trogput Lane, Bangkok, Thailand, December 30, 1968, 2-1-69—2-1-72.

Steel Factories Co., 431 60th Street, West New York, NJ 07093, February 14, 1968, 2-13-69—2-13-72.

Teck Yoo Industry, Ltd., Partnership, 1024 Songwad Road, Bangkok, Thailand, July 31, 1969, 9-8-69—9-8-72.

Tinmill Products Co., 101 Maiden Lane, New York, NY 10038, February 14, 1968, 2-13-69—2-13-72.

Tinplate Association, Inc., 101 Maiden Lane, New York, NY 10038, February 14, 1968, 2-13-68—2-13-72.

Tumay, Mr. Francis, president, 32 Broadway, Suite 808, New York, NY 10004, March 15, 1968, 10-26-69—10-26-72.

Wewerka, Mr. Victor, president, Ets. L. Richoux, 22 Cite Trevise, 22, Paris 9, France, December 8, 1967, 1-20-69—1-20-72.

Wong, P. C., & Co., 156 Funston Street, San Francisco, CA, September 23, 1968, 12-1-69—12-1-72.

Wong, Mr. Peter C., 156 Funston Street, San Francisco, CA, September 23, 1968, 12-1-69—12-1-72.

SEC. 4. *Suppliers suspended from AID financing.* The following persons have been suspended from AID financing until further notice pending completion of an AID investigation of facts which may lead to the eventual debarment of such persons:

NAME, ADDRESS AND INITIAL DATE OF SUSPENSION

Archifar Pharmaceutical Products, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.

Associated Chemo-Pharm Industries, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.

Bershad, Mrs. Carolyn, 8211 Streamwood Drive, Baltimore, MD 21208, September 26, 1967.

Bershad, Mr. Irving, 8211 Streamwood Drive, Baltimore, MD 21208, September 26, 1967.

Bottone, Dr. Caesar, 1209 Anderson Avenue, Fort Lee, NJ 07025, November 9, 1966.

Cathay Steel Export Corp., 160 Broadway, New York, NY 10038, September 26, 1967.

Chatham Shipping Corp., 375 Park Avenue, New York, NY 10022, April 30, 1970.

Colony Steel Co., 122 East 42d Street, New York, NY, March 26, 1968.

Concepcion, Mr. Segismundo, 160 Broadway, New York, NY 10038, April 22, 1969.

Concrete Pipe Machinery Co., Post Office Box 1708, Sioux City, IA 51102, August 7, 1970.

Corrigan-Gonzalez Export Corp., 4001 Northwest 25th Street, Miami, FL, November 17, 1970.

Corrigan & Sons, Inc., Post Office Box 218, San Antonio, FL, November 17, 1970.

Dixie Chick Co., 510 Davis Street SW., Gainesville, GA 30501, March 5, 1969.

Eastar Trading Co., 1830 W. Olympic Boulevard, Los Angeles, CA 90006, May 20, 1970.

Eisler Engineering Co., Inc., 750 S. 13th Street, Newark, NJ 07103, March 26, 1968.

Evans Chemetics Inc., 90 Tokenke Road, Darien, CT 06820, July 27, 1970.

Farber, Dr. John J., International Chemical Corp., 720 Fifth Ave., New York, NY 10019, July 31, 1969.

Fertig, Capt. Arthur H., 19 West Street, New York, NY 10011, November 9, 1966.

Gubbay, Mr. Clement, 20 Exchange Place, New York, NY 10005, November 9, 1966.

Higgins, Thomas Edison, Enterprises, Inc., 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.

Higgins, Mrs. Mabel, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.

Higgins, Mr. Thomas Edison, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.

Industrial Waxes, Inc., 925 Dixie Terminal Building, Cincinnati, OH 45202, May 5, 1971.

Interkiln Engineering, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.

International Chemical Corp., 720 Fifth Avenue, New York, NY 10019, July 31, 1969.
International Clay Machinery Co. of Delaware, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
International Engineering, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
International Enterprises, 160 Broadway, New York, NY 10038, April 22, 1969.
International Farm Products, 720 Fifth Avenue, New York, NY 10019, July 31, 1969.
Kim, Mr. Peter, Eastar Trading Co., 1830 West Olympic Boulevard, Los Angeles, CA 90006, May 20, 1970.
Kleyman, Leslie Corp., 720 Fifth Avenue, New York, NY 10019, July 31, 1969.
Lesh, Mr. George B., vice president, Chatham Shipping Corp., 375 Park Avenue, New York, NY 10022, April 30, 1970.
Liao, Mr. J. Y. (a.k.a. Liao, Chi-Yo), president, Summid Corp., 7-2 Alley 13, Lane 1032, Chung Cheng Road, Taipei, Taiwan, April 7, 1970.
Long, Mr. Sumner A., president, Chatham Shipping Corp., 375 Park Avenue, New York, NY 10022, April 30, 1970.
Lowens, Mr. Ernest, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Marciem, S. A., c/o Buffete Tapia, Calle 31 3-80 Panama City, Republic of Panama, October 25, 1967.
Meoni, Mr. A., 20 Exchange Place, New York, NY 10005, November 9, 1966.
McElroy, Mr. Roy H., president, International Clay Machinery Co. of Delaware, Inc., 15 Park Row, New York, NY 10038, August 9, 1971.
Napco Industries, Inc., Post Office Box 570, Minneapolis, MN 55440, August 7, 1969.
Navarro, Mr. Ben, 20 Exchange Place, New York, N.Y. 10005, November 9, 1966.
North Georgia Feed and Poultry, Inc., 514 Davis Street SW., Gainesville, GA 30501, March 5, 1969.
Omaha Manufacturing & Engineering Co., 3900 Dahlman Avenue, Omaha, NE 68107, June 20, 1969.
Panmed Pharmaceuticals, Inc., 1209 Anderson Avenue, Fort Lee, NJ 07025, November 9, 1966.
Pharma Scienta, 156 Rue de Damas, Imm. Homsi, Beirut, Lebanon, December 19, 1966.
Premium Finishes Sales, Inc., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
Price Paper Products Corp., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
Price, Mr. Thomas E., c/o Price Paper Products Corp., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
Price y Cia., Inc., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
R & Z Co., Inc., 2041-47 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.
Richter, Gedeon, Pharmaceutical Products, Inc., 20 Exchange Place, New York, NY 10005, November 9, 1966.
Rogers, Mr. Henry, 2041-47 Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.
Scheinis, Mr. Samuel, 122 East 42d Street, New York, NY 10017, March 25, 1971.
Shalom, Mr. Raleigh, 20 Exchange Place, New York, NY 10005, November 9, 1966.
Societe Des Laboratories Reunis (SOLAR), 156 Rue de Damas, Imm. Homsi, Beirut, Lebanon, December 19, 1966.
Societe Tunisienne Compto, Rue es Sadikia, Tunis, Tunisia, June 24, 1968.
Spe-D-Magic, 660 Capri Boulevard, Treasure Island, FL 33706, April 5, 1967.
Stuhr-Kennedy Shipping Co., 1320 Peralta Street, Berkeley, CA, March 21, 1968.
Stuhr, Mr. Raymond H., 1320 Peralta Street, Berkeley, CA, March 21, 1968.
Summid Corp., 7-2 Alley 13, Lane 1032, Chung Cheng Road, Taipei, Taiwan, April 7, 1970.
Surplus Steel Exchange, Inc., 227 Fulton Street, New York, NY 10007, January 16, 1968.
Tricon International, Inc., 160 Broadway, New York, NY 10038, April 22, 1969.
United Pharmacal Laboratories, Post Office Box 1718, Lot 28, Foreign Trade Zone, Mayaguez, P.R., December 19, 1966.
Westerling, Mr. Horst P. G., 925 Dixie Terminal Building, Cincinnati, Ohio 45202, May 5, 1971.
White Magic Co., 660 Capri Boulevard, Treasure Island, FL 33706, April 1967.
Wolff, Mr. Tom G., 787 Tucker Road, North Dartmouth, MA, October 23, 1969.
Zubof, Mr. Samuel, 2041-47, Pitkin Avenue, Brooklyn, NY 11207, October 23, 1969.

JAMES F. CAMPBELL,
Assistant Administrator for Administration.

[FR Doc.71-17967 Filed 12-8-71;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

JOHN A. ROLFING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of October 26, 1971.

Dated: October 26, 1971.

JOHN A. ROLFING.

[FR Doc.71-17965 Filed 12-8-71;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Determination To Suspend Certain Construction Activities Pending Completion of NEPA Environmental Review

The Florida Power & Light Co. (the licensee) is the holder of Construction Permit No. CPPR-74 (the construction permit), issued by the Atomic Energy Commission on July 1, 1970. The construction permit authorizes the licensee to construct a pressurized water nuclear reactor, designated as the Hutchinson Island Plant Unit 1, at the licensee's site in St. Lucie County, Fla. The reactor is designed for initial operation at approximately 2,440 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), appendix D of 10 CFR Part 50 (appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of appendix D and has determined, after considering and balancing the criteria in section E.2 of appendix D, that activities involving off-site right-of-way clearing and construction of transmission lines should be suspended pending completion of those portions of the NEPA environmental review. With respect to the construction of the onsite portions of the Hutchinson Island Plant, we have balanced the environmental factors and concluded that these activities need not be suspended.

Further details of this determination are set forth in a document entitled, "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Hutchinson Island Plant Unit 1, Docket No. 50-335."

In accordance with section E.4(a) of appendix D, the Director of Regulation has served upon the licensee an Order to Show Cause why the above-mentioned construction activities at the Hutchinson Island Plant should not be suspended pending completion of the NEPA environmental review that relates to these matters. Among other things, the Order to Show Cause provides that the licensee may, within thirty (30) days of the date of the order, file a written answer to the order under oath or affirmation, and informs the licensee of his right, within the same period, to demand a hearing.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of appendix D, alleged to warrant a suspension determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Hutchinson Island Plant, Unit 1, Docket No. 50-335," and the Order to Show Cause are available for public inspection at the Commission's Public

Document Room, 1717 H Street NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, FL 33450. Copies of the "Discussion and Findings" document and the Order to Show Cause may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 2d day of December 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-18009 Filed 12-8-71;8:49 am]

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, December 15 in the South Auditorium of the ASTM Building, 1916 Race Street, Philadelphia, PA, commencing at 2 p.m. The subject of the hearing will be proposals to amend the comprehensive plan and the rules of practice and procedure in regard to the following three matters.

I. *Flood damage reduction.* To prevent increase in the flood damage potential of Delaware Basin streams as authorized by article 6 of the Delaware River Basin Compact, it is proposed to amend the comprehensive plan by the addition thereto of a new policy to read as follows:

Any project substantially encroaching upon the 100-year flood plain of the Delaware River and its tributaries shall not conflict with standards of flood plain use as approved by the Commission to safeguard the public health, safety and property or standards of water quality. Neither shall such project conflict with applicable flood plain zoning ordinances or other land use regulations duly established by State or local government agencies.

As a parallel action to implement the foregoing policy, it is proposed to amend section 2-3.5(b)(9) of the rules of practice and procedure so as to delete the words "stream encroachments" and substitute therefor the following:

(9) Projects that substantially encroach upon the stream or upon the 100-year flood plain of the Delaware River and its tributaries.

II. *Soil erosion prevention.* To assist in preventing soil erosion on watershed lands and sedimentation of Delaware Basin streams as authorized by article 7 of the Delaware River Basin Compact, it is proposed to amend the comprehensive plan by the addition thereto of a new policy to read as follows:

Any project within the jurisdiction of the Commission which involves a major disturbance of ground cover shall include sound practices of excavation, sediment retention, backfill and reseeding to minimize soil erosion and deposition of sediment in streams.

As a parallel action to implement the foregoing policy, it is proposed to amend the rules of practice and procedure as follows:

(a) Amend section 2-1.4 and section 2-3.8(a) by adding thereto the following new information to be required as part of a project review application:

A description of the construction procedures to be followed in excavating, backfilling, retention of sediment, reseeding and landscaping, all with particular reference to minimizing soil erosion and sedimentation in the stream.

(b) Amend section 2-3.5(a), (11), (12), and (13) by the addition of the following qualifying language at the end thereof:

* * * unless such lines would involve major disturbance of ground cover affecting water resources.

III. *Project additions to the comprehensive plan.* The following projects are proposed for addition to the comprehensive plan in accordance with article 11 of the Delaware River Basin Compact:

(a) *Pennsylvania Department of Public Welfare.* A well water supply project to augment water supply at the White Haven State School and Hospital in Foster Township, Luzerne County, Pa. Designated as Well No. 13, the new facility is expected to yield an additional 216,000 gallons per day to the system.

(b) *City of Burlington.* Construction of a bulkhead and earth fill along 1,184 feet of the Delaware River waterfront in the city of Burlington, Burlington County, N.J. The project is part of the city's urban renewal program to replace deteriorating bulkheads and irregular shoreline.

(c) *Haverford Township.* An interceptor sewer to serve portions of Radnor, Haverford, and Lower Merion Townships in Delaware County, Pa. The 36-inch diameter interceptor will connect to an existing sewer in Upper Darby Township. Sewage will be conveyed to the city of Philadelphia Southwest Treatment Plant for treatment prior to discharge into the Delaware River.

Documents relating to the items listed for hearing may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary of the Commission (telephone: 609-883-9500).

W. BRINTON WHITALL,
Secretary.

NOVEMBER 24, 1971.

[FR Doc.71-17979 Filed 12-8-71;8:46 am]

PROTECTION OF WATER QUALITY IN CERTAIN AREAS

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, December 14, 1971, commencing at 10 a.m., in the Delaware Room of the Sheraton-Pocono Inn, 1220 West Main Street (exit 48 off Interstate Route 80), Stroudsburg, PA.

The Commission has under consideration various proposals relating to the protection of water quality in the six-county region of New York, New Jersey, and Pennsylvania in which the Tocks Island Reservoir and Delaware Water Gap National Recreation Area are being developed. Specifically, the Commission invites information and opinion from public and private agencies and organizations and from interested individuals on the following two reports now before it:

1. The "Tocks Island Region Environmental Study" (TIRES), prepared for the Commission in April 1970 by the firm of Roy F. Weston, Environmental Scientists and Engineers, West Chester, Pa. This report delineates several alternative wastewater collection and treatment plans representing various degrees of regionalization and corresponding costs. These plans apply to that portion of the Delaware River Basin in Orange, Pike, Monroe, and Northampton Counties that drains into the Delaware River between the mouth of the Mongaup River and the southern limit of the Delaware Water Gap National Recreation area and in Sussex and Warren Counties above the mouth of the Paulins Kill, including the watershed of the Paulins Kill. The Commission intends to adopt a liquid waste control plan for the region as part of its comprehensive plan for the Delaware River Basin. Testimony will be received bearing on the issue of which alternative liquid waste control plan or modification thereof should be approved as the basis for water quality protection in the area.

2. A report entitled "Implementing Waste Management in the Tocks Island Area," prepared for the Commission in September 1971 by the Maxwell School, Syracuse University. This report considers the administrative and financial aspects involved in implementing a liquid waste control plan within the same interstate, intercounty area covered by the Weston report noted above. The Syracuse University report addresses several recommendations to the Commission and testimony is invited particularly on this section of the report.

Copies of the two reports mentioned in this notice may be examined in the library of the Delaware River Basin Commission, 25 State Police Drive, Trenton, NJ, and in the Office of the Tocks Island Regional Advisory Council (TIRAC), 612 Monroe Street, Stroudsburg, PA (telephone: 717-421-9841). Both reports are also available for inspection in several public offices located throughout the Tocks Island region. TIRAC office may be called to learn a location convenient to you. A written summary of the Tocks Island Region Environmental Study and a copy of the Syracuse University report are available upon request to the Delaware River Basin Commission. Persons wishing to testify before the Commission are requested to notify the Secretary no later than 5 p.m. on December 10 (telephone: 609-883-9500).

W. BRINTON WHITALL,
Secretary.

NOVEMBER 15, 1971.

[FR Doc.71-17978 Filed 12-8-71;8:46 am]

WATER SALES CONTRACT, WESTERN BERKS WATER AUTHORITY

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, December 15, in the South Auditorium of the ASTM Building, 1916 Race Street, Philadelphia, PA, commencing at 2 p.m.

The hearing will be held pursuant to section 14.4(b) of the Delaware River Basin Compact. Subject of the hearing is a proposed contract between the Delaware River Basin Commission and the Western Berks Water Authority, Berks County, Pa., for the purchase by the Authority from the Commission of water from Tulpehocken Creek on an interim basis and from the Blue Marsh Reservoir project ultimately. Under the contract the Commission will sell to the Authority an average daily volume of 3.475 million gallons a day (maximum daily volume of 5.212 million gallons a day) commencing in 1972. The contract will extend to the year 2010 at which point the average daily volume of water sales is estimated to be 11.385 million gallons a day (maximum daily volume of 17.078 million gallons a day).

Copies of the draft contract and supporting documents may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission.

W. BRINTON WHITALL,
Secretary.

NOVEMBER 30, 1971.

[FR Doc.71-17980 Filed 12-8-71;8:46 am]

FEDERAL POWER COMMISSION

[Docket No. CP72-133]

ARKANSAS-MISSOURI POWER CO.

Notice of Application

NOVEMBER 30, 1971.

Take notice that on November 16, 1971, Arkansas-Missouri Power Co. (applicant), 405 West Park Street, Blytheville, AR 72315, filed in Docket No. CP72-133 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain liquefied natural gas (LNG) facilities for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks authorization to construct and operate an aboveground LNG storage tank and appurtenant facilities at a site adjacent to its principal natural gas transmission line in Mississippi County, Ark. Applicant states that the storage tank will be connected to its existing transmission line by two parallel 10-inch lateral lines with each line being 2,350 feet in length. The proposed plant will have a liquefaction capacity of 680 Mcf per day with a storage capacity of 187,000 Mcf and a regasification capacity of 30,000 Mcf per day.

Applicant states that the sole purpose of the proposed storage facility is to permit applicant to meet the peak-day requirements of its customers and to benefit its subsidiary company, Associated Natural Gas Co., by better enabling it to handle the peak-day requirements of its customers through a displacement procedure.

The total estimated cost of the proposed facility is $3,915,000, which will be financed initially through short-term borrowings with permanent financing at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-18011 Filed 12-8-71;8:53 am]

[Docket No. DA-1102]

BUREAU OF LAND MANAGEMENT

Finding and Order

DECEMBER 2, 1971.

Lands withdrawn in Power Site Classification No. 183 and Project No. 2246, Docket No. DA-1102-California, Francis F. Hall, and Bureau of Land Management.

Application has been filed by the Bureau of Land Management, pursuant to the filing of a petition by a private individual, requesting revocation of Power Site Classification No. 183 and the withdrawal for Project No. 2246 insofar as they pertain to the following described lands, thereby requiring Commission consideration under section 24 of the Federal Power Act:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 16 N., R. 6 E.,
Sec. 27, lot 7 (1.75 acres), W½SW¼NW¼ (20 acres).

Lot 7 lies approximately one-half mile east of the town of Smartville, Yuba County, Calif., and is withdrawn pursuant to the filing of an application for a preliminary permit dated May 20, 1958, for Project No. 2246. The W½SW¼ NW¼ lies approximately one-half mile north of Smartville and is withdrawn in Power Site Classification No. 183, dated July 9, 1927.

Lot 7 was withdrawn for a proposed tunnel which was to extend from Englebright Reservoir on the Yuba River to the proposed Waldo Reservoir on Dry Creek. The land is not included in Project No. 2246 as licensed and development of the Englebright—Waldo tunnel is no longer under consideration.

The Corps of Engineers, commenting on the subject application, stated that W½SW¼NW¼ lies within the proposed take line for the Marysville dam and reservoir project, construction of which is expected to commence prior to 1980.

The Commission finds:

(A) The W½SW¼NW¼ of sec. 27, T. 16 N., R. 6 E., Mount Diablo Meridian, California, has power value, therefore, the withdrawal pertaining thereto should be retained.

(B) Lot 7 of sec. 27, T. 16 N., R. 6 E., Mount Diablo Meridian, California, has no significant power value, therefore, the withdrawal for Project No. 2246 insofar as it pertains to this land, should be vacated.

The Commission orders:

The withdrawal for Project No. 2246 is hereby vacated insofar as it pertains to lot 7 of sec. 27, T. 16 N., R. 6 E., Mount Diablo Meridian, California.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-18020 Filed 12-8-71;8:54 am]

[Docket No. RP72-16]

CASCADE NATURAL GAS CO.

Order Accepting Amendatory Agreement for Filing and Making Increased Rates Effective Without Suspension

DECEMBER 1, 1971.

Cascade Natural Gas Co. (Cascade) on August 2, 1971, filed an amendatory agreement [1] with its customer, Mountain Fuel Supply Co. (Mountain Fuel) which provides (1) for an increase in rate to 31.75 cents per Mcf for incremental volumes of gas purchased by Cascade from

[1] Amendatory agreement to Contract dated Sept. 2, 1965, and on file as Cascade's FPC Gas Rate Schedule No. 1.

its suppliers after July 23, 1971, for delivery to Mountain Fuel and (2) for prospectively higher rates in the future to reflect increases in purchased gas costs in excess of 23.75 cents per Mcf,[2] including quality adjustments. The company requests waiver of the Commission's rules under the Natural Gas Act to permit the rates to become effective as hereinafter provided.

Cascade states that the proposed changes are necessary so that higher contract prices may be offered to its suppliers and thereby stimulate further exploration and development. Cascade notes that the current wellhead price for new gas is 23.75 cents per Mcf as provided in Order No. 435, issued July 15, 1971, and that its revenues for sale of such gas is limited by existing contract to 22 cents per Mcf. The company contends that there will be no immediate rate impact as a result of its filing since such incremental volumes are not yet certificated for sale to Cascade and therefore are not available for delivery to Mountain Fuel.

In its filing Cascade originally requested an effective date of November 2, 1971, but because of the "freeze" it sought an extension of that date to December 1, 1971.

The Commission finds:

(1) Acceptance for filing of the aforementioned amendatory agreement appears to be in the public interest.

(2) The rate provisions set out in the amendatory agreement should be permitted to become effective as of December 1, 1971, without suspension.

The Commission orders:

(A) The previously described amendatory agreement is hereby accepted for filing and is designated as Supplement No. 1 to Cascade's FPC Gas Rate Schedule No. 1.

(B) The rate changes set out in the aforementioned Supplement No. 1, are consistent with the Economic Stabilization Act of 1970, as amended, and the rates therein stated are hereby permitted to be effective as of December 1, 1971.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18013 Filed 12-8-71;8:53 am]

[Docket No. CP72-134]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

NOVEMBER 30, 1971.

Take notice that on November 17, 1971, Columbia Gulf Transmission Co. (applicant), Post Office Box 683, Houston, TX 77001, filed in Docket No. CP72-134 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 6, 1972, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of said system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting supplies of natural gas to its pipeline system. The total cost of the facilities proposed herein will not exceed $7 million, with no single offshore project costing in excess of $1,750,000, and no single onshore project costing in excess of $1 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18012 Filed 12-8-71;8:53 am]

[Docket No. E-7679]

FLORIDA POWER CORP.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 30, 1971.

Take notice that on November 12, 1971, Florida Power Corp. (Florida Power) tendered for filing in its FPC Electric Tariff, Original Volume No. 1, proposed changes providing increased revenues of $3,147,458 on a 1970 test-year basis for firm wholesale electric service. Florida Power requests that its proposed rates become effective on January 11, 1972, for customers served without contract and upon expiration of existing contracts for the remaining customers and that this filing be permitted more than 90 days before application to the latter. Florida Power states that the proposed tariff rate schedule standardizes rates and terms and conditions of service between the municipal and rural cooperative customer classes and among municipal customers and that the rate contains a fuel adjustment clause. Copies of this rate filing were mailed to the affected customers and to the Florida Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18015 Filed 12-8-71;8:53 am]

[Docket No. DA 597]

GEOLOGICAL SURVEY

Finding and Order

DECEMBER 2, 1971.

Lands withdrawn in Powersite Classification No. 111 and Project No. 1254, Docket No. DA-597-Idaho, U.S. Geological Survey.

Application has been filed by the U.S. Geological Survey for revocation of Powersite Classification No. 111 and the withdrawal for Project No. 1254 in their entirety, in the Payette National Forest, Idaho, thereby requiring Commission consideration under section 24 of the Federal Power Act.

BOISE MERIDIAN, IDAHO

(1) Lands withdrawn in Powersite Classification No. 111, dated July 22, 1925 (approximately 133 acres):

All unsurveyed lands within one-eighth of a mile of the proposed Crater Lake reservoir and all lands within one-eighth of a mile of the stream forming the natural outlet therefrom down to and including the site of the proposed powerhouse and tailrace as shown on a map filed Boise 027291, March 16, 1925, in the U.S. Land Office at Boise, Idaho. Protraction of public land surveys indicates that the lands described above, will, when

[2] Currently effective level.

surveyed, lie wholly within sec. 25, T. 20 N., R. 8 E.

(2) The following described lands were withdrawn pursuant to the filing on October 13, 1933, by the Amalgamated Red Metals Mines Co., of an application for license for Project No. 1254 (approximately 120 acres):

T. 20 N., R. 8 E.,
Sec. 25, S½NW¼, NE¼SW¼.

The lands are located adjacent to Crater Lake and its outlet Crater Creek, a tributary of Profile Creek which is tributary to the East Fork South Fork Salmon River.

Crater Lake is situated at an elevation of about 8,088 feet and Crater Creek falls about 1,000 feet in its first mile below the lake.

Development of Crater Lake for hydroelectric purposes is considered unlikely because (1) the drainage area above the lake is only a quarter of a square mile and (2) the lake is too small (estimated capacity 300 acre-feet), unsuited for enlargement, and too remotely located for pumped storage development.

Project No. 1254 consisted of a diversion dam on Crater Creek about 800 feet below Crater Lake, 1,710 feet of steel pressure pipe, and a 36-inch Pelton water wheel belted to an ore reducing mill and to a 5 kw. direct current generator. The license for the project expired April 20, 1944, and the project has been dismantled and the site restored to the satisfaction of the Forest Service.

The Commission finds:

The subject lands have no significant power value and it offers no objection to the cancellation of Powersite Classification No. 111 in its entirety.

The Commission orders:

The withdrawal of the subject lands pursuant to the application for Project No. 1254 is hereby vacated.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18021 Filed 12-8-71;8:54 am]

[Docket No. CP72-124]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 30, 1971.

Take notice that on November 4, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP72-124, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compressor facilities in its Beaver Southeast Gathering System, in Ellis County, Okla., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant is currently operating a natural gas gathering system known as Beaver Southeast Gathering System (Beaver S.E.) for the purpose of gathering and transporting natural gas which it purchases in Beaver, Ellis, and Woodward Counties, Okla., and Lipscomb County, Tex. Applicant proposes to reduce the gathering line pressure in the Beaver S.E. System to a minimum of 200 p.s.i.a. to enable the wells connected thereto to continue to produce gas and to install three 1,000 horsepower compressor units to maintain the delivery capability of the system.

The estimated cost of proposed facilities is $1,114,000 which will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.71-18014 Filed 12-8-71;8:53 am]

[Docket No. RP72-64]

TEXAS GAS TRANSMISSION CORP.

Order Suspending Proposed Tariff Provisions

NOVEMBER 30, 1971.

On October 29, 1971, Texas Gas Transmission Corp. (Texas Gas) submitted for filing First Revised Sheet Nos. 90, 91, and 92 and Original Sheet Nos. 92-A, 148, 149, 150, and 151 of its FPC Gas Tariff, pertaining to curtailment procedures, elimination of demand charge credit, imposition of an overrun penalty and the clarification of Force Majeure provisions.

Texas Gas proposed that the tariff sheets become effective on December 30, 1971. Texas Gas requested that in the event the Commission determines to suspend the effectiveness, the suspension period should be limited to 4 months.

Protests to the proposed tariff changes have been filed by some of Texas Gas' customers and their customers. Additionally, at least one customer, United Cities Gas Co., opposes any shortening of the full statutory suspension period prior to the conclusion of a full evidentiary hearing on the lawfulness of the proposed changes.

In support of the 4 months suspension period Texas Gas states that such period will coincide with the expiration date of a voluntary curtailment agreement between Texas Gas and its customers based on seasonal volumes. However, as pointed out by United Cities, Texas Gas' filing is not limited to volumetric allocations during periods of gas shortages but relates also to rates and charges during such periods.

Since it appears that the justness and reasonableness of the proposed tariff provisions are in question, and in light of the foregoing, we have determined that their effectiveness should be suspended for the full statutory period.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed tariff provisions be suspended and the use thereof deferred as herein provided.

(2) In the event Commission determination of this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect after the suspension period in the manner prescribed by the Natural Gas Act, all subject to refund with interest, while pending Commission determination as to their justness and reasonableness, is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

Pending hearing and decision on issues relating thereto, the First Revised Sheet Nos. 90, 91, and 92 and Original Sheet Nos. 92-A, 148, 149, 150, and 151 submitted for filing by Texas Gas are suspended and the use thereof deferred until May 1, 1972, and such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By the Commission. Commissioner Moody not participating.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc. 71-18016, Filed 12-8-71;8:53 am]

[Docket No. CP72-128]

TRUNKLINE GAS CO.

Notice of Application

NOVEMBER 30, 1971.

Take notice that on November 9, 1971, Trunkline Gas Co. (applicant), Post

Office Box 1642, Houston, TX 77001, filed in Docket No. CP72-128, an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of facilities and the transportation of natural gas all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant states that it has entered into two agreements dated October 18, 1971, with Northern Michigan Exploration Co. (Northern Michigan), a wholly owned subsidiary of Consumers Power Co. (Consumers), one relating to the purchase of gas from Northern Michigan (the gas supply purchase contract) and the other relating to the transportation of gas for Northern Michigan (the transportation contract).

The gas supply purchase contract provides applicant will purchase one-fourth of the gas Northern Michigan purchases from the South Gibson Field, Terrebonne Parish, La. Applicant will initially pay 30 cents per Mcf for such gas, which is the same price to be paid by Northern Michigan. The parties contemplate deliveries from the South Gibson Field and the Cherokee Field in Terrebonne Parish of up to 75,000 Mcf per day initially.

Under the transportation contract, applicant will transport the remaining portion of Northern Michigan's South Gibson gas, plus gas purchased and produced by Northern Michigan from the Cherokee Field to the Michigan-Indiana border for delivery to Consumers for the account of Northern Michigan. Applicant will transport up to 62,500 Mcf per day less a 4 percent reduction for applicant's compressor fuel usage, for a minimum monthly charge of $478,250.

To effectuate operations pursuant to the foregoing contracts, applicant requests authority to construct and operate 25.9 miles of 20-inch line from a point on its existing facilities near the inlet of the Calumet Plant operated by Shell Oil Co. near Patterson, La., in an easterly direction to the closest point of delivery in the South Gibson Field, and 2.8 miles of 12-inch line connecting on the other point of delivery in such field. The cost of such facilities is estimated to be $7,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-18017 Filed 12-8-71;8:53 am]

[Docket No. CP72-144]

MICHIGAN WISCONSIN PIPE LINE CO. ET AL.

Notice of Application

DECEMBER 7, 1971.

Take notice that on November 26, 1971, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), One Woodward Avenue, Detroit, Mich. 48226, Florida Gas Transmission Co. (Florida Gas), Post Office Box 44, Winter Park, FL 32789, and Texas Eastern Transmission Corp. (Texas Eastern), Post Office Box 2521, Houston, TX 77001, filed in Docket No. CP72-144 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of existing facilities for the transportation and exchange of natural gas for a period ending December 1, 1972, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization for the following proposals:

(1) Michigan Wisconsin to transport natural gas received for the account of Texas Eastern at the Krotz Springs Field Gas Cycling Plant, St. Landry Parish, La.,[1] and to redeliver equivalent quantities to Florida Gas for Texas Eastern's account at the interconnection of their respective pipeline systems in St. Landry Parish and for Florida Gas to redeliver equivalent volumes of natural gas to Texas Eastern at the existing interconnection between their respective pipeline systems in Matagorda County, Tex.

(2) Operation of the emergency interconnection heretofore installed by Texas Eastern at the interconnection of the pipeline systems of Michigan Wisconsin and Florida Gas in St. Landry Parish.

The application indicates that Texas Eastern has agreed to pay Michigan Wisconsin a transportation charge of one-half cent per Mcf for gas transported and to pay for the operation and maintenance of the meter and regulating station at the point of delivery to Florida Gas in St. Landry Parish.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 17, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-18100 Filed 12-8-71;8:54 am]

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[1] Texas Eastern has entered into a limited-term gas purchase agreement, dated October 29, 1971, with Monterey Pipeline Co. (Monterey) to purchase natural gas from Monterey in the maximum daily quantity of approximately 30,000 Mcf for the period ending December 1, 1972. Monterey has filed an application for a certificate authorizing said sale. The application was noticed on November 17, 1971, and published in the FEDERAL REGISTER on November 19, 1971 (36 F.R. 22088). Said notice provides for a shortened period for the filing of protests and petitions to intervene.

FEDERAL RESERVE SYSTEM

DAI-ICHI KANGYO BANK, LTD.

Order Approving Action To Become Bank Holding Company

In the matter of the application of The Dai-Ichi Kangyo Bank, Ltd., Tokyo, Japan, for approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First Pacific Bank of Chicago, Chicago, Ill., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by The Dai-Ichi Kangyo Bank, Ltd.,[1] Tokyo, Japan, for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First Pacific Bank of Chicago (Bank), Chicago, Ill., a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banks and Trust Companies of the State of Illinois and requested his views and recommendation. The Commissioner stated that his office would offer no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 31, 1971 (36 F.R. 17466), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant, a Japanese commercial bank with more than $10 billion in deposits, is the largest commercial bank in Japan. Applicant has 296 banking offices located throughout Japan. It also has 10 overseas offices, including two agencies in New York City, two representative offices in Los Angeles and one representative office in Chicago.

Bank proposes to be a wholesale bank specializing in the financing of trade between Japan and the United States. Applicant has had a representative office in Chicago since 1952, but that office is not authorized to accept deposits. Since Bank is a proposed new bank and on the basis of other facts of record, it is concluded that there would be no elimination of existing or potential competition. Rather, the addition of Bank will provide increased banking facilities and should stimulate competition.

The financial and managerial resources and prospects of applicant and Bank are regarded as satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval. It is reasonable to expect that the addition to the area of a new bank that will provide an international banking link to Japan would promote and facilitate international trade.

In the light of the purpose of the Bank Holding Company Act to maintain separation of banking from commerce in the United States, the Board has given special attention, in connection with both the present application and two similar applications, to the relationships that Japanese banks are permitted to have with industrial or commercial companies under the laws of Japan. Study of the relationships indicates that, in general, the largest Japanese commercial banks are linked in a group with their major Japanese customers through interlocking stock ownership and that the members of these groups tend to act in concert. In particular, these groups include among their members companies that do business in the United States, notably, major trading companies accounting for a significant percentage of Japan's exports and imports to and from the United States.

The Board has examined the facts submitted to it in connection with the present application with a view to determining whether applicant exercises a controlling influence over the management or policies of any of the companies closely associated with applicant through interlocking stock ownership or whether any of such companies exercises a controlling influence over the management or policies of applicant.

Based on the Board's evaluation of the facts submitted in connection with the present application and giving due consideration to the specific assurances given by applicant that no control exists, by agreement or otherwise, between applicant and those of its customers that are among the group of companies closely associated with applicant through interlocking stock ownership, the Board has concluded that at this time applicant should not be regarded as having control over, or as being controlled by, any of such customers and that the group does not constitute a "company" within the meaning of section 2(b) of the Bank Holding Company Act.

It is the Board's judgment that the application should be approved. However, the Board will review regularly the operations of Bank and applicant's other banking agencies in this country with a view toward ascertaining whether the relationships between them and other companies in applicant's group remain consistent with the purposes of section 4 of the Bank Holding Company Act and the Board's regulations thereunder.

It is hereby ordered, for the reasons set forth in the findings summarized above,[2] that said application be and hereby is approved: *Provided*, That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order: *And provided further*, That (c) The First Pacific Bank of Chicago shall be open for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) hereof may be extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] December 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-18023 Filed 12-8-71;8:50 am]

[1] Institution resulting from merger, effective Oct. 1, 1971, of the Dai-Ichi Bank, Ltd., and The Nippon Kangyo Bank, Ltd., both of Tokyo, Japan.

[2] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel and Sherrill. Voting against this action: Governor Brimmer. Absent and not voting: Goveror Robertson.

FIRST FLORIDA BANCORPORATION

Acquisition of Bank

First Florida Bancorporation, Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of The Orlando National Bank-West, Orlando, Fla., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 3, 1971.

Board of Governors of the Federal Reserve System, December 2, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-18024 Filed 12-8-71;8:50 am]

FIRST BANC GROUP OF OHIO, INC.

Acquisition of Bank

First Banc Group of Ohio, Inc., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of

the voting shares (less directors' qualifying shares) of the successor by merger to Clermont National Bank, Milford, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 3, 1971.

Board of Governors of the Federal Reserve System, December 2, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-18025 Filed 12-8-71;8:50 am]

INDUSTRIAL NATIONAL CORP.

Proposed Acquisition of Ambassador Factors Corp.; Correction

DECEMBER 2, 1971.

In the notice regarding the proposed acquisition by Industrial National Corp., Providence, R.I., of voting shares of Ambassador Factors Corp., New York., N.Y., published in the FEDERAL REGISTER of November 30, 1971 (36 F.R. 22794), the location of Industrial National Corp. was incorrectly shown as New York, N.Y.; the correct location is Providence, R.I.

Board of Governors of the Federal Reserve System, December 2, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-18026 Filed 12-8-71;8:51 am]

MITSUBISHI BANK, LTD.

Order Approving Action to Become Bank Holding Company

In the matter of the application of The Mitsubishi Bank, Ltd., Tokyo, Japan, for approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Mitsubishi Bank of California, Los Angeles, Calif., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of The Mitsubishi Bank, Ltd. (Applicant), Tokyo, Japan, for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Mitsubishi Bank of California (Bank), Los Angeles, Calif., a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the California Superintendent of Banks and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 13, 1971 (36 F.R. 13068), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the Bank, and the convenience and needs of the community to be served, and finds that:

Applicant is a Japanese commercial bank with more than $7 billion in deposits. Applicant has 179 banking offices located throughout Japan. It also has six overseas offices, including two agencies in the United States, one in New York City and one in Los Angeles.

The Mitsubishi Bank of California proposes to be a wholesale bank specializing in the financing of trade between Japan and the United States. Applicant has one office in Los Angeles, but that office is an agency and is not authorized to accept deposits. The proposed new bank is expected to compete principally with other banks in California that are controlled by Japanese banks and, to some extent, with the larger California banks having international banking capabilities. There are presently two banks in California controlled by Japanese banks. These are The Tokyo Bank of California and Sumitomo Bank of California, both located in San Francisco. One more bank controlled by a Japanese bank may commence business in the near future following the Board's approval today of the application of The Sanwa Bank Limited, Osaka, Japan, to become a bank holding company through the acquisition of shares of a newly formed bank in San Francisco. Based on the record before it, the Board concludes that Bank's entry into the California market will have no adverse effects on existing or potential competition. Rather, the addition of Bank will provide increased banking facilities and competition.

The financial and managerial resources and prospects of Applicant and Bank are regarded as satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval, due to the addition to the area of a new bank and another international banking link to Japan.

In the light of the purpose of the Bank Holding Company Act to maintain separation of banking from commerce in the United States, the Board has given special attention, in connection with both the present application and two similar applications, to the relationships that Japanese banks are permitted to have with industrial or commercial companies under the laws of Japan. Study of the relationships indicates that, in general, the largest Japanese commercial banks are linked in a group with their major Japanese customers through interlocking stock ownership and that the members of these groups tend to act in concert. In particular, these groups include among their members companies that do business in the United States, notably, major trading companies accounting for a significant percentage of Japan's exports and imports to and from the United States.

The Board has examined the facts submitted to it in connection with the present application with a view to determining whether Applicant exercises a controlling influence over the management or policies of any of the companies closely associated with Applicant through interlocking stock ownership or whether any of such companies exercises a controlling influence over the management or policies of Applicant.

Based on the Board's evaluation of the facts submitted in connection with the present application and giving due consideration to the specific assurances given by Applicant that no control exists, by agreement or otherwise, between Applicant and those of its customers that are among the group of companies closely associated with Applicant through interlocking stock ownership, the Board has concluded that at this time Applicant should not be regarded as having control over, or as being controlled by, any of such customers and that the group does not constitute a "company" within the meaning of section 2(b) of the Bank Holding Company Act.

It is the Board's judgment that the application should be approved. However, the Board will review regularly the operations of Bank and Applicant's other banking agencies in this country with a view toward ascertaining whether the relationships between them and other companies in Applicant's group remain consistent with the purposes of section 4 of the Bank Holding Company Act and the Board's regulations thereunder.

It is hereby ordered, For the reasons set forth in the findings summarized above,[1] that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order: *And provided further,* That (c) The Mitsubishi Bank of California shall be open for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) hereof may be extended for good cause by the Board or by the Federal

[1] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of San Francisco.

Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[3] December 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-18027 Filed 12-8-71;8:51 am]

SANWA BANK LIMITED

Order Approving Action To Become a Bank Holding Company

In the matter of the application of The Sanwa Bank Ltd., Osaka, Japan, for approval of action to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Sanwa Bank of California, San Francisco, Calif., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of The Sanwa Bank Limited (Applicant), Osaka, Japan, for the Board's prior approval of action whereby Applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The Sanwa Bank of California (Bank), San Francisco, Calif., a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the California Superintendent of Banks and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 14, 1971 (36 F.R. 13114), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the Bank, and the convenience and needs of the community to be served, and finds that:

Applicant is a Japanese commercial bank with more than $7 billion in deposits. Applicant has 205 banking offices located throughout Japan. It also has six overseas offices, including two agencies in the United States, one in New York City and one in San Francisco.

The Sanwa Bank of California proposes to be a wholesale bank specializing in the financing of trade between Japan and the United States. Applicant has one office in San Francisco, but that office is an agency and is not authorized to accept deposits. The proposed new bank is expected to compete principally with other banks in California that are controlled by Japanese banks and, to some extent, with the larger California banks having international banking capabilities. There are presently two banks in California controlled by Japanese banks. These are The Tokyo Bank of California and Sumitomo Bank of California, both located in San Francisco. One more bank controlled by a Japanese bank may commence business in the near future following the Board's approval today of the application of The Mitsubishi Bank, Ltd., Tokyo, Japan, to become a bank holding company through the acquisition of shares of a newly formed bank in Los Angeles. Based on the record before it, the Board concludes that Bank's entry into the California market will have no adverse effects on existing or potential competition. Rather, the addition of Bank will provide increased banking facilities and competition.

The financial and managerial resources and prospects of Applicant and Bank are regarded as satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval, due to the addition to the area of a new bank and another international banking link to Japan.

In the light of the purpose of the Bank Holding Company Act to maintain separation of banking from commerce in the United States, the Board has given special attention, in connection with both the present application and two similar applications, to the relationships that Japanese banks are permitted to have with industrial or commercial companies under the laws of Japan. Study of the relationships indicates that, in general, the largest Japanese commercial banks are linked in a group with their major Japanese customers through interlocking stock ownership and that the members of these groups tend to act in concert. In particular, these groups include among their members companies that do business in the United States, notably, major trading companies accounting for a significant percentage of Japan's exports and imports to and from the United States.

The Board has examined the facts submitted to it in connection with the present application with a view to determining whether Applicant exercises a controlling influence over the management or policies of any of the companies closely associated with Applicant through interlocking stock ownership or whether any of such companies exercises a controlling influence over the management or policies of Applicant.

Based on the Board's evaluation of the facts submitted in connection with the present application and giving due consideration to the specific assurances given by Applicant that no control exists, by agreement or otherwise, between Applicant and those of its customers that are among the group of companies closely associated with Applicant through interlocking stock ownership, the Board has concluded that at this time Applicant should not be regarded as having control over, or as being controlled by, any of such customers and that the group does not constitute a "company" within the meaning of section 2(b) of the Bank Holding Company Act.

It is the Board's judgment that the application should be approved. However, the Board will review regularly the operations of Bank and Applicant's other banking agencies in this country with a view toward ascertaining whether the relationships between them and other companies in Applicant's group remain consistent with the purposes of section 4 of the Bank Holding Company Act and the Board's regulations thereunder.

It is hereby ordered, For the reasons set forth in the findings summarized above,[1] that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order: *And provided further,* That (c) The Sanwa Bank of California shall be open for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) hereof may be extended for good cause by the Board or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[3] December 1, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-18028 Filed 12-8-71;8:51 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN NICARAGUA

Entry or Withdrawal From Warehouse for Consumption

On July 3, 1971, there was published in the FEDERAL REGISTER (36 F.R. 12714) a

[1] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reverse Bank of San Francisco.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, and Sherrill. Voting against this action: Governor Brimmer. Absent and not voting: Governor Robertson.

letter dated June 28, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, establishing a level of restraint of 500,000 square yards on cotton textile products in Category 22, produced or manufactured in Nicaragua, and exported to the United States during the 12-month period beginning April 29, 1971, and extending through April 28, 1972.

There is published below a letter of December 1, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs amending the directive of June 28, 1971, by increasing the level of restraint applicable to imports of cotton textile products in Category 22 from Nicaragua.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

DECEMBER 1, 1971.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on June 28, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee, regarding imports into the United States of cotton textile products in Category 22, produced or manufactured in Nicaragua.

The first paragraph of the directive of June 28, 1971 is amended to read as follows:

"Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective as soon as possible, and for the 12-month period beginning April 29, 1971, and extending through April 28, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 22, produced or manufactured in Nicaragua, in excess of a level of restraint for the period of 1 million square yards."

The actions taken with respect to the Government of Nicaragua and with respect to imports of cotton textiles and cotton textile products from Nicaragua have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 533. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

JAMES T. LYNN,
Acting Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.71-18008 Filed 12-8-71;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[811-1768]

ADVANCE INVESTMENT FUND, INC.

Notice of Application for Order Declaring Company Has Ceased To Be An Investment Company

DECEMBER 2, 1971.

Notice is hereby given that Advance Investment Fund, Inc. (Applicant), c/o Lloyd Frank, 1345 Avenue of the Americas, New York, NY 10019, a Delaware corporation registered as a nondiversified, open-end management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations as set forth therein, which are summarized below.

Applicant registered under the Act on November 21, 1968, by filing a notification of registration on Form N-8A and a registration statement on Form N-8B-1. It also filed on that date a registration statement on Form S-5 under the Securities Act of 1933 which has never been made effective.

Applicant represents that no securities have ever been offered or sold to the public, and that current business conditions do not warrant offering its securities at this time. Applicant has filed an amendment to its registration statement under the Securities Act of 1933 reducing the number of shares registered thereby, and has requested withdrawal of that registration statement.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 21, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-18032 Filed 12-8-71;8:54 am]

[812-3522]

CARTER GROUP, INC.

Notice and Order for Hearing on Application for an Order Exempting and Permitting Proposed Transaction

DECEMBER 2, 1971.

Notice is hereby given that the Carter Group, Inc. (Applicant), 425 Park Avenue, New York, NY 10002, a Delaware corporation, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 (Act) for an order of the Commission exempting a proposed transaction from the provisions of section 17(a) of the Act, and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder permitting a proposed transaction. All interested persons are referred to the application which is on file with the Commission for a statement of the representations therein which are summarized below.

Applicant, which has filed an application pursuant to section 3(b)(2) of the Act for an order declaring that Applicant is not an investment company within the meaning of section 3(a)(3) of the Act, has been temporarily exempted from section 7 of the Act pending resolution of the question of its status, with the proviso that:

Applicant and other persons in their relations and transactions with it shall be subject to all provisions of the Act and the rules and regulations thereunder as though Applicant were a registered investment company, other than the following sections and rules and regulations thereunder: section 8; 10(a); 17 (f), (g), and (h); 20(a); 30; and 31.

Applicant and its wholly owned subsidiaries own 25 percent of the common stock of Utilities and Industries Corp., a New York corporation (U & I) which has also filed an application pursuant to section 3(b)(2) of the Act for an order declaring that it is not an investment company within the meaning of the Act. Utilities & Industries Corp. (Delaware), a Delaware corporation (U & I Del) was formed for the purpose of making an offer of exchange of its securities for the securities of Applicant and the securities of U & I. All of the directors of U & I Del are also directors of either Applicant, or U & I, or both, and, accordingly, Applicant, U & I, and U & I Del are affiliated persons of each other within the meaning of section 2(a)(3) of the Act.

Applicant intends to accept the proposed Offer of Exchange (Offer) and pursuant thereto exchange its holdings in U & I for securities of U & I Del.

Sections 17(a) and 17(b) of the Act prohibit, with certain exceptions not applicable here, an affiliated person of a registered investment company or an affiliated person of such a person from selling securities to or buying securities from such registered investment company or any company controlled by it, unless the Commission has exempted such sales or purchases upon finding that:

(1) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) The proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and

(3) The proposed transaction is consistent with the general purpose of the Act.

The proposed sale of U & I Del securities to Applicant in exchange for the stock of U & I held by Applicant, therefore, comes within the prohibition of section 17(a) of the Act, and Applicant requests an order pursuant to section 17(b) exempting such transaction from the provisions of section 17(a).

Certain officers and directors of Applicant, who are also stockholders of Applicant, intend to participate in the Offer of U & I Del.

In the absence of an order of the Commission, section 17(d) of the Act and Rule 17d–1 thereunder prohibit any affiliated person of a registered investment company and any affiliated person of such a person from entering into any joint arrangement or joint enterprise or profit-sharing plan with such registered investment company or a company controlled by such registered investment company. Section 17(d) and Rule 17d–1 may, therefore, be deemed to prohibit certain officers and directors of Applicant from exchanging shares of Applicant for shares of U & I Del concertedly with the exchange by Applicant of shares of U & I for shares of U & I Del. In passing upon applications to permit transactions subject to section 17(d) and Rule 17d–1 thereunder, the Commission considers whether the participation of the registered investment company or company controlled by such registered investment company in the joint enterprise, joint arrangement, or profit-sharing plan on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

The terms of the Offer are contained in a Stipulation of Settlement, dated December 28, 1970, entered into in connection with "Boorstin et al. v. Utilities & Industries Corporation (Delaware) et al." a consolidated legal action pending in the Supreme Court of the State of New York, County of New York (Index No. 17825/67). Reference of the matter to a referee who was to hold hearings upon the fairness of the Stipulation of Settlement and to report to the Court thereon have been stayed pending a determination by the Commission, under section 17 of the Act, as to the Offer.

The terms of the Offer, which is to remain open for 30 days and, at the option of U & I Del, for an additional 60 days, are as follows:

(1) Holders of Applicant's common stock will be offered 1.67 shares of U & I Del common stock for each share of Applicant's common stock;

(2) Holders of U & I common stock will be offered, for each share of U & I's common stock, two shares of U & I Del common stock and one share of U & I Del $1 par value Preferred Stock (Preferred Stock).

The Preferred Stock will have the following characteristics:

(a) One-tenth of a vote per share;

(b) Cumulative dividends at an annual rate of $.05 per share;

(c) Redeemable after 7 years from date of issue at a price of $5 per share plus accrued but unpaid dividends, payment at the election of U & I Del in cash and/or "Marketable Securities";

(d) Preference on liquidation in the amount of $1 per share plus accrued and unpaid dividends; and

(e) Convertibility into common shares of U & I Del as follows:

Date of conversion	The price for one share of U & I Del common stock at the option of the holder of each preferred share
Up to 19 months from date of issuance.	1 share of preferred plus $30 or 10 shares of preferred.
From 19 months to 36 months after issuance.	1 share of preferred plus $33 or 11 shares of preferred.
From 36 months to 54 months after issuance.	1 share of preferred plus $36 or 12 shares of preferred.
After 54 months after issuance.	1 share of preferred plus $39 or 13 shares or preferred.

Such conversion prices to be proportionately adjusted in the event of stock dividends, stock splits or upon any reclassification of U & I Del common stock after the close of the Offer, to the extent that such events in the aggregate result in an increase in any fiscal year of greater than 4 percent of the shares of U & I Del common stock outstanding prior to such events, and such conversion prices also to be adjusted in the event of any combination of outstanding shares of U & I Del common stock if all such combinations in any fiscal year reduce by a total of more than 4 percent the shares of U & I Del common stock outstanding immediately prior to such combination.

(f) Right to receive additional cash and/or "Marketable Securities" and/or "Securities", as determined by U & I Del, equal to the difference between $42 and the total of the "Average Market Value" of two shares of U & I Del common stock and one share of Preferred Stock during the last 10 "Trading Days" of the "18-Month Measuring Period" following the making of the Offer if the "Market Value" of such shares does not equal either $41 or more for at least 10 "Trading Days" within any period of 30 consecutive trading days prior to the expiration of the first 9 months of the "18-Month Measuring Period", or $42 or more for at least 10 "Trading Days" within any period of 30 consecutive "Trading Days" during the last 9 months of said "18-Month Measuring Period." If "Securities" are delivered which were not "Marketable Securities" during the appropriate "Valuation Period", they are to be valued jointly by two named brokerage firms.

It is also provided in the terms of the proposed Offer that if, after the date of the Stipulation of Settlement and before the Offer expires, U & I or Applicant distributes one or more stock dividends which aggregate in excess of 5 percent of the number of its shares then outstanding, or either corporation effects a common stock split, the number of shares of U & I common stock or Applicant's common stock to be exchanged for U & I Del common stock is to be increased to include the additional shares distributed on account of any dividend to the extent of the excess over such 5 percent and all shares distributed on account of any stock split. U & I and Applicant have each distributed a 5 percent stock dividend since December 28, 1970.

The Offer will not be effected unless at least 80 percent of the outstanding shares of Applicant's common stock are tendered for exchange, but if more than 50 percent of such shares are tendered, Applicant has the election to reduce the 80 percent to a lesser percentage exceeding 50 percent. In addition, the Offer will not be effected unless at least 30 percent of the outstanding shares of U & I common stock are tendered for exchange. Applicant, its subsidiaries and such of the officers and directors of Applicant and U & I as are defendants in the litigation, have agreed to tender their shares of Applicant's common stock and U & I common stock. Such persons now own in the aggregate more than 50 percent of the Applicants' common stock.

Applicant submits that the Offer is:

(1) Fair and reasonable for the stockholders of both Applicant and U & I and does not involve overreaching on the part of any person concerned;

(2) The participation of Applicant in U & I Del pursuant to the terms of the Offer (i.e., as a stockholder in U & I) while different from the participation in U & I Del by the officers and directors of Applicant (i.e., as stockholders of Applicant) is not less advantageous to Applicant than the participation of such other persons is to such persons; and

(3) The Offer is consistent with the purposes of the Act.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing of the aforesaid application under the applicable provisions of the Act and of the rules of the Commission thereunder be held on January 24, 1972, at 10 a.m., in the offices of the Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person other than the Applicant desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission on or before the 20th day of January 1972, his application pursuant to Rule 9(c) of the Commission's rules of practice setting forth the nature and extent of his interest in the proceeding and any issues of law or fact which he deems raised by the application with respect to which this notice and order have been issued. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address noted above, and proof of service (by affidavit, or, in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of this proceeding.

It is further ordered, That any officer or officers of the Commission designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all powers granted to the Commission under sections 41 and 42(b) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters upon further examination:

(1) Whether the proposed transaction subject to the provisions of section 17(a) of the Act (a) are consistent with the provisions, policy and purposes of the Act; (b) whether the consideration to be paid or received is reasonable and fair and does not involve overreaching on the part of any person; and

(2) Whether the proposed transaction subject to the provisions of 17(d) of the Act is (a) consistent with the provisions, policy and purposes of the Act; and (b) whether the participation of U & I shareholders in such transaction is on a basis different from or less advantageous than that of the other participants, and the extent thereof.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to the Applicant, and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER, and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17992 Filed 12-8-71;8:47 am]

[70-5010]

COLUMBIA GAS SYSTEM, INC., ET AL.

Notice of Posteffective Amendment Regarding Intrasystem Financing

DECEMBER 2, 1971.

In the matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, DE 19807, Columbia Gas of West Virginia, United Fuel Gas Co., Atlantic Seaboard Corp., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Kentucky Gas Transmission Corp., Columbia Gas of Ohio, Inc., the Ohio Fuel Gas Co., the Ohio Valley Gas Co., the Preston Oil Co., Columbia Gas of Pennsylvania, Inc., the Manufacturers Light & Heat Co., Home Gas Co., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Coal Gassification Corp., Columbia Gulf Transmission Co., Columbia Gas Development Corp.

Notice is hereby given that The Columbia Gas System, Inc. (Columbia), a registered holding company, and its above-named wholly owned subsidiary companies have filed with this Commission a posteffective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 6(b), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 (Act) regarding the following proposed transactions. All interested persons are referred to the application-declaration, as now amended, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated May 17, 1971, and October 20, 1971 (Holding Company Act Release Nos. 17131 and 17321), the Commission authorized certain intrasystem financing of the Columbia system, including the issue and sale of installment promissory notes by Columbia Gas of Maryland, Inc. (Columbia of Md.) and Columbia Gulf Transmission Co. (Columbia Gulf) and the acquisition thereof by Columbia. It is now proposed that said installment notes of Columbia of Md. be increased from $375,000 to $775,000 and those of Columbia Gulf from $15,500,000 to $45,500,000. In all other respects the transactions remain the same.

The installment notes will be acquired no later than March 31, 1972, will be dated when issued, will be payable in 25 equal annual installments on May 31 of each of the years 1973–97, inclusive, and may be prepaid at any time, in whole or in part, without premium. Interest will accrue from the date of issue and is to be paid semiannually on the unpaid principal balance. The interest rate will be the actual cost of money to Columbia with respect to its last sale of debentures prior to the issuance of said notes, decreased by an amount necessary in order that the interest rate be a multiple of one-tenth of 1 percent.

It is stated that Columbia of Md. requires an additional $400,000 to complete its $822,000 construction program for 1971 and that Columbia Gulf requires an additional $30 million in order to construct the Blue Water pipeline, a project which when completed will transport gas produced and purchased offshore Louisiana to an existing Columbia Gulf transmission line at Pecan Island, for delivery onshore and then continuing to Columbia's service area.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 27, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said posteffective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropirate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the

hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-18033 Filed 12-8-71;8:54 am]

[70-5119]

COLUMBIA GAS SYSTEM, INC., ET AL.

Notice of Proposed Open Account Advances To Subsidiary Companies in Connection With Intrasystem Prepayment of Promissory Notes and Proposed Intrasystem Issuance and Acquisition of Promissory Notes

DECEMBER 3, 1971.

In the matter of The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, DE 19807, Columbia Gas Transmission Corp., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Ohio, Inc., The Ohio Valley Gas Co., Columbia Gulf Transmission Co., Columbia Gas Development Corp., Columbia Hydrocarbon Corp., The Inland Gas Co., Inc.

Notice is hereby given that The Columbia Gas System, Inc. (Columbia), a registered holding company, and its wholly owned subsidiary companies listed above have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 9, 10, and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

During the winter hearing season, certain of Columbia's operating subsidiary companies, particularly the distribution companies, generate substantial cash in excess of current requirements. Formerly, such excess funds were generally invested by these operating subsidiary companies in U.S. Government Treasury Bills until such time as the cash was required for construction and other corporate purposes. Since the transmission subsidiary companies generate smaller amounts of cash during such months than the distribution subsidiaries and their construction expenditures are generally larger, Columbia had been advancing such subsidiary companies funds under Commission authorization while other subsidiary companies had cash considerably in excess of current requirements. For the past 9 years, however, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present filing requests authorization to continue these transactions during the calendar year 1972.

It is proposed that the subsidiary companies listed below will, in accordance with the exemptive provisions of Rule 42(b)(2) under the Act, prepay with excess cash, from time to time prior to the end of 1972, a portion of their outstanding promissory notes held by Columbia. The notes prepaid will not exceed the following amounts, which represent the maximum excess funds that such companies are expected to accumulate at any one time during the year 1972:

Columbia Gas Transmission Corp	$100,000,000
Columbia Gas of Pennsylvania, Inc	15,000,000
Columbia Gas of New York, Inc	2,500,000
Columbia Gas of Maryland, Inc	1,500,000
Columbia Gas of Kentucky, Inc	4,000,000
Columbia Gas of Virginia, Inc	2,000,000
Columbia Gas of West Virginia, Inc	7,000,000
Columbia Gas of Ohio, Inc	35,000,000
The Ohio Valley Gas Co	3,000,000
Columbia Gulf Transmission Co	20,000,000
Columbia Gas Development Corp	3,000,000
Columbia Hydrocarbon Corp	1,500,000
The Inland Gas Co., Inc	1,000,000
Total	195,500,000

The notes prepaid by the individual companies will be those bearing the highest interest rate or rates outstanding at the time of each prepayment. As any of such companies require funds for construction and other corporate purposes after prepayment, it is proposed that advances be made to them on open account by Columbia, provided that at no time will the amount of such advances to any subsidiary exceed the amount of indebtedness theretofore prepaid by it, less any current maturities applicable to prepaid notes which would have matured subsequent to the date of prepayment.

Open account advances to any subsidiary company will bear interest at the same rate or rates as borne by the equivalent principal amounts of indebtedness previously prepaid by it during 1972, but in reverse order to that of the prepayments, i.e., working up from the lowest rate payable on the indebtedness previously prepaid to the highest rate. The proposed advances on open account to individual subsidiary companies will be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiary companies. At such time as the advances to any subsidiary company equal the aggregate amount of the indebtedness prepaid by it or in any event, not later than December 31, 1972, such prepaid indebtedness will be reinstated in repayment of the outstanding open account advances.

No financing of any operating subsidiary company which may be presently or subsequently authorized by the Commission in connection with the construction or gas storage programs of any such subsidiary company will be consummated until such time as advances have been made equal to the amount of indebtedness prepaid. Any subsidiary company not requiring financing during 1972 and which has borrowed on open account from Columbia an amount smaller than the amount of indebtedness theretofore prepaid by it, will, on December 31, 1972, reinstate its indebtedness to Columbia in an amount sufficient to discharge its open account borrowings, and the balance of its prepaid indebtedness will be considered to have been permanently prepaid. Such permanent prepayment would be applied against indebtedness bearing the highest interest rates and would be consummated only with respect to indebtedness bearing interest at a rate equal to or in excess of the rate applicable to borrowings by subsidiary companies from Columbia as at December 31, 1972. In the event that a permanent prepayment by any subsidiary company would be indicated with respect to indebtedness bearing an interest rate less than said rate at December 31, 1972, such indebtedness will be reinstated by the subsidiary company at or before the end of 1972, in order to preserve the lower interest rate of the indebtedness scheduled for permanent prepayment.

It is stated that the proposed transactions are designed to utilize effectively aggregate system funds and to achieve the following: (1) Prepayment of inventory loans with commercial banks and other short-term borrowings at the earliest date, (2) deferment of outside financing until aggregate system funds approach a minimum balance, and (3) facilitation of the internal financing of emergency requirements. In addition, operating subsidiaries having excess funds will be able, through the prepayment of indebtedness, to decrease their own net corporate interest expense during the period such funds are not required.

The application-declaration states that expenses to be incurred by Columbia and its subsidiary companies in connection with the proposed transactions are estimated at $75 and $750, respectively, and that $550 of these aggregate expenses are for services, at cost, to be provided by Columbia Gas System Service Corp.

It is further stated that Columbia Gas of West Virginia, Inc., is requried to obtain authorization from the Public Service Commission of West Virginia for certain of the transactions proposed herein; that the Public Service Commission of New York has authorized the reissue of prepaid notes by Columbia Gas of New York, Inc.; and that the Public Service Commission of Kentucky and the State Corporation Commission of Virginia previously authorized the issuance of prepaid notes by Columbia Gas of Kentucky, Inc., and Columbia Gas of Virginia, Inc., respectively.

Notice is further given that any interested person may, not later than December 27, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order

a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17993 Filed 12-8-71;8:48 am]

[File No. 29NY-7452]

E.M.A. TRAINING, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

DECEMBER 1, 1971.

I. E.M.A. Training, Inc. (E.M.A.), Cold Spring Hills, Huntington, N.Y., is a Delaware corporation located at Cold Spring Hills, Huntington, N.Y. On September 27, 1971, it filed a notification pursuant to Regulation A in connection with a proposed offering of 250,000 shares of its $0.01 par value common stock at $2 per share.

The offering was to be conducted by Quodar Equities Ltd., as underwriter on a "best efforts—20 percent or none" basis. The notification has not been made effective and the offering has not begun.

According to its offering circular E.M.A. was organized for the purpose of engaging in the business of owning and operating a private elementary a private high school known as Eastern Military Academy.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The notification and offering circular contain untrue statements of material facts and omit to state material facts necesary in order to make the statements made, in light of the circumstances under which they were made not misleading, in the following respects (Rule 261(a)(2)):

1. The certified financial statements included in the offering circular contain serious material misrepresentations relative to the working capital position of the issuer. In particular, two balance sheet items are incorrectly classified. The presentation of the financial statements in accordance with proper generally accepted accounting principals would reveal that the issuer in actuality had a working capital deficit of as much as $228,203 as at June 30, 1971, as opposed to a net working capital of $56,484 as set forth in the financial statements. Hence, the financial statements failed to reveal to potential investors the extremely poor financial condition of E.M.A. In addition the offering circular failed to adequately alert investors to this fact.

2. Information set forth in the "Dilution" section of the offering circular contains a material misrepresentation in that it sets forth the present stockholders' contributions as $86,511 as at June 30, 1971, such statement being in contradiction with the Balance Sheet contained in the offering circular which sets forth the present stockholders' contributions as a capital deficit of $204,556 as at June 30, 1971. Hence, the offering circular is misleading in that it fails to show potential investors the massive diminution in the equity of the present shareholders of E.M.A.

3. The offering circular contains a material omission in that it fails to include in a "Risk Factor" section information which would alert potential investors to the poor financial condition of the issuer. In particular, this "risk factor" should have stated that the issuer was insolvent, and even if the minimum number of shares offered hereby were sold the issuer would remain insolvent.

4. The offering circular contains a material omission in that it does not adequately alert potential investors, to the fact that the issuer's business had historically sustained substantial losses.

5. The offering circular contains material omissions relating to the business background and criminal background of on Ramon D'Onofrio ("D'Onofrio") principal shareholder of E.M.A. and a person in a position to control the affairs of the issuer. In particular, the offering circular fails to state that D'Onofrio was indicted in the U.S. District Court for Eastern District of New York and pleaded guilty, on July 22, 1971, to bankruptcy fraud (section 152, title 18, United States Code).

B. No exemption is available under this regulation for the securities of E.M.A. purported to be offered hereunder (Rule 261(a)(1)).

The conviction of D'Onofrio, principal shareholder of the issuer, for bankruptcy fraud, rendered the Regulation A exemption unavailable for the securities of E.M.A. (See Rule 252(d)(1) of Regulation A.) The acts which resulted in the indictment and conviction involved, to an extent, the purchase of securities by D'Onofrio.

C. The use of the offering circular by the issuer would operate as a fraud and deceit upon prospective purchasers of the securities in violation of section 17(a) of the Securities Act of 1933, as amended.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter, including any person to whom entry of this temporary suspension order may have an adverse effect pursuant to Rule 252 (c), (d), or (e) of Regulation A, may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion, may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-18034 Filed 12-8-71;8:54 am]

[811-950]

FLORIDA CAPITAL CORP.

Notice of Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

DECEMBER 3, 1971.

Notice is hereby given that an application has been filed pursuant to section 8(f) of the Investment Company Act of 1940 (Act) for an order of the Commission declaring that Florida Capital Corp. (Applicant), 39 Broadway New York, NY 10006, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant was incorporated in Florida in June of 1959 and is registered as a closed-end, nondiversified management investment company under the Investment Company Act.

Applicant states that it has invested substantially all of its assets in securities of wholly owned operating subsidiaries

which are not investment companies. Applicant states that in accordance with the directions of the shareholders expressed in a special meeting of shareholders held on September 22, 1967, it has not invested in investment securities since that date, but has actively pursued becoming an operating company and therefore has invested only in wholly owned subsidiaries. The most recent step in that program was Applicant's loan of $2,350,000 to its wholly owned operating subsidiary, Jack's International, Inc.

The application includes the following valuation of Applicant's assets (unaudited) as of October 1, 1971:

Investment in Securities of Unaffiliated Issuers:	
Life Insurance Securities Corp., 95,075 shares	(1)
Wheeling, Inc., 40,640 shares	(1)
Investment in wholly owned subsidiary, Jack's International, Inc.:	
Capital stock	$675,000
7 percent notes receivable	2,750,000
Total investments	3,425,000
Cash	65,000
Total assets	3,490,000

[1] Assets possessing only a nominal value.

Jack's International, Inc., and its subsidiaries are primarily engaged in the fast food business, principally in the Southeast. On September 30, 1971, Jack's International, Inc., through Cashin Systems Corp., a wholly owned subsidiary, acquired substantially all of the assets of the Cashin Division of Unexcelled, Inc., and of Dohm & Nelke, Inc., a wholly owned subsidiary of Unexcelled, Inc., both of which are operating companies which manufacture, lease and sell integrated weighing and measuring equipment and equipment related thereto.

The Applicant further states that it is not acting or holding itself out as an investment company within the meaning of the Act and that Applicant will continue to refrain from acting or holding itself out as an investment company.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 22, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issue, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication shall be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the persons being served are located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons at whose request a hearing is ordered, will receive notice of further developments in the matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17994 Filed 12-8-71;8:48 am]

[811-1206]

IMPERIAL EQUITY CORP.

Notice of Filing of Application for an Order Declaring That Company has Ceased To Be an Investment Company

DECEMBER 3, 1971.

Notice is hereby given that Imperial Equity Corp. (Applicant), Box 1386, Minneapolis, MN 55440, registered under the Investment Company Act of 1940 (Act) as a closed-end nondiversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was incorporated on March 8, 1963 under the laws of the State of Minnesota, and registered under the Act on March 26, 1963.

Applicant represents, among other things, that on June 1, 1965, shareholders adopted a plan of complete liquidation, and that at a special meeting of shareholders held on April 28, 1971, shareholders also adopted resolutions providing for a plan of voluntary corporate dissolution and the appointment of a trustee under that plan. Applicant also represents that all assets have been reduced to cash; that provisions have been made for the payment of necessary liquidating expenses; that the final liquidating distribution has been made to shareholders; and that unclaimed funds are being held in a bank account subject to the control of the trustee under the plan of voluntary corporate dissolution. In addition, Applicant represents that he is exclusively engaged in effecting its complete dissolution and does not hold itself out as being engaged primarily in the business of investing, reinvesting or trading in securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 23, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by a certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-17995 Filed 12-8-71;8:48 am]

[811-1293]

OPTIONAL RETIREMENT FUND, INC.

Notice of Filing of Application For Order Declaring That Company Has Ceased to Be an Investment Company

DECEMBER 3, 1971.

Notice is hereby given that Optional Retirement Fund, Inc. (Applicant), 80 Broad Street, New York, NY 10004, registered under the Investment Company Act of 1940 (Act) as a nondiversified, open-end investment company, has filed an application pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the

Commission for a statement of the representations set forth therein which are summarized below.

The application states that Applicant has not offered its securities to the public since June 1969 and that Applicant never had more than eleven shareholders. Applicant's shareholders voted not to further offer shares publicly; to withdraw the registration statement under the Securities Act of 1933; and to request deregistration under the Act. All but one of the shareholders have redeemed their shares and Applicant has no effective prospectus under the Securities Act of 1933.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 23, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addresed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-17996 Filed 12-8-71;8:48 am]

[812-3048]

PITTWAY CORP. AND METROPOLITAN STRUCTURES

Notice of Application

DECEMBER 2, 1971.

Notice is hereby given that Pittway Corp. (Pittway) and Metropolitan Structures (Structures) (collectively referred to as "Applicants"), 601 Skokie Boulevard, Northbrook, IL 60062, have filed an application pursuant to sections 6(c), 17(b) and Rule 17d-1 promulgated under section 17(d) of the Investment Company Act of 1940 (Act) for an order of the Commission permitting Applicants to engage in the transaction described below. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Standard Shares, a registered closed-end, nondiversified investment company, owns in excess of 38 percent of the total outstanding common stock of Pittway and controls Pittway within the meaning of section 2(a)(9) of the Act. Pittway is primarily engaged in, among other things, the business of aerosol and other packaging, the manufacture of aerosol valves and burglar and fire alarm devices, and the publishing of trade magazines.

Structures, a limited partnership, is engaged in the development of real estate principally in the Chicago, Ill., area, and in particular, its rights to the air space above the Illinois Central Railroad tracks. Pittway owns a 10 percent equity interest in Structures.

Structures also owns a 54.9 percent interest in Metropolitan Nuns Island Partnership (MNIP), a limited partnership engaged directly and indirectly through partnerships with Pittway among others, in the real estate development of Nuns Island, Canada. Applicants state that Pittway and Structures are affiliates within the meaning of section 2(a)(3) of the Act.

Pittway seeks to increase its limited partnership participation in Structures to permit it to make a $2,500,000 capital contribution to the construction and operation of an office building (Blue Cross Building) at 150 East South Water Drive, Chicago, IL, the construction of which is expected to be completed at or about the end of 1972 at an estimated cost of $41,500,000. Applicants state that construction has begun and permanent financing has been committed. Applicants state that Structures and Centennial Equities Corp. (Centennial), a wholly owned subsidiary of Metropolitan Life Insurance Co., have entered into an agreement whereby upon substantial completion of the building, title will be conveyed to a new partnership, Metropolitan Two Illinois Center (MTIC), to which Centennial will contribute $4,500,000 for a 50 percent equity interest. Structures is obligated to contribute any additional funds required if the cost of the land and building, exclusive of marketing costs, exceeds $41,500,000. Should such cost be less than $41,500,000 Structures and Centennial will share the reduction equally up to a total reduction of $4,500,000.

Pittway will contribute $2,500,000 to Structures' capital and Pittway's present 10 percent limited partnership interest will be increased by an effective 10 percent equity interest in the building. After Centennial's acquisition of its 50 percent equity interest, Pittway's interest will be adjusted to reflect 27.2 percent of the remaining 50 percent interest of Structures. Structures will be solely responsible for construction of the building and Pittway will have no liability for the debts of the venture.

Applicants state that until completion of construction Pittway will receive from Structures a guaranteed monthly payment of $12,500. Further, 80 percent of the profits and losses in the period of construction will be allocated to Pittway until such losses aggregate $4,500,000; thereafter Pittway will be allocated 27.2 percent of the profits and losses of MTIC from the operation of the building.

Applicants state that Pittway will receive 40 percent of the building's cash flow attributable to Structures' interest until Pittway has recovered its entire investment. Applicants state that beginning in 1974, if in any year Pittway's allocable share of the cash flow is less than $120,000, Structures will further distribute to Pittway the difference between $120,000 and such allocable shares, until Pittway has received an aggregate of $1,500,000 in cash flow, supplemental payments, and other cash distributions (exclusive of the guaranteed payments described above). Any cash flow distributed in 1 year in excess of $120,000 however, will offset future deficiencies. In addition, until Pittway has received $1,500,000 in cash distributions, Structures will pay to Pittway after each fiscal year a guaranteed payment equal to any distributive shares of loss allocable to Pittway's new investment.

Pittway states that it estimates that solely by reason of anticipated tax loss benefits it will recover approximately $2,200,000 or 90 percent of its investment by the end of 1973.

If, in the event of any sale or refinancing of the building or the liquidation of MTIC, the cash distributions then received by Pittway are less than $2,500,000, Pittway has a priority on proceeds allocable to Structures to the extent of such deficiency and is entitled to 30 percent of the remainder of such proceeds. If Pittway has received at least $2,500,000, it is entitled to 20 percent of the total proceeds allocable to Structures.

In the event the committed permament financing fails, or Structures abandons its partnership interest in MTIC, Structures shall pay Pittway $1,500,000 less cash distributions already received. Thereafter Pittway, with Centennial's consent, may succed to all of Structures' interest in MTIC.

Applicants assert that their negotiations in connection with the above venture were conducted at arm's length. Applicants further assert their proposed transaction is fair and reasonable, that no question of overreaching arises; and that the transaction is necessary and appropriate in the public interest, and consistent with the protection of investors and the purpose fairly intended by the policy and provisions of the Act.

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company from selling to such registered company any securities unless the Commission, upon application pursuant to section 17(b), grants an exemption from the provisions of section 17(a) if evidence establishes that the terms of the proposed transactions, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned. In addition, the proposed transaction must be consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide among other things, that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by an order of the Commission, and that, in passing upon such an application, the Commission will consider whether the participation of such registered or controlled company in such arrangement is consistent with the provisions, policies and purpose of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. A joint enterprise or arrangement, as used in Rule 17d–1 is defined as a written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof and any affiliated person of such person have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking.

Section 6(c) permits the Commission, upon application, to exempt a transaction or transactions from any provision of the Act if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 16, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–18035 Filed 12–8–71;8:54 am]

[812–3021]

VALUE LINE SPECIAL SITUATIONS FUND, INC. AND VALUE LINE INCOME FUND, INC.

Notice of Filing of Application for Order Exempting Transactions Between Affiliated Persons

DECEMBER 2, 1971.

Notice is hereby given that the Value Line Special Situations Fund, Inc. (Special Fund), and the Value Line Income Fund, Inc. (Income Fund), 5 East 44th Street, New York, NY 10017, open-end diversified management investment companies registered under the Investment Company Act of 1940 (Act), have filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act a proposed transaction whereby Special Fund will acquire from Income Fund 250,000 restricted shares of Gulf States Land & Industries, Inc. (Gulf States), common stock, par value 50 cents per share, at a price of 10 percent below the market value for unrestricted shares of the same class. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

The Gulf States shares were acquired by Income Fund on May 18, 1970, after having been pledged earlier to Income Fund by Webb & Knapp, Inc. (Webb & Knapp), and its wholly owned subsidiary, 52026 Corporation, to secure instruments of indebtedness held by the Income Fund and issued by Webb & Knapp. The Gulf States shares were acquired pursuant to Court-approved arrangements with the Trustee in Bankruptcy of Webb & Knapp.

Income Fund proposes to sell the Gulf States shares to Special Fund at a 10 percent discount from the current market price of unrestricted shares of the same class. The common stock of Gulf States is listed on the Midwest Stock Exchange and is admitted to unlisted trading privileges on the American Stock Exchange. These Exchanges are the principal market for this security. The closing price of the common stock of Gulf States on the American Stock Exchange on October 28, 1971, was $3.50 per share.

The Gulf States shares held by Income Fund may not be publicly sold by Income Fund because (1) Income Fund may be deemed an "underwriter" of Gulf States shares as such term is defined in the Securities Act of 1933, and (2) the financial statements, contained in the latest prospectus of Gulf States included as part of a registration statement filed pursuant to the Securities Act of 1933, are more than 16 months old.

Special Fund will provide Income Fund with a written investment representation that Special Fund is purchasing the Gulf States shares for its own account for investment, and not with a view to their distribution or resale. Therefore, Special Fund may also be deemed an "underwriter" of the aforesaid Gulf States shares by reason of its purchase of such shares from Income Fund in a private transaction. As a statutory underwriter of the Gulf States shares, Special Fund would also be unable to publicly sell them without an effective registration statement.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell any security or other property to such registered company or knowingly to purchase from such registered company any security or other property. Income Fund and Special Fund may be deemed to be under common control and hence affiliated persons of each other since they have common directors and officers and Arnold Bernhardt and Co., Inc., as their manager and investment adviser.

Section 17(b) of the Act provides that the Commission, on application, shall exempt a proposed transaction from one or more provisions of section 17(a) upon finding that:

(1) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) The proposed transaction is consistent with the policy of each registered investment company concerned as recited in its registration statement and reports filed under the Act; and

(3) The proposed transaction is consistent with the general purposes of the Act.

For the purposes of determining the net asset value of Income Fund, the Board of Directors of Income Fund has valued the Gulf States shares at a discount of 10 percent from the market value of unrestricted securities of the same class. The 10 percent discount which has been fixed by the Board of Directors of Income Fund may be expected to be maintained, in the valuation of the Gulf States shares, by the Board of Directors of Special Fund after the completion of the proposed transaction since the membership of each Board is identical and since the same factors bearing upon valuation are applicable to such valuation regardless of whether the Gulf States shares are held by Income Fund or Special Fund. The factors taken into account in fixing the 10 percent discount include the following: (1) The fact that the common stock of Gulf States is traded on the American Stock Exchange; (2) the existence of a right of the holder of the restricted securities to require Gulf States to register the securities at the expense of the holder of the securities; (3) the past performance by Gulf States of its registration obligations; (4) the effectiveness in the past of prospectuses covering the Gulf States shares; and (5) the fact that such registration did not adversely affect the market price of the common stock of Gulf States.

Gulf States has not paid a dividend on its common stock since 1958 and, in the judgment of the management of the funds, is not likely to do so in the foreseeable future. However, it is also the opinion of the management of the funds that the actual value of certain assets of Gulf States are substantially higher than the values at which they are, under accepted accounting practice, carried on the financial statements of Gulf States, and it is believed that the prospective new management of Gulf States may be successful in realizing on the value of such assets with a consequent possible increase in the market value of Gulf States common stock. The common stock of Gulf States is, therefore, represented to be a more appropriate investment for Special Fund whose policy is to invest not less than 80 percent of its assets in "Special Situations", than it is for Income Fund whose primary goal is "income, as high and dependable as is consistent with reasonable risk."

Notice is further given that any interested person may, not later than December 22, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said proposal shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71–18036 Filed 12–8–71;8:54 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.3–A for Disaster No. 802]

DISASTER COORDINATOR

California Earthquake Disaster; Rescission of Delegation of Authority for Administrative Services

Notice is hereby given that Delegation of Authority No. 4.3–A for Disaster No. 802 (36 F.R. 8911) is hereby rescinded in its entirety without prejudice to actions taken prior to effective date hereof.

Effective date: December 1, 1971.

JACK EACHON, Jr.,
Associate Administrator for Financial Assistance.

[FR Doc.71–17998 Filed 12–8–71;8:48 am]

[Delegation of Authority No. 4.3–B]

DIRECTOR, OFFICE OF DISASTER OPERATIONS

Delegation of Authority for Administrative Services and Rescission of Delegation of Authority Regarding Administrative Services

Pursuant to the authority delegated by the Administrator to the Associate Administrator for Operations and Investment in Delegation of Authority No. 50, Revision 3 (25 F.R. 7418) as amended (26 F.R. 4440, 27 F.R. 1303, 31 F.R. 13563, 36 F.R. 12258, 36 F.R. 16613, and 36 F.R. 22268) there is hereby redelegated to the Director, Office of Disaster Operations, the following authority:

A. *Administrative Services (for purposes of Class A Disasters only).* 1. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the Agency.

2. To enter into contracts for supplies and services pursuant to chapter 4 of title 41, United States Code, as amended, subject to the limitations contained in section 257 (a) and (b) of that chapter.

B. The authority delegated herein may be redelegated.

C. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Director, Office of Disaster Operations.

D. Delegation of Authority No. 4.3–A for Disaster No. 783 (36 F.R. 18915) is hereby rescinded without prejudice to actions taken under such delegation of authority prior to effective date hereof.

Effective date: December 1, 1971.

ARTHUR H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71–17999 Filed 12–8–71;8:48 am]

[Delegation of Authority No. 30 (Revision 13) Amdt. 7]

REGIONAL DIRECTOR AND CHIEF, REGIONAL LOAN ADMINISTRATION

Delegation of Authority To Conduct Program Activities in the Field Offices

Delegation of Authority No. 30 (Revision 13) (36 F.R. 5881), as amended (36 F.R. 7625, 36 F.R. 11129, 36 F.R. 13713, 36 F.R. 14712, 36 F.R. 15769, and 36 F.R. 22876) is hereby further amended by revising Part IV, Section C. As revised, Section C reads as follows:

SECTION C. *Section 406 Contract Management Authority.* 1. *Management Authority.* To take all necessary actions in connection with the administration and management of contracts executed by the Associate Administrator for Procurement and Management Assistance under the authority granted in section 406 of the Economic Opportunity Amendments of 1967, except changes, amendments, modifications, or termination of the original contract:

a. Regional Director.

b. Chief, Regional Loan Administration Division.

Effective date: August 5, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71–18002 Filed 12–8–71;8:48 am]

[Delegation of Authority No. 4.3 (Rev. 1) Amdt. 1]

PROJECT MANAGERS

Title Change

Delegation of Authority No. 4.3 (Revision 1) (36 F.R. 7290) is hereby amended

by substituting the words "Project Manager" for the words "Disaster Coordinator" wherever they appear.

Dated: December 1, 1971.

JACK EACHON, JR.,
Associate Administrator for Financial Assistance.

[FR Doc.71-17997 Filed 12-8-71;8:48 am]

DEPARTMENT OF LABOR

Office of the Secretary

[Secretary of Labor's Order 32-71]

ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

Designation and Assignment of Responsibilities

1. *Purpose.* The purpose of this order is to reflect the broadened duties and responsibilities of the Assistant Secretary for Administration.

2. *Background.* Reorganization Plan No. 6 of 1950 established the position of Administrative Assistant Secretary of Labor, to be appointed by the Secretary of Labor with the approval of the President. The title was changed to Assistant Secretary of Labor for Administration under the Federal Executive Salary Act of 1964 (title III, Public Law 88-426).

With the rapid growth and increasing complexity of Department of Labor programs, management responsibilities assigned to the Assistant Secretary for Administration beyond those involving conventional administrative support functions have been greatly expanded. Consequently, the title no longer adequately reflects the wide range of duties and responsibilities of the position. This order is issued to reflect the broadened duties and responsibilities of the Assistant Secretary for Administration by assigning a new departmental designation to the position.

3. *Designation of new title.* The Assistant Secretary of Labor for Administration is hereby designated as, and the duties thereof shall be performed by, the Assistant Secretary of Labor for Administration and Management.

4. *References in regulations and documents.* All references to the Assistant Secretary for Administration in Department of Labor Regulations or documents shall be deemed to be references to the Assistant Secretary for Administration and Management.

5. *Effective date.* This order is effective immediately.

Signed at Washington, D.C., this 29th day of November 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-17989 Filed 12-8-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

DECEMBER 6, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 111812 Sub 422, Midwest Coast Transport, Inc., now assigned December 13, 1971, at Washington, D.C., is postponed to February 14, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 66101 Sub 1, Aft Services, now assigned February 10, 1972, at New York, N.Y., in a hearing room to be designated later.

MC 67200 Sub 36, the Furniture Transport, now assigned February 8, 1972, at New York, N.Y., in a hearing room to be designated later.

MC 116947 Sub 16, Hugh H. Scott, doing business as Scott Transfer Co., assigned January 10, 1972, MC 126276 Sub 45, Fast Motor Service, Inc., assigned January 10, 1972, MC 115496 Sub 13, Lumber Transport, Inc., assigned January 11, 1972, MC 135425 Sub 1, Cycles, Ltd., assigned January 12, 1972, MC 133937 Sub 8, Carolina Cartage Co., Inc., assigned January 13, 1972, MC 134928 Donald L. Myers doing business as L & D Cartage, assigned January 17, 1972, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW., instead of in Room 309, 1252 West Peachtree Street NW.

MC-C-7182, Illinois California Express, Investigation and Revocation of Certificates, now being assigned hearing February 7, 1972, at Denver, Colo., in a hearing room to be designated later.

MC 115162 Sub 210, Poole Truck Line, now assigned December 8, 1971, at Memphis, Tenn., postponed indefinitely.

MC 113678 Sub 431, Curtis, Inc., now being assigned hearing February 14, 1972, at Denver, Colo., in a hearing room to be designated later.

MC 113678 Sub 430, Curtis, Inc., now being assigned hearing February 10, 1972, at Denver, Colo., in a hearing room to be designated later.

MC 119619 Sub 59, Distributors Service Co., now being assigned hearing February 28, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 129076 Sub 4, Specialized Carriers, Inc., now being assigned hearing February 25, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 135725 Sub 1, Fry Trucking, Inc., now being assigned hearing February 22, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 135775, Schaumburg Transportation Co., Inc., now being assigned hearing March 1, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 130138, Chi-Am Tours, Inc., now being assigned January 12, 1972, in Room E-2222, 26 Federal Plaza, New York, NY.

MC 34975 Sub 5, Tredways Express, Inc., assigned January 12, 1972, at New York, N.Y., is postponed to February 14, 1972, at New York, N.Y., in a hearing room to be later designated.

MC 115841 Sub 386, Colonial Refrigerated Transportation, Inc., assigned for hearing January 10, 1972, will be held in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC 115841 Sub 387, Colonial Refrigerated Transportation, Inc., assigned January 17, 1972, will be held in Room 812, Federal Office Building, 106 South 15th Street, Omaha, NE.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-18058 Filed 12-8-71;8:52 am]

[Rev. S.O. No. 994; ICC Order No. 62-A]

CHESAPEAKE AND OHIO RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 62 (The Chesapeake and Ohio Railway Co.) and good cause appearing therefor:

It is ordered, That:

(a) ICC Order No. 62 be, and it is hereby, vacated and set aside.

(b) *Effective date.* This order shall become effective at 11:59 p.m., December 7, 1971.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 3, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.71-18063 Filed 12-8-71;8:52 am]

[S.O. No. 1079-A]

C. S. GREEN AND CO., INC.

Authorization To Operate to Halifax, Nova Scotia, and Montreal, Quebec, Canada and Other Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of November 1971.

Upon further consideration of Service Order No. 1079 (36 F.R. 19721, 20803, 22340) and good cause appearing therefor:

It is ordered, That:

Service Order No. 1079 (C. S. Green and Co., Inc., authorized to operate to Halifax, Nova Scotia, and Montreal,

Quebec, Canada and other ports) be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall become effective at 11:59 p.m., December 4, 1971; that copies of this order and direction shall be served upon said freight forwarder; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18065 Filed 12-8-71;8:52 am]

[S.O. No. 1080-A]

NEW ENGLAND FORWARDING CO., INC.

Authorization To Operate Through Halifax, Nova Scotia, and Other Canadian Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of November 1971.

Upon further consideration of Service Order No. 1080 (36 F.R. 20467, 21239, 22340) and good cause appearing therefor:

It is ordered, That:

Service Order No. 1080-A (New England Forwarding Co., Inc., authorized to operate through Halifax, Nova Scotia, and other Canadian ports) be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall become effective at 11:59 p.m., December 4, 1971; that copies of this order and direction shall be served upon said freight forwarders; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18066 Filed 12-8-71;8:52 am]

[S.O. No. 1082-A]

STAR FORWARDERS, INC.

Authorization to Operate Through Halifax, Nova Scotia, and Montreal, Quebec, Canada and Other Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of November 1971.

Upon further consideration of Service Order No. 1082 (36 F.R. 21015) and good cause appearing therefor:

It is ordered, That:

Service Order 1082-A (Star Forwarders, Inc., authorized to operate through Halifax, Nova Scotia, and Montreal, Quebec, Canada and other Ports) be, and it is hereby, vacated and set aside.

It is further ordered, That this order shall become effective at 11:59 p.m., December 4, 1971; that copies of this order and direction shall be served upon said freight forwarders; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18067 Filed 12-8-71;8:53 am]

[No. 35475 (Sub-No. 1)]

RAILROAD FREIGHT RATE STRUCTURE BETWEEN SOUTH ATLANTIC AND GULF PORTS AND MIDWEST AND SOUTH

Petition for Investigation

NOVEMBER 18, 1971.

Notice is hereby given that on October 7, 1971, the Georgia Ports Authority filed a petition with the Interstate Commerce Commission requesting the Commission, on its own motion, as authorized in section 13(2) of the Interstate Commerce Act, to institute an investigation of the railroad freight rate structure for trailer-on-flatcar (TOFC) and container-on-flatcar (COFC) movements (particularly ramp-to-ramp service) between South Atlantic and Gulf (Southern) ports, and points in the Midwest (in so-called Southern Ports Foreign Freight Committee Territory), and also between the same ports and points in Southern Freight Association Territory, on traffic having a prior or subsequent movement by water. Letters dated October 22 and 27, 1971, in support of the petition were received from Hohenstein Shipping Co., Stevens Shipping & Terminal Co., and Texas Transport & Terminal Co., Inc.

In support of the request, the petitioner avers that the railroads are generally applying their domestic rates for the inland movement of TOFC and COFC containerzied shipments of waterborne traffic; that these rates are usually predicated on a distance formula to meet motor carrier competition; that while some commodity rates have been established between points in the Midwest and Gulf Ports, only one such rate has been established from Savannnah, Ga.; that this rate structure has created a railroad rate advantage for the port nearest the inland points, and a competitive disadvantage for the Port of Savannah; petitioner claims that traditionally the railroads have maintained between points in the Midwest and Southern Ports exclusive export-import rates on conventional rail traffic, which reflect port relationships. Petitioner urges that the present rate structure for movements in ramp-to-ramp service of steamship containers and/or trailers between points in Midwestern and Southern territories and the South Atlantic and Gulf Ports may be unjust and unreasonable and prejudicial, in violation of particular sections of the act.

Petitioner prays that the Commission, "upon completion of its investigation, find the present rate structure * * * inadequate and harmful to the commerce of Georgia's ports in violation of section 1(4) of the Interstate Commerce Act and order the railroads to establish exclusive export-import related rates or prescribe such a basis, on the traffic described above."

General public notification of the filing of the petition and of the letters in support will be given by publication of this notice in the FEDERAL REGISTER.

Any persons interested in the matters involved may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of 2 copies thereof upon petitioners, Sam H. Lloyd, Traffic Manager, Georgia Ports Authority, 1131 Healey Building, Atlanta, Ga., 30303. Thereafter, a determination will be made whether to institute an investigation, and if so, the nature of further proceedings will be fixed.

Copies of this notice are being sent to the petitioner, Hohenstein Shipping Co., Stevens Shipping & Terminal Co., and Texas Transport & Terminal Co., Inc. Copies of all future releases herein will be served only on the petitioner and those responding to this notice.

Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C., during regular business hours.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18064 Filed 12-8-71;8:52 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 6, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 42314—*Wheat, wheat products, barley, and malt to north coast ports.* Filed by North Pacific Coast Freight Bureau, Agent (No. 71-1), for interested rail carriers. Rates on wheat, wheat products, barley, and malt, in carloads, from points in Montana to north coast ports.

Grounds for relief—Unregulated truck competition.

Tariff—Supplement 79 to North Pacific Coast Freight Bureau, Agent tariff ICC 1117. Rates are published to become effective on January 5, 1972.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18059 Filed 12-8-71;8:52 am]

[Notice 406]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 2, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2228 (Sub-No. 63 TA) (correction), filed November 3, 1971, published in the FEDERAL REGISTER issue of November 18, 1971, corrected in part and republished as corrected this issue. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Highway 80 (Post Office Drawer 270), Abilene, TX 79604. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. NOTE: The purpose of this partial republication is to correctly set forth the authority in (1) as follows: Between Dallas, Tex., and Beaumont, Tex., serving all intermediate points: From Dallas over U.S. Highway 175 to Jacksonville, thence over U.S. Highway 69 to Beaumont. The previous publication reflected U.S. Highway 9. The rest of the application remains the same.

No. MC 30867 (Sub-No. 180 TA), filed November 23, 1971. Applicant: CENTRAL FREIGHT LINES INC., 303 South 12th Street, Post Office Box 238, Waco, TX 76703. Applicant's representative: Phillip Robinson, 904 Lavaca Building, Post Office Box 2207, Austin, TX 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, from Granbury, Tex., to the DeCordova Steam Electric Station, Texas Power & Light Co., Hood County, Tex., as follows: From Granbury, Tex., over Texas Highway 144 5.9 miles to its intersection with Farm Road 2425, thence over Farm Road 2425 1.9 miles to its intersection with unnumbered road, thence over unnumbered road 2.9 miles to the site of the DeCordova Steam Electric Station, Texas Power & Light Co., Hood County, Tex., and return over the same route, serving all intermediate points, for 180 days. NOTE: Applicant intends to tack the authority here applied for with all service now authorized in MC 30867. Supporting shipper: Texas Power & Light Co., Post Office Box 6331, 1511 Bryan Street, Dallas, TX 75222. Send protests to: H. C. Morrison, Sr., transportation specialist, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 19778 (Sub-No. 77 TA), filed November 22, 1971. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION COMPANY, 516 West Jackson Boulevard, Room 508, Chicago, IL 60606. Applicant's representative: L. H. Tietz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, between Chamberlain, S. Dak., on the one hand, and, on the other, points in Boyd, Holt, Garfield, Antelope, Wheeler, and Knox Counties, Nebr. Restriction: Service authorized is restricted to traffic having a prior or subsequent movement by rail, for 180 days. Supporting shipper: John E. Doane, director of transportation and terminals, South Dakota Cement Plant, Rapid City, S. Dak. Send protests to: William J. Gray, Jr., district supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 107295 (Sub-No. 574 TA), filed November 22, 1971. Applicant: PRE-FAB TRANSIT COMPANY, Post Office Box 146, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete roof tile*, from points in Knox County, Ind., to points in Alabama, Arkansas, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shipper: Paul Hamilton, general manager, Indiana Tile Industries, Post Office Box 1006, Vincennes, IN 47591. Send protests to: Harold C. Jolliff, district supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 113267 (Sub-No. 275 TA), filed November 23, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bags and bagging*, from Nashville, Tenn., to points in Iowa, Minnesota, and Missouri (except St. Louis and Kansas City and their commercial zones), for 150 days. Supporting shipper: John R. Pedigo, traffic manager, Werthan Industries, Inc., 1400 8th Avenue North, Nashville, TN 37202. Send protests to: Harold C. Jolliff, district supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 113703 (Sub-No. 2 TA), filed November 23, 1971. Applicant: TOTEM TRANSIT COMPANY, 5238 North Amherst, Portland, OR 97203. Applicant's representative: Robert G. Simpson, Plaza Building, Portland, Oreg. 97204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated poles and piling*, from Multnomah County, Oreg., to points in California north of San Luis, Obispo, Kern, and San Bernardino Counties, for 180 days. Supporting shipper: McCormick & Baxter Creosoting Co., Post Office Box 3048, Portland, OR 97208. Send protests to: A. E. Odoms, district supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg.

No. MC 116092 (Sub-No. 3 TA), filed November 24, 1971. Applicant: E. J. PERSONS TRANSPORT LTD., 785 Main Street, Sweetsburg, PQ Canada. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from port of entry on the United States-Canada international boundary at or near Highgate Springs, Richford, and Troy, Vt., to points in Connecticut, Main, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, with refused and rejected shipments on return. Restriction: Restricted to shipments originating in Canada destined to points in the United States, for 180 days. Supporting shippers: Syndicat de Normandin Lumber Ltd. 9075 Pascal Gagnon, Montreal 458, PQ Canada; Simon Lussier Ltee., 129 Montee du Moulin, Laval-des-Rapides, Ville de Laval, PQ Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, Vt. 05602.

No. MC 117574 (Sub-No. 212 TA), filed November 22, 1971. Applicant: DAILY EXPRESS, INC., Post Office Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Applicant's representative: James W. Hagar, Post Office Box 116, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous fiber pipe, conduit, parts, attachments and fittings*, from West Bend, Wis., to points in Florida, Georgia, Illinois,

Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Tennessee, for 180 days. Supporting shipper: Fibre Products Division, McGraw-Edison Co., Post Office Box 238, West Bend, WI 53095. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 123392 (Sub-No. 33 TA), filed November 22, 1971. Applicant: JACK B. KELLEY, INC., 3801 Virginia Street, Amarillo, TX 79109. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ethylene gas*, in bulk, in tube trailers, from Norco, La., to Emeryville, Calif., for 150 days. Supporting shipper: D. M. Morgan, Buyer-Purchasing, Shell Development Co., 1400 53d Street, Emeryville, CA 94608. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395, Herring Plaza, Amarillo, TX 79101.

No. MC 123407 (Sub-No. 97 TA), filed November 22, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring systems, hardwood flooring, lumber, lumber products and accessories*, used in the installation thereof, from Dollar Bay, Mich., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. Supporting shipper: Horner Flooring Co., Dollar Bay, Mich. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 124111 (Sub-No. 33 TA), filed November 23, 1971. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Avenue, Post Office Box 2297, Sandusky, OH 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and bakery products*, from Detroit, and Livonia, Mich., and their commercial zones, to points in New Jersey; Philadelphia and Pittsburgh, Pa.; New York City, Buffalo, Syracuse, Albany, Rochester, Seneca Falls, Peekskill, and Mohapec, N.Y.; Brockton and Boston, Mass.; Hartford, Conn.; Providence and Pawtucket, R.I.; Baltimore, Md.; Arlington, Norfolk, and Richmond, Va.; and Washington, D.C., for 180 days. Supporting shippers: Awery Bakeries, Inc. (Food Service Division), 12301 Farmington Road, Livonia, MI 48150; Turri's Italian Foods, Inc., 11135 Gratiot Avenue, Detroit, MI 48213. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 126276 (Sub-No. 60 TA), filed November 19, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 South Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends and closures* in mixed loads, from (1) the plantsites of Crown Cork & Seal Co., Inc., at Orlando, Fla., to Springfield, Mo.; and (2) from the plantsites of Crown Cork & Seal Co., Inc., at Chicago and Bradley, Ill., to Bellemead, N.J., and Berkley, R.I., for 180 days. Supporting shipper: Edward H. Fishkens, General Traffic Manager, Crown Cork & Seal Co., Inc., 3501 West 31st Street, Chicago, IL 60623. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 133478 (Sub-No. 4 TA), filed November 24, 1971. Applicant: HEARIN FOREST INDUSTRIES, INC., doing business as HEARIN TRANSPORTATION CO., Post Office Box 25387, 4854 Southwest Scholls Ferry Road, Portland, OR 97225. Applicant's representative: Nick I. Goyak, 404 Oregon National Building, 610 Southwest Alder Street, Portland, OR 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plywood paneling stock, paint, mill machiney, and material*, used in connection with manufacturing of wood and plywood products, from Seattle, Vancouver, and Longview, Wash., to the plantsite of Hearin Products, Inc., at Beaverton, Oreg., for 180 days. Supporting shipper: Hearin Products, Inc., Post Office Box 25387, Portland, OR 97225. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 135153 (Sub-No. 13 TA), filed November 22, 1971. Applicant: GREAT OVERLAND, INC., 1730 Saber Street, Sparks, NV 89431. Applicant's representative: Harley E. Laughlin, Sparks, Nev. 89431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities used by National Beef Packing Co., at or near Liberal, Kans., to points in Massachusetts, Connecticut, Vermont, New Hampshire, Maine, New York, Rhode Island, Pennsylvania, New Jersey, and Maryland, for 180 days. Supporting shipper: National Beef Packing Co., 1501 East Eighth Street, Liberal, KS. Send protests to: District Supervisor Wm. E. Murphy, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 135283 (Sub-No. 7 TA), filed November 22, 1971. Applicant: GRAND ISLAND MOVING & STORAGE CO. INC., Post Office Box 1665, East Highway 30, Grand Island, NE 68801. Applicant's representative: James D. Pirnie (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from the plantsite and storage facilities of Minden Beef Co., at or near Minden, Nebr., to points in Illinois, for 180 days. Supporting shipper: Rodney Christensen, Transportation Manager, Minden Beef Co., Post Office Box 70, Minden, NE 68959. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 136175 TA, filed November 23, 1971. Applicant: ALFRED BOUDREAU, 374 est, Main Coaticook (Stanstead), Quebec. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood chips*, from ports of entry on the international boundary lines between the United States and Canada located in Maine, New Hampshire, Vermont, and New York, to points in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, for 180 days. Supporting shippers: Emile Faucher, Inc., 402 Merrill Street, Coaticook (Stanstead) Quebec; Scieries De L'Est Inc., Dixville (Stanstead), Quebec; Coaticook Sawmills Ltd., Coaticook (Standstead), Quebec. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-18060 Filed 12-8-71;8:52 am]

[Notice 407]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 3, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be

served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 30383 (Sub-No. 8 TA), filed November 29, 1971. Applicant: JOSEPH F. WHELAN CO., INC., 439 West 54th Street, New York, NY 10019. Applicant's representative: Zelby & Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper products and plastic bags*, from Harrison, N.J., to New York, N.Y., to points in Nassau, Suffolk, and Westchester Counties, N.Y., Hartford County, Conn., Philadelphia, Montgomery, and Delaware Counties, Pa. under continuing contract with Hudson Pulp & Paper Co. for 180 days. Supporting shipper: Hudson Pulp & Paper Corp., Attention: Frank J. Kahn, Director of Physical Distribution, 477 Madison Avenue, New York, NY 10022. Send protests to: Stephen P. Tomany, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, Room 1007, New York, N.Y. 10007.

No. MC 105159 (Sub-No. 24 TA), filed November 26, 1971. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, MN 55066. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dried egg products* with or without additives and (2) *commodities*, exempt under section 203(b) of the Interstate Commerce Act when moving in mixed loads with commodities subject to economic regulations under the Interstate Commerce Act described in (1) above, from Marshall and Pipestone, Minn., to points in the following: Washington, Oregon, California, Nevada, Arizona, Utah, Boise, Idaho; Billings, Mont.; Colorado, Texas, Oklahoma, Nebraska, Kansas, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Kentucky, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, and Florida, for 180 days. Supporting shipper: Marshall Produce Co., Egg Products, Division of Marshall Foods, Marshall, Minn. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 111103 (Sub-No. 38 TA), filed November 26, 1971. Applicant: PROTECTIVE MOTOR SERVICE COMPANY, INC., 725–729 South Broad Street, Philadelphia, PA 19147. Applicant's representative: Charles E. Cole (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Coral Gables, Fla., on the one hand, and, on the other, Atlanta, Ga.; Baltimore, Md.; Birmingham, Ala.; Boston, Mass.; Buffalo, New York, and West Point, N.Y.; Charlotte, N.C.; Chicago, Ill.; Cincinnati and Cleveland, Ohio; Culpeper and Richmond, Va.; Dallas, El Paso, Houston, and San Antonio, Tex.; Denver, Colo.; Detroit, Mich.; Fort Knox and Louisville, Ky.; Helena, Mont.; Kansas City and St. Louis, Mo.; Little Rock, Ark.; Los Angeles and San Francisco, Calif.; Memphis and Nashville, Tenn.; Minneapolis, Minn.; New Orleans, La.; Oklahoma City, Okla.; Omaha, Nebr.; Philadelphia and Pittsburgh, Pa.; Portland, Oreg.; Salt Lake City, Utah; Seattle, Wash.; and Washington, D.C., for 180 days. Supporting shipper: General Services Administration, Transportation and Communications Service, Washington, D.C. 20405. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 112520 (Sub-No. 250 TA), filed November 26, 1971. Applicant: McKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, from points in Escambia County, Ala., and Escambia County and Santa Rosa County, Fla., to points in Louisiana, Mississippi, Alabama, Georgia, and Florida, for 180 days. Supporting shipper: Freeport Sulphur Co., a division of Freeport Minerals Co., 161 East 42d Street, New York, NY 10017. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 113959 (Sub-No. 3 TA), filed November 26, 1971. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, VA 24354. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste materials*, in bulk, in tank vehicles, from the plantsite of Hercules, Inc., Radford Army Ammunition Plant at or near Radford, Va., to Champion Paper, Inc., division of U.S. Plywood, at or near Canton, N.C., for 180 days. Supporting shipper: Hercules, Inc., Radford Army Ammunition Plant, Radford, Va. Send protests to: Clatin M. Harmon, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 215 Campbell Avenue SW., Roanoke, VA 24011.

No. MC 120736 (Sub-No. 2 TA), filed November 26, 1971. Applicant: STROTHMAN EXPRESS, INC., 2735 Spring Grove Avenue, Cincinnati, OH 45225. Applicant's representative: Paul F. Beery, Suite 1660, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Cincinnati, Ohio, on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky, and Indiana, for 180 days. Supporting shippers: General Foods Corp., 250 North Street, White Plains, NY 10602; Merchants Cold Storage, division of Kraftco Corp., 1 Queensgate Lane, Cincinnati, OH 45203; Cincinnati Terminal Warehouses, Inc., 49 Central Avenue, Cincinnati, OH 45202. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 124333 (Sub-No. 17 TA), filed November 24, 1971. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, Del. 19720. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Philadelphia, Pa., to Dover, Del., for the account of the City of Dover, Del., for 180 days. Supporting shipper: City of Dover, Dover, Del. 19901. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 135676 (Sub-No. 1 TA), filed November 26, 1971. Applicant: RAYMOND L. SENN, doing business as MIDSTATE CARTAGE, 901 Mines Road, Post Office Box SS, Socorro, NM 87801. Applicant's representative: Raymond L. Senn (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, supplies, and tools* new or used, from Socorro, N. Mex., to Arizona line to the west, Vaughn, N. Mex., to the east. All A.T. & T. facilities adjacent to U.S. Highway 60 between these points, for 180 days. Supporting shipper: Western Electric Co., Inc., 111 Havana Street, Aurora, CO 80010. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, NM 87101.

No MC 135871 (Sub-No. 2 TA), filed November 26, 1971. Applicant: H.G.M. TRANSPORT COMPANY, 1079 West Side Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over

irregular routes, transporting: *Such commodities* as are dealt in by department stores, and supplies and equipment used in the conduct of such business, for the account of S. E. Nichols, Inc., between New York, N.Y., and Jersey City, N.J. (including the commercial zones of these points as prescribed by the Interstate Commerce Commission), on the one hand, and, on the other, points in Delaware, New Jersey, New York, Ohio, Virginia, and West Virginia, for 150 days. Supporting shipper: S. E. Nichols, Inc., 500 Eighth Avenue, New York, NY 10018. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136171 TA, filed November 19, 1971. Applicant: CITRUSALES, INC., 12230 State Road 84, Davie, FL 33314. Applicant's representatives: Stephen W. Arky, Suite 740 Ingraham Building, 25 Southeast Second Avenue, Miami, FL 33131. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products*, not canned and not frozen, in bulk, in tank vehicles, from Orlando, Fla., to Lansing, Mich., Cuyahoga Falls, Ohio, Midland Park, N.J., Long Island and Yonkers, N.Y., for 180 days. Supporting shipper: Southern Gold Citrus Products, Inc., 2601 Eunice Avenue, Orlando, FL 32804. Send protests to: District Supervisor Joseph T. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 136176 (Sub-No. 1 TA), filed November 26, 1971. Applicant: INDEPENDENT TRANSPORTATION, INC., Kanopolis, Kans. 67454. Applicant's representative: Patrick E. Quinn, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, between points in Colorado, Kansas, Minnesota, Iowa, and Missouri. All shipments to be handled under the authority being sought herein are restricted to those having an immediate prior movement by rail or barge, for 180 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority which may be granted it, or to interline with other carriers. Supporting shipper: M. D. Keener, Traffic Manager, Independent Salt Co., Kanopolis, Kans. 67454. Send protests to: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 136181 TA, filed November 26, 1971. Applicant: MARINE STEVEDORING CORPORATION, 834 Widgeon Road, Norfolk, VA 23513. Applicant's representative: Samuel P. Johnson, III, 20 East Tabb, Petersburg, VA. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Container and containerized goods* (general commodities) between points in Norfolk, Virginia Beach, Chesapeake, Newport News, Portsmouth, and Hampton, Va., commercial zones, for 180 days. Supporting shipper: United States Lines, Inc., 200 East Main Street, Norfolk, VA. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 136183 TA, filed November 26, 1971. Applicant: JOE CASTA, doing business as TRINIDAD FREIGHT SERVICE, Santa Fe Yards, Trinidad, Colo. 81082. Applicant's representative: Joe Costa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods, commodities in bulk, dangerous explosives, those requiring special equipment and unusual value and refrigeration, between Trinidad, Colo., and Raton, N. Mex., over Interstate Highway 25, for 180 days. Supporting shippers: The Mason Candy Co., 411 Market Street, Trinidad, CO 81082; J. C. Penney Co., Inc., 228 South Second Street, Raton, NM; The Hausman Drug Co., Inc., Trinidad, Colo. 81082; Tom's Plumbing & Heating, 401 South First Street, Box 52, Raton, NM; C & M Automotive Supply, 450 West Main Street, Trinidad, CO 81082; Goodyear Service Stores, 245 North Second, Raton, NM 57740. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

MOTOR CARRIER OF PASSENGERS

No. MC 136173 TA, filed November 24, 1971. Applicant: MARYLAND BUS LINES, INC., 5017 Cook Road, Beltsville, MD 20705. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations in a roundtrip service, beginning and ending at Minnesota and Benning Road NE., and Fourth and Michigan Avenue NE., Washington, D.C., and extending to the U.S. Adjutant General's Publication Center, 2800 Eastern Boulevard, Middle River, MD, and return. The service authorized herein are restricted to the transportation of persons employed at the U.S. Adjutant General's Publication Center at Middle River, Md., for 150 days. Supported by: The application is supported by signatures of 26 persons who are employed at the U.S. Adjutant General's Publication Center at Middle River, Md., they may be examined in the District Supervisor's office. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, DC 20423.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18061 Filed 12-8-71;8:52 am]

[Notice 793]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 6, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73157. By order of November 30, 1971, the Motor Carrier Board approved the transfer to Leiphart Bus Co., Inc., York, Pa., of the operating rights in Certificate No. MC 84697 issued June 8, 1942, to William H. Leiphart, Jr., York, Pa., authorizing the transportation of passengers and their baggage, restricted to traffic originating at the point and in the territory indicated, in charter operations, from York, Pa., and points in Pennsylvania within 15 miles of York, to points in New Jersey, Delaware, Maryland, and District of Columbia, and return. Lewis H. Markowitz, 141 East Market Street, York, PA 17405, attorney for applicants.

No. MC-FC-73297. By order of November 30, 1971, the Motor Carrier Board approved the transfer to Lans Warehouse Co., a corporation, Providence, R.I., of Certificate No. MC 3459 issued December 8, 1953 to Albin S. Lans and Arthur H. Lans, a partnership doing business as Lans Warehouse Co., Providence, R.I., authorizing the transportation of: Household goods, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, West Virginia, Ohio, North Carolina, and the District of Columbia. John H. Reid, III, 15 Westminister Street, Providence, RI 02903, attorney for transfer and transferor.

No. MC-FC-73298. By order of November 30, 1971, the Motor Carrier Board approved the transfer to Manuel Vazquez, Philadelphia, Pa., of the operating rights in Certificate No. MC 16729 issued March 29, 1965, to James F. Kelley, Philadelphia, Pa., authorizing the transportation of household goods, as defined by the Commission, and furniture and fixtures used in billard parlors, bowling alleys, and retail liquor establishments, between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, and New York; and cut flowers, from Philadelphia, Pa., to Wilmington, Del. Edwin L. Scherlis, Lewis Tower Building, 15th and Locust Streets, Philadelphia, PA 19102, attorney for applicants.

No. MC-FC-73326. By order of November 30, 1971, the Motor Carrier Board approved the transfer to R.M.D., Inc., Columbus, Ohio, of Certificate of Registration No. MC 96823 (Sub-No. 1), issued June 16, 1965, to Jet Express, Inc., Columbus, Ohio, and as amended by order of June 20, 1968, Atkinson Lines Co., Columbus, Ohio, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Public Convenience and Necessity No. 1329-I issued by the Public Utilities Commission of Ohio. A. Charles Tell, 100 East Broad Street, Columbus, OH 43215, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-18062 Filed 12-8-71;8:52 am]

[Notice 97]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 3, 1971.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 111 (Sub-No. 11), filed November 9, 1971. Applicant: VIGEANT MOTOR FREIGHT, INC., Post Office Box 157, Castleton-on-Hudson, NY 12033. Applicant's representative: Wilmot E. James, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, printing from Newton Falls, N.Y., to Brattleboro, Vt. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y., or New York, N.Y.

No. MC 1936 (Sub-No. 37), filed November 1, 1971. Applicant: B&P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, PA 15224. Applicant's representative: Brenda P. Murray, 530 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, with the usual exceptions, serving the plantsite of the Borg & Beck Division of Berg-Warner Corp., Sterling Heights, Mich., as an off-route point in connection with applicant's regular route operations to and from Detroit, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 1936 (Sub-No. 38), filed November 1, 1971. Applicant: B&P MOTOR EXPRESS, INC., 720 Gross Street, Pittsburgh, PA 15224. Applicant's representative: Brenda P. Murray, 530 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Commodities*, the transportation of which because of their size or weight requires the use of special equipment, (1) between points in Belmont County, Ohio, on the one hand, and, on the other, points in Pennsylvania, and those in Brooke, Hancock, and Ohio Counties, W. Va., and (2) between points in Belmont County, Ohio, on the one hand, and, on the other, points in New York, Pennsylvania, West Virginia, Kentucky, Indiana, Illinois, and Michigan. NOTE: Applicant states this application seeks Belmont County, Ohio, as an alternate to its present gateways through which applicant can operate and render the entire service applied for in this application. Applicant must now traverse a point in Cuyahoga, Lake, Lorain, and Medina Counties, Ohio, or a point in Ohio on and east of U.S. Highway 23 from the Michigan-Ohio State line to junction U.S. Highway 224, thence on and north of U.S. Highway 224 to Ellsworth, Ohio, and thence on and east of Ohio Highway 45 to Wellsville, Ohio. It proposes to tack its regular route authority and irregular route authority under Sub 27 with the authority sought in this application for transportation through the alternate gateway herein sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 2900 (Sub-No. 217), filed November 1, 1971. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of PPG Industries, Inc., at or near Mount Holly Springs, Pa., as an off-route point in connection with applicant's presently authorized routes. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 16682 (Sub-No. 83), filed October 29, 1971. Applicant: MURAL TRANSPORT, INC., 2900 Review Avenue, Long Island City, NY 11101. Applicant's representative: S. S. Eisen, 370 Lexington Avenue, New York, NY 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, and commercial and institutional furniture, fixtures, and equipment*, between points in Clay and Greene Counties, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through

tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 19157 (Sub-No. 16), filed November 1, 1971. Applicant: MCCORMACK'S HIGHWAY TRANSPORTATION, INC., Rural Delivery 3, Box 4, Campbell Road, Schenectady, NY 12306. Applicant's representative: Anthony C. Vance, Suite 501, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric tractors, self-propelled, and parts, attachments, materials, and supplies* (except commodities which by reason of size or weight require the use of special equipment), between Scotia, N.Y., on the one hand, and, on the other, points in Connecticut, Illinois, Maryland, Indiana, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Vermont, Virginia, Maine, New Hampshire, Rhode Island, Delaware, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Alabama, Florida, Louisiana, West Virginia, Mississippi, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. This application is accompanied by a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Schenectady, N.Y., or Washington, D.C.

No. MC 21455 (Sub-No. 27), filed October 27, 1971. Applicant: GENE MITCHELL CO., a corporation, West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and animal health products*, between Williamsburg, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 29910 (Sub-No. 108), filed November 1, 1971. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, Kelley Building, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper cable and wire*, from the plantsites and warehouse facilities of Phelps Dodge Communications Co., located at or near Fordyce, Ark., to points in Illinois, Indiana, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 30844 (Sub-No. 374), filed October 22, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representative: Truman S. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, as listed in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsites and storage facilities of Swift Fresh Meats Co., at Clovis, N. Mex., Guymon, Okla., and Scottsbluff, Nebr., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New York, Connecticut, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, West Virginia, and the District of Columbia, restricted to apply only on shipments originating at the above-named plantsites and destined to the above-named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 43038 (Sub-No. 448), filed November 10, 1971. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, MI 48174. Applicant's representative: E. Phillips Malone, 3800 Frederica Street, Owensboro, KY 42301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, complete or not complete, set up or not set up, and *parts and accessories* moving in connection with shipments thereof, in secondary movements, in driveaway service, from Salt Lake City, Utah, to points in Idaho, Nevada, Oregon, Utah, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Salt Lake City, Utah, or Washington, D.C.

No. MC 43038 (Sub-No. 449), filed November 8, 1971. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, MI 48174. Applicant's representative: E. Phillips Malone, 3800 Frederica Street, Owensboro, KY 42301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, complete or not complete, set up or not set up, and *parts and accessories* moving in connection with shipments thereof, in secondary movements, in truckaway service, from Salt Lake City, Utah, to points in Idaho and Oregon. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Salt Lake City, Utah, or Washington, D.C.

No. MC 44639 (Sub-No. 47), filed November 8, 1971. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel, between Bland, Va., on the one hand, and, on the other, Crewe, Va. NOTE: Applicant states that the requested authority can be tacked at Crewe, Va., with the authority under MC 44639, wherein applicant is authorized to serve points in North Carolina, New Jersey, New York, Maryland, and Virginia. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Crewe, Va.

No. MC 51146 (Sub-No. 241), filed October 29, 1971. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: D. F. Martin, Post Office Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, from Fond du Lac, Viroqua, Oostburg, Town of Forest in Fond du Lac County, and Green County, Wis., Newman Grove, Nebr., and Mitchell, S. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies*, from destination states outlined in (1) above to the origins outlined in (1) above. NOTE: Applicant states that the requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible. Applicant has various duplicative items of authority under various subs but does not seek duplicative authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 56679 (Sub-No. 55), filed October 28, 1971. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue SE., Atlanta, GA 30315. Applicant's representative: B. K. McClain (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, frozen and not frozen, from points in Utah to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Salt Lake City, Utah.

No. MC 56679 (Sub-No. 56), filed November 3, 1971. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue SE., Atlanta, GA 30315. Applicant's representative: B. K. McClain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in

Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766; (1) from the plantsite of Swift & Co., Grand Island, Nebr., to points in Florida and Tennessee; and (2) from the plantsite of Bookey Packing Co., Des Moines, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Atlanta, Ga.

No. MC 61592 (Sub-No. 248), filed November 8, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: R. Connor Wiggins, Jr., 100 North Main Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, molding and trim, and advertising and display materials, paint stains and nails*, when moving in the same shipment with plywood, molding, and trim, from the plantsite of Pavco Industries, Inc., at Pascogoula, Miss., to points in Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Texas, Tennessee, Kentucky, Kansas, North Carolina, South Carolina, Illinois, Missouri, Michigan, Ohio, Virginia, New York, New Jersey, Oklahoma, Maryland, West Virginia, Pennsylvania, Indiana, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 61592 (Sub-No. 249), filed November 8, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: R. Connor Wiggins, Jr., 100 North Main Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed clay*, from points in Jefferson County, Ga, to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 75302 (Sub-No. 11), filed November 10, 1971. Applicant: DOUDELL TRUCKING COMPANY, a corporation, 545 Queen's Row, Post Office Box 842, San Jose, CA 95106. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1400, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel, and iron and steel articles* as described in Motor Carrier Certificates, ex parte No. MC-45; (2) *commodities which by reason of size or weight require special handling or the use of special equipment, and commodities which do not require special handling or the use of special equipment* when moving in the same shipment, on the same bill of lading as commodities which, by reason of size or weight, require special handling or the use of special equipment; (3) *Construction materials, equipment, and supplies;* and (4) *sewer pipe and fittings, fiber-vituminized or indurated; conduits and connections, fiber-vituminized or indurated;* between points in California, on the one hand, and, on the other, points in Arizona, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington. NOTE: Applicant states that it has no present intentions to tack the requested authority to its existing authority, however, should a certificate issued herein restrict service from and to points in California, its present certificate under MC 75302 (Sub-No. 8) authorizing service between points in California specified therein would be tacked if possible. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., Los Angeles, Calif., or Phoenix, Ariz.

No. MC 93682 (Sub-No. 17), filed November 8, 1971. Applicant: COLE'S EXPRESS, a corporation, 444 Perry Road, Bangor, ME 04401. Applicant's representative: Francis P. Barrett, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving Somersworth, N.H., as off-route point in connection with presently authorized regular route operations between Portland, Maine, and Boston, Mass., restricted to the transportation of traffic received from or delivered to connecting carriers at Somersworth, N.H. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 95540 (Sub-No. 824), filed November 8, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, hides, and skins), from Eau Claire, Wis., to points in Connecticut, Florida, Louisiana, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, South Carolina, and Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 95540 (Sub-No. 825), filed November 8, 1971. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Colorado to points in Connecticut, Delaware, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 95540 (Sub-No. 826), filed November 8, 1971. Applicant: WATKING MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except hides and commodities in bulk), from Oklahoma City, Okla., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 100449 (Sub-No. 31), filed November 8, 1971. Applicant: MALLINGER TRUCK LINE, INC., Otho, Iowa 50569. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from Ottumwa, Iowa, to points in Minnesota, Nebraska, North Dakota, South Dakota, and Kansas City and St. Joseph, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 103498 (Sub-No. 23), filed November 10, 1971. Applicant: W. D. SMITH TRUCK LINE, INC., Post Office Box 68, DeQueen, AR 71832. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from the plantsite and storage facilities of Wilmar Plywood, Inc., at or near Natchitoches, La., to points in Arkansas, Missouri, Iowa, Nebraska, Kansas, Oklahoma, Texas, Colorado, New Mexico, Illinois, Indiana, Kentucky, Tennessee, Mississippi, Alabama, and Georgia, restricted to traffic originating at the named origin points and destined to named destination States. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 105566 (Sub-No. 64), filed November 9, 1971. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, 2111 Jefferson Davis Highway, Arlington, VA 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products*, as described in section B of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and *imitation dairy products* (Malerin); (2) *cottage cheese, yogurt, ice cream products, sherbets, water ices and water ice products*, in containers; and (3) *fruit drinks and juices, fresh and frozen*, in containers, from Indianapolis, Ind., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, California, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Washington, D.C.

No. MC 106497 (Sub-No. 62), filed October 14, 1971. Applicant: PARKHILL TRUCK COMPANY, a corporation, Post Office Box 912, Joplin, MO 64801. Applicant's representative: A. N. Jacobs, Post Office Box 113, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Asphalt mixing machinery, storage systems, storage silos, surge systems, control centers, heaters and equipment, parts, materials, and supplies* used in construction or installation of said commodities; and (2) *fabricated steel tanks, dye machines, steamers and parts and accessories* used in the installation thereof, between points in Tennessee, on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that tacking is feasible with MC 106497 and Subs Nos. 3, 17, and 32 on pipe and Mercer type commodites, but tacking is not intended. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 107064 (Sub-No. 85), filed November 3, 1971. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, 2808 Fairmount, Dallas, TX 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from points in Howard County, Tex., to points in the United States (except those in Alaska, Arizona, Colorado, Hawaii, and New Mexico). NOTE: Applicant states it will tack with base docket authority in Texas west of U.S. Highway 83. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 107295 (Sub-No. 566), filed November 8, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Florence, Ky., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 107295 (Sub-No. 567), filed November 8, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Panels, shingles, outriggers, trusses, pylons, roofing materials, plywood, siding, aluminum, angles, aluminum studs, and accessories*, used in the installation thereof, from Paris, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107295 (Sub-No. 568), filed November 8, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from New Orleans, La., to points in the United States (except Arkansas, Minnesota, Nebraska, Nevada, North Dakota, South Dakota, Utah, Wyoming, Alaska, and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplications are anticipated. However, should any develop, full disclosure will be made at the hearing. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 107295 (Sub-No. 569), filed November 8, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane and urethane products, urethane roofing and insulation, and materials* used in installation thereof, from the plantsite of The Philip Carey Co., Division of Panacon Corp., Elizabethtown, Ky., to points in and east of Montana, Wyoming, Colorado, and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati or Columbus, Ohio.

No. MC 107295 (Sub-No. 571), filed November 9, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chimney assemblies; chimney pipe and venting; and accessories*, from points in Hocking County, Ohio, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 107295 (Sub-No. 575), filed November 15, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain door assemblies and accessories, including lumber, paper, nails, steel braces, wire and straps*, from Kansas City, Kans., to points in Arkansas, Illinois, Iowa, Missouri, Nebraska, Oklahoma, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 107295 (Sub-No. 576), filed November 16, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mortar cement, carpet and linoleum paste cement, waterproofing compounds, and cleaning compounds*,

from Houston, Tex., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 108117 (Sub-No. 6), filed November 8, 1971. Applicant: WILLIAM H. PATTERSON, JR., AND RALPH PATTERSON, a partnership, doing business as PATTERSON TRUCKING, 46 Waln Avenue, Yardville, NJ 08620. Applicant's representative: James Francis Lawler, 37 South 20th Street, Philadelphia, PA 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Agway, Inc., fertilizer plant at Yardville, N.J., to the Agway Warehouse at Wilmington, Del., under contract with Agway, Inc., Fertilizer Division. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., Trenton or Camden, N.J.

No. MC 108119 (Sub-No. 34), filed August 5, 1971. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, 3033 Sibley Memorial Highway, St. Paul, MN 55111. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* each weighing 15,000 pounds or less (except agricultural implements and highway autos, trucks, and buses) and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Minnesota, on the one hand, and points in the United States (except Alaska and Hawaii) on the other. Restriction: Restricted to commodities which are transported by trailers. Restricted against the transportation of road construction machinery and equipment and lift trucks (except road rollers and scarifiers and related machinery, tools, parts, and supplies moving therewith), from Minneapolis, Minn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 108207 (Sub-No. 338), filed November 8, 1971. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Candy*, from Memphis, Tenn., to points in Arkansas, California, Louisiana, Missouri, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Dallas, Tex.

No. MC 109294 (Sub-No. 19), filed October 28, 1971. Applicant: COMMERCIAL TRUCK CO., LTD., a corporation, 230 Brunette Street, New Westminster, BC, Canada. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *comomn carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo vans and containers, and *empty cargo vans and containers*, between ports of entry on the international boundary line between the United States and Canada at or near Blaine and Sumas, Wash., on the one hand, and, on the other, points in Oregon and Washington, restricted to shipments having a prior or subsequent movement by water. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 109435 (Sub-No. 67), filed November 4, 1971. Applicant: ELLSWORTH BROS. TRUCK LINE, INC., 1200 Simons Building, Dallas, TX 75201. Applicant's representative: Wm. E. Livingstone III, 4555 First National Bank Building, Dallas, TX 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk and in packages, and *cement clinkers*, between points in Oklahoma, restricted to movements having a prior or subsequent movement by water. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 110420 (Sub-No. 646), filed November 17, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Allan B. Torhorst, Post Office Box 307, Burlington, WI 53105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable juices and blends and products thereof*, in bulk, in tank vehicles, from Chicago, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110563 (Sub-No. 75), filed November 11, 1971. Applicant: COLDWAY FOOD EXPRESS, INC., Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 West Washington, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (2) *cheese, butter and dairy products*, from St. Louis, Mo., and East St. Louis, Ill., and their commercial zones to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Maryland, New Jersey, and Washington, D.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 111729 (Sub-No. 327), filed November 18, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media of all kinds;* (a) between Hammond, Ind., and Peoria, Ill.; (b) between Milwaukee, Wis., on the one hand, and, on the other, points in Boone, Cook, Du Page, Lake, McHenry, and Winnebago Counties, Ill.; (2) *small truck parts and accessories*, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day, between Roanoke, Va., on the one hand, and, on the other, points in North Carolina; (3) *ophthalmic goods, business papers and records;* (a) between Richmond, Va., on the one hand, and, on the other, points in North Carolina and points in Cabell, Kanawha, Mercer and Raleigh Counties, W. Va., and Johnson City, Tenn.; (b) between Dallas, Tex., on the one hand, and, on the other, Fort Smith and Little Rock, Ark., and points in Louisiana; (c) between Minneapolis, Minn., on the one hand, and, on the other, Des Moines, Fort Dodge, Mason City, Ottumwa, and Sioux City, Iowa, St. Paul, Minn., Mitchell, S. Dak., and Wausau, Wis.; (4) *proofs, cuts, copy, artwork, advertising posters and other related printed matter*, between Bethlehem, Pa., on the one hand, and, on the other, New York and Ticonderoga, N.Y., Baltimore, Md., Washington, D.C., and Trenton, N.J.; (5) *biological laboratory samples, blood specimens; serum specimens, urine specimens and business papers and records*, between Morristown, N.J., on the one hand, and, on the other, Hartford, New Haven, and New London, Conn.; and (6) *small parts, components, and supplies for copying machines*, restricted against the transportation of packages or articles weighing in the aggregate more than 75 pounds from one consignor to one consignee on any one day, between Blauvelt, N.Y., on the one hand, and, on the other, points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. NOTE: Applicant also holds contract carrier authority under MC 112750 and subs thereunder, therefore dual operations and common control may be involved. Applicant states that a portion of the requested authority could be tacked with certain existing authorities but indicated

that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 111812 (Sub-No. 449), filed October 28, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, from Elizabeth, N.J., to points in Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, Utah, Washington, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority could be joined with Subs 11 and 13 at points in Iowa to serve Sioux Falls, S. Dak., which point is not requested herein. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York City, N.Y.

No. MC 111812 (Sub-No. 450), filed November 10, 1971. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, and related items*, from Manchester, Pa., to points in Illinois, Indiana, California, Oregon, Washington, and Kansas. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at York or Harrisburg, Pa.

No. MC 112063 (Sub-No. 14), filed November 4, 1971. Applicant: P.I & I. MOTOR EXPRESS, INC., Broadway Avenue Extension, Box 28, Masury, OH 44438. Applicant's representative: Milan Tatalovich, 123 West Liberty Street, Girard, OH 44420. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in appendix XIII, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, *compounded oils and greases, iron and steel rust preventing or removing compounds, metal cutting drawing or drilling compounds, vehicle body sealer and sound deadening compounds*, transported in containers and *advertising materials* when transported only when moving in the same vehicle with any of the above-described commodities, from points in Hancock County, W. Va., to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 112123 (Sub-No. 8), filed November 10, 1971. Applicant: BESTWAY TRANSPORTATION, 2343 West Mohave, Phoenix, Ariz. 85009. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1400, San Francisco, CA 94104. Authority sought to operate as *a common carrier*, by motor vehicle, over irregular routes, transporting: *Waste and salvage materials* for recycling or reuse in the furtherance of pollution control, and the *machinery, equipment, materials, and supplies* used in or in connection with the production, processing, operation, and distribution of waste products for recycling or reuse in the furtherance of pollution control, between points in Arizona, California, Colorado, Nevada, New Mexico, Oregon, Utah, and Washington. NOTE: Applicant states that it holds a certificate of registration in Docket MC 112123 (Sub-No. 6) and is concurrently filing an application to convert it into a certificate of public convenience and necessity. The authority embraces points within Arizona which would be duplicated in part by this application. Applicant further states that if the certificate requested herein is restricted as to points in Arizona, applicant's rights as specified in the conversion certificate covering points in Arizona, application for which is being filed concurrently herewith, would be tacked if possible. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Phoenix, Ariz.

No. MC 112304 (Sub-No. 51), filed November 11, 1971. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representatives: R. F. Baum and T. Collins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum articles*, including scrap, from the plantsite and warehouse facilities of Consolidated Aluminum Corp. in Carroll County, Ky., to points in the United States in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas; and (2) *equipment, materials, and supplies* (except commodities in bulk), used in the manufacture and processing of aluminum and aluminum articles, from the destination States named in (1) above to the plantsite and warehouse facilities of Consolidated Aluminum Corp. in Carroll County, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112617 (Sub-No. 295), filed November 8, 1971. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, KY 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite of Vistron, Inc., at or near Lima, Ohio, to points in Indiana and the Lower Peninsula of Michigan, restricted to a transportation service to be performed during the period of March 1st to July 15th. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 112713 (Sub-No. 136), filed November 2, 1971. Applicant: YELLOW FREIGHT SYSTEM, INC., Box 8462, 92d at State Line, Kansas City, MO 64114. Applicant's representative: John M. Records (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), serving the plantsite of Iowa Beef Processors, Inc., at or near Emporia, Kans., as an off-route point in connection with carrier's authorized regular-route operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Wichita, Kans.

No. MC 113855 (Sub-No. 250), filed November 8, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Material handling equipment, accessories, attachments, and parts* for material handling equipment, from Sparks, Nev., to points in the United States (except Nevada, Hawaii, and Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 113855 (Sub-No. 251), filed November 10, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, equipment, tools, parts, and supplies* moving in connection therewith (restricted to self-propelled articles which are transported on trailers), (1) (a) between points in California on the one hand, and, on the other, points in Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; (b) between points in Oregon and Washington, on the one hand, and, on the other, points in Montana, Nevada, Utah, and Wyoming; (c) between points in Idaho and Nevada, on the one hand, and, on

the other, points in Montana, Wyoming and Utah. The operations in (1) (c) are restricted to service at points in Montana, Wyoming, and Utah for purposes of joinder only; and (a) from points in Michigan and Ohio to points in California, Nevada, and Utah. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 114273 (Sub-No. 107) filed November 4, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Commerce Exchange Building, Suite 315, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by hardware, drug, discount, and department stores and supermarkets*, between the warehouses and facilities of Action Industries, and its wholly owned subsidiaries located in Allegheny County, Pa., on the one hand, and, on the other, points in Texas, Arkansas, Missouri, Louisiana, Kansas, Oklahoma, New Mexico, and Colorado. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115162 (Sub-No. 238), filed November 4, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *lumber, fabricated lumber, sawed fabricated timbers, laminated beams and connecting steel and hardware for beams*, between points in Butler County, Ala., and points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas and (2) *laminated wood products*, between points in Alabama, Florida, and Tennessee, on the one hand, and, points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas on the other. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham or Montgomery, Ala.

No. MC 115180 (Sub-No. 79), filed November 15, 1971. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, NY 10014. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as described in section A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Farmland Foods, Inc., Carroll, Iowa, plantsite, and storage facilities at Omaha, Nebr., to points in Maine, Massachusetts, New Hampshire, Vermont, New York (excluding points in the New York City commercial zone), Rhode Island, Connecticut, New Jersey, Delaware, Maryland, Ohio, West Virginia, Virginia, North Carolina, South Carolina, Kentucky, Michigan, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 116073 (Sub-No. 208), filed November 3, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Kegel Plaza, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings complete, knocked down, or in sections;* (2) *building sections and building panels;* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above; and (4) *metal prefabricated structural components, panels and accessories* used in the installation and completion thereof, from points in Fort Bend County, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 116073 (Sub-No. 209), filed November 3, 1971. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., Post Office Box 919, 1825 Main Avenue, Moorhead, MN 56560. Applicant's representative: Robert G. Tessar, 1819 Fourth Avenue South, Kegel Plaza, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Caldwell Parish, La., to points in the United States (except Hawaii and Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, La.

No. MC 116626 (Sub-No. 7), filed November 2, 1971. Applicant: C. W. EANES, R.F.D. 1, Box 6, Gretna, VA 24557. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, boxes and shooks*, from Keysville, Va., to points in West Virginia, Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Ohio, North Carolina, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 117119 (Sub-No. 443), filed November 5, 1971. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Applicant's representative: Bobby G. Shaw (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour compounds*, made from grains with other ingredients (except in bulk), from Ponchatoula, La., to points in Arizona, Colorado, Iowa, Minnesota, Nebraska, Ohio, and Washington. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 117255 (Sub-No. 2), filed November 11, 1971. Applicant: IOWA REFRIGERATED EXPRESS, INC., Post Office Box 3145, Des Moines, IA 50316. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Tama, Iowa, to points in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Pennsylvania, South Dakota, and Wisconsin, restricted to traffic originating at Tama, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 117386 (Sub-No. 7), filed November 3, 1971. Applicant: LEE S. BURRIS, Bradgate, Iowa 50520. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and feed supplements*, from the plantsite and facilities of Farmland

Industries, Inc., at Humboldt, Iowa, to points in Minnesota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Kansas City, Mo.

No. MC 117565 (Sub-No. 52), filed November 5, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles and *building sections*, in initial movements, from points in Knox County, Ohio to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Columbus or Mansfield, Ohio.

No. MC 117565 (Sub-No. 53), filed November 5, 1971. Applicant: MOTOR SERVICE COMPANY, INC., Route 3, Post Office Box 448, Coshocton, OH 43812. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Van Wert County, Ohio, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Lima or Columbus, Ohio.

No. MC 117765 (Sub-No. 137), filed November 4, 1971. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth, Oklahoma City, OK 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal and charcoal products*, from Cotter, Ark., to points in Alabama, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin; and (2) *nonfrozen preserved foodstuffs*, from Durand, Franksville and Lodi, Wis., to points in Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 117865 (Sub-No. 4), filed November 11, 1971. Applicant: ERIC LORENTZEN, 5 Beacon Road, Hull, MA 02045. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from points in Maryland, Massachusetts, New Jersey, New York, and Pennsylvania to points in Massachusetts and New Hampshire. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 117940 (Sub-No. 72), filed October 15, 1971. Applicant: NATIONWIDE CARRIERS, INC., Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats, and packinghouse products* (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Robel Beef Packers, Inc., at St. Cloud, Minn., to points in Connecticut, Delaware, Kansas (except Kansas City), Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Dakota, Ohio, Missouri (except Kansas City and St. Joseph), Pennsylvania, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 114789 and Subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 117940 (Sub-No. 73), filed October 20, 1971. Applicant: NATIONWIDE CARRIERS, INC., Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods, frozen meats, and canned goods*, from the plantsites and storage facilities of Tony Downs Food Co. and Wadco Foods Co. at St. James and Madelia, Minn., and at Estherville, Iowa, and from the plantsite and storage facilities of Butterfield Foods, Inc., at Butterfield, Minn., to points in California, Oregon, Washington, Colorado, Arizona, Idaho, Montana, and Salt Lake City, Utah, restricted to traffic originating at named origins. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. NOTE: Applicant holds contract carrier authority under MC 114789 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 118959 (Sub-No. 100), filed November 5, 1971. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Applicant's representative: Billy J. Oxford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, cellulose materials and products, products produced or manufactured by manufacturers and converters of paper and paper products; materials and supplies*, used in the manufacture and distribution of the foregoing commodities (except commodities in bulk or those requiring the use of special equipment), between Woodland, Maine; Gilman, Vt.; Lyons Falls, Utica, Plattsburgh, and Warwick, N.Y.; Burlington, Iowa; St. Louis, Mo.; Lawrenceville, Ga.; Reading, Pa.; Taylorville, Ill.; Kalamazoo, Mich.; Cincinnati and Norwood, Ohio; Locksport, Ill.; Gary, Ind.; and Tomahawk, Wis.; on the one hand, and all points in the United States (except Alaska and Hawaii), on the other hand. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 119118 (Sub-No. 32), filed November 11, 1971. Applicant: McCURDY TRUCKING, INC., Post Office Box 388, Latrobe, PA 15650. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material*, moving therewith, from Winston-Salem, N.C., to points in Pennsylvania in and east of Lancaster, Lebanon, Schuylkill, Luzerne, Wyoming, and Susquehanna Counties, Pa., and *empty containers* on return movements. NOTE: Applicant also holds contract carrier authority under MC 116564, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 119531 (Sub-No. 154), filed November 8, 1971. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, OH 45226. Applicant's

representative: H. R. Arnold (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products*, from Itasca, Ill., to points in Indiana, Kentucky, Michigan, Missouri, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 119531 (Sub-No. 7) at Cleveland, Ohio, to serve points in New Jersey, New York, and Pennsylvania. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 119631 (Sub-No. 15), filed November 15, 1971. Applicant: DEIOMA TRUCKING COMPANY, Post Office Box 915, Mount Union Station, Alliance, OH 44601. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay products, and tools and accessories* used in the installation of such clay products; (2) *commodities, materials, and machinery* used in the manufacture of such clay products on return, from the plantsite of Oxford Tile Co. in Cambridge, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119991 (Sub-No. 4), filed November 9, 1971. Applicant: YOUNG TRANSPORT, INC., 1915 East Broadway, Logansport, IN 46947. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Green hides and skins*, salted, from points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Minnesota, Missouri, New York (except points in the New York, N.Y., commercial zone as defined by the Commission), Ohio, Tennessee, and Wisconsin, to Philadelphia, Pa., and points in Maine, Illinois, Massachusetts, New York (except points in the New York, N.Y., commercial zone as defined by the Commission), Ohio, and Wisconsin, with no transportation for compensation on return except as otherwise authorized. NOTE: Applicant states that the purpose of this application is to eliminate the necessity of traveling through the Philadelphia, Pa., gateway. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 121082 (Sub-No. 3), filed November 5, 1971. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell Avenue, Detroit, MI 48238. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and commodities requiring the use of special equipment); (a) between points in Michigan located on and south of Michigan Highway 46; and (b) between such points on the one hand, and, on the other, points in Michigan, restricted, applicant states, to shipments not exceeding one thousand (1,000) pounds from any one consignor to any one consignee on the same day. NOTE: Common control may be involved. Applicant states that the authority under MC 121082 Sub 1, is to some extent duplicatory of the authority sought, and any duplication therein will be submitted for cancellation in the event this application is granted. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., Detroit, Mich., or Washington, D.C.

No. MC 123061 (Sub-No. 61), filed November 8, 1971. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, UT 84104. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumbermill products;* (1) from points in Benton, Clatsop, Columbia, Lane, Linn, Marion, Polk, and Yamhill Counties, Oreg., to points in Idaho in and north of Idaho County, Idaho; (2) from points in Oregon west of the western boundaries of Umatilla, Grant, and Harney Counties, except those named in (1) above, to points in Idaho; (3) from points in Coos, Crook, Curry, Gilliam, Jefferson, Lake, Lincoln, Morrow, Multnomah, Sherman, Tillamook, Wallowa, Washington, and Wheeler Counties, Oreg., to points in Utah; and (4) from points in Baker, Grant, Harney, Malhuer, Umatilla, and Union Counties, Oreg., to points in Utah south of the southern boundaries of Tooele, Utah, Duchesne, and Uintah Counties, Utah. NOTE: Applicant states it will tack in Cache County, Utah, to serve points in Colorado and Wyoming. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Boise, Idaho.

No. MC 123502 (Sub-No. 39), filed October 28, 1971. Applicant: FREE STATE TRUCK SERVICE, INC., Post Office Box 760, 10 Vernon Avenue, Glen Burnie, MD 21061. Applicant's representative: W. Wilson Corroum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay*, in bulk, from South Fork, Pa., to Baltimore, Md.; and (2) *dry feed ingredients*, in bulk (except in tank vehicles), from Baltimore, Md., to points in North Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123613 (Sub-No. 12), filed November 10, 1971. Applicant: CLAREMONT MOTOR LINES, INC., Post Office Box 296, Claremont, NC 28610. Applicant's representative: Bill R. Davis, Suite 1208, Gas Light Tower, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from Biglerville and Gardners, Pa., and Inwood, W. Va., to points in North Carolina, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 500), filed October 26, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 43246. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from points in Bartow County, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Tennessee (except Kingsport and Elizabethton and their respective commercial zones), Texas, Vermont, Virginia, West Virginia, Wisconsin, and The District of Columbia (except (1) potassium silicate and sodium silicate to Alabama, Florida, Mississippi, North Carolina, South Carolina, and Tennessee; and (2) orthodichlorobenzene, barium carbonate, barium chloride, and ammonium sulfide to Alabama, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at East Dubuque and Niota, Ill., to points in Iowa, Minnesota, South Dakota, Nebraska, and Kansas, but has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124154 (Sub-No. 50), filed November 10, 1971. Applicant: WINGATE TRUCKING COMPANY, INC., Post Office Box 645, Albany, GA 31702. Applicant's representative: W. D. Wingate (same address as applicant). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in tank vehicles, from Pelham, Ga., to points in Alabama, Florida, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124154 (Sub-No. 51), filed November 10, 1971. Applicant: WINGATE TRUCKING COMPANY, INC., Post Office Box 645, Albany, GA 31702. Applicant's representative: W. D. Wingate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailer axles, running gear assemblies, and component parts therefor*, on flatbed trailers (excluding commodities which because of size or weight require the use of special equipment), between the plantsite of Foreman Manufacturing Co. in Turner County, Ga., and Newton, Kans. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 124692 (Sub-No. 85), filed November 2, 1971. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, pipe and tubing and/or boiler flues and tubes*, from the plantsite and warehouse facilities of Babcock & Wilcox Co. in Milwaukee and Milwaukee County, Wis., to points in California, Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, South Dakota, Oregon, Utah, Washington, and Wyoming, restricted to traffic originating at the facilities of Babcock & Wilcox Co. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 124692 (Sub-No. 86), filed November 2, 1971. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing and roofing slabs, tile and panels; and related materials, parts supplies and accessories*, from Cornell, Wis., to points in Montana, Wyoming, Idaho, Utah, Colorado, Washington, Oregon, California, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Chicago, Ill.

No. MC 125358 (Sub-No. 4), filed October 28, 1971. Applicant: MID-WEST TRUCK LINES, LTD., 1215 Fife Street, Winnipeg, MB, Canada. Applicant's representative: James S. Holmes, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment and materials* used in the manufacture and assembly of automotive buses, from Northlake, Ill., to Pembina, N. Dak., under contract with Motor Coach Industries, Inc., of Pembina, N. Dak. NOTE: Applicant holds common carrier authority under MC 134638, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 126102 (Sub-No. 9), filed June 28, 1971. Applicant: ANDERSON MOTOR LINES, INC., 86 Washington Street, Plainville, MA 02762. Applicant's representative: Sanford A. Kowal, 73 Tremont Street, Boston, MA 02100. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as are used or sold in the retail department stores of Kings Department Store, Inc., between points in Connecticut, Indiana, Florida, North Carolina, Pennsylvania, Vermont, Virginia, West Virginia, Kentucky, Tennessee, Maine, Massachusetts, New Jersey, Michigan, New Hampshire, Ohio, Maryland, and Rhode Island, under contract with Kings Department Stores, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 126313 (Sub-No. 5), filed November 10, 1971. Applicant: CHO-BO, INC., Box 38, St. Georges, Beauce County, PQ, Canada. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from ports of entry on the international boundary line between the United States and Canada at or near Jackman and Coburn Gore, Maine, to points in Maine. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Augusta, Maine, or Boston, Mass.

No. MC 126715 (Sub-No. 4), filed October 26, 1971. Applicant: TRANSPORT SERVICE, a corporation, 6395 Southeast Alberta Street, Post Office Box 06179, Portland, OR 97206. Applicant's representative: John G. McLaughlin, 726 Blue Cross Building, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* in bulk in tank vehicles, from points in Whitman, Garfield, Columbia, and Asotin Counties, Wash., to points in Oregon, Idaho, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 126899 (Sub-No. 51), filed November 15, 1971. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Paducah, KY 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in McCracken County, Ky., to a point in Kentucky at the dam construction site at Dog Island, near Smithland, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Atlanta, Ga.

No. MC 127372 (Sub-No. 3), filed November 7, 1971. Applicant: SIDNEY A. AHL, 1921 Bexley Street, North Charleston, SC 29406. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, GA 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies*, sold, used, or distributed by a manufacturer of cosmetics, from Charleston, S.C., to points in Allendale, Barnwell, Clarendon, Jasper, Florence, Orangeburg, Hampton, Marion, Dorchester, Colleton, Charleston, Berkeley, Beaufort, Horry, Bamberg, Williamsburg, and Georgetown Counties, S.C. NOTE: Applicant now holds contract carrier authority under Docket No. MC 127372 (Sub-No. 1), authorizing service under continuing contracts with Avon Products, Inc., from Charleston, S.C., to all counties in South Carolina named above with the exception of six counties. This application seeks only to change the existing commodity description so as to more definitely describe the shipper's products and to extend service to the six additional counties surrounding Charleston, S.C. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Charleston, S.C.

No. MC 127527 (Sub-No. 10), filed November 1, 1971. Applicant: CARL W. REAGAN, doing business as SOUTHEAST TRUCKING CO., 8372 State Route 18, Rural Route No. 6, Ravenna, OH 44266. Applicant's representative: Robert N. Krier, 88 East Broad Street, Suite 1680, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reinforcing wire, and reinforcing wire fabric*, (1) from points in Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and West Virginia to the plantsites of U.S. Concrete Pipe Co. located at or near Mogadore, in Summit and Portage Counties, Ohio, Palmyra, Portage County, Ohio, Uhrichsville, Tuscarawas County, Ohio, New Town, Hamilton County, Ohio; Portage, Mich.; Croydon,

Bucks County, and Oakdale, Allegheny County, Pa., and Relay, Md., and (2) between the plantsites of U.S. Concrete Pipe Co. located at or near the destination points as set forth in (1) above, under a continuing contract with U.S. Concrete Pipe Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Washington, D.C.

No. MC 128375 (Sub-No. 74), filed November 8, 1971. Applicant: CRETE CARRIER CORPORATION, Box 249, Crete, NE 68333. Applicant's representative: Duane W. Acklie, Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from West Springfield, Westfield, Woronoco, and Turners Falls, Mass., to points in Michigan, Illinois, Kentucky, Missouri, Oklahoma, Texas, Kansas, Nebraska, Iowa, Minnesota, Wisconsin, South Dakota, Colorado, Wyoming, and Utah, under continuing contract with Hammermill Paper Co., its subsidiaries and divisions. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 128527 (Sub-No. 22), filed November 1, 1971. Applicant: MAY TRUCKING COMPANY, a corporation, Post Office Box 398, Payette, ID 83661. Applicant's representative: John K. Gatchel, Post Office Box 195, Payette, ID 83661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, iron and steel articles* including structural flats and shapes, angles, bars, reinforcing bars, beams, tubing, sheets, iron and steel, plates, coils, and iron and steel pipe and fittings, from points in Multnomah and Clackamas Counties, Oreg., to points in Idaho south of the southern boundary of Idaho County, all points in Wyoming, and points in Nevada on and north of U.S. Highway 40. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 128527 (Sub-No. 23), filed November 8, 1971. Applicant: MAY TRUCKING COMPANY, a corporation, Post Office Box 398, Payette, ID 83661. Applicant's representative: John K. Gatchel, Post Office Box 195, Payette, ID 83661. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Laminated beams*, from Ontario, Oreg., to points in Arizona; (2) *iron and steel pipe fittings, aluminum pipe and fittings*, from Boise, Idaho, to points in Montana; and (3) *iron and steel, and iron and steel articles*, including structural flats and shapes, angles, bars, reinforcing bars, beams, tubing, sheet, plate, and iron and steel pipe and fittings, from points in California on and south of Interstate Highway 80 to Malheur County, Oreg. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 129018 (Sub-No. 3) (Amendment), filed August 18, 1971, published in the FEDERAL REGISTER issue of October 15, 1971, and republished as amended, this issue. Applicant: DARRELL D. WYLIE, 623 Burlington, Holdrege, NE 68949. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream novelties and yogurt*, from Los Gatos and San Jose, Calif., and Salt Lake City, Utah, to points in Nebraska and Denver, Colo., under contract with Beatrice Foods Co. NOTE: The purpose of this republication is to broaden the territorial scope. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 129171 (Sub-No. 7), filed November 9, 1971. Applicant: ARTHUR SHELLEY, Rural Delivery No. 2, Dallas, PA 18612. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish*, as shown in Administrative Ruling No. 107 (except hermetically sealed in containers as a treatment for preserving); (a) from points in Oregon, California, Washington, Arizona, and New Mexico, to points in Illinois, Indiana, Ohio, Pennsylvania, New York, Maryland, Virginia, Delaware, New Jersey, Rhode Island, Massachusetts, Connecticut, and the District of Columbia; and (b) from points in Massachusetts, Maryland, Virginia, Delaware, New York, and New Jersey to points in Washington, Oregon, California, and Illinois. NOTE: Applicant also holds contract carrier authority under MC 126381 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 129351 (Sub-No. 2), filed November 4, 1971. Applicant: VAN NATTA TRUCKING, INC., Route 1, Vesper, WI 54489. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, premiums, and malt beverage dispensing equipment* when shipped with malt beverages, from St. Paul, Minn., to Highland Park, Ill., under a continuing contract, or contracts, with Robert Geocaris Distributing, Inc., of Highland Park, Ill., NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 129923 (Sub-No. 7), filed November 4, 1971. Applicant: SHIPPERS TRANSPORTS, INC., 2000 Wheeler Street, West Memphis, AR 72301. Applicant's representative: Edward G. Grogan, 2020 First National Bank Building, 165 Madison Avenue, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared and preserved foodstuffs*, in packages, drum, containers or cans, but not in bulk, in tank vehicles, from Cades and Lozes, La., to points in Arkansas, Missouri, Tennessee, and Kentucky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No. MC 133161 (Sub-No. 6), filed November 8, 1971. Applicant: GRIESER TRUCKING CO., a corporation, Route 1, Box 152A, Archbold, OH 43502. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *New furniture, furniture parts and furniture stock*, from Stryker, Ohio, to points in the United States (excluding Alaska and Hawaii); and (b) *returned shipments of new furniture and equipment, materials and supplies*, used in the manufacture and distribution of furniture, from points in the United States (excluding Alaska and Hawaii), to Stryker, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 133816 (Sub-No. 3), filed November 1, 1971. Applicant: KENNETH L. PARKS AND KEITH O. PARKS, a partnership, doing business as K & K Wholesale Co., Post Office Box 222, Lowell, OR 97452. Applicant's representative: Howard E. Speer, 835 East Park, Eugene, OR 97401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime*, from points in Clark County, Nev., to points in Washington; (2) *magnesite and other refractory materials*, from points in Nye County, Nev., to points in Oregon; and (3) *lumber, hardboard, and other forest products*, from points in Oregon to points in Clark and Nye Counties, Nev. NOTE: Applicant holds contract carrier authority under MC 133310 Sub. 1, therefore, dual operations may be involved. Applicant states that the requested authority could be joined with MC 133816 Sub 1, permitting applicant to haul lime from points in Clark County, Nev., to points in Oregon. If a hearing is deemed necessary, applicant requests it be held at Eugene or Portland, Oreg.

No. MC 134278 (Sub-No. 4), filed November 5, 1971. Applicant: CHARLES R. GOODMAN, doing business as C. R. GOODMAN TRUCKING COMPANY, 4255 South Second West, Murray, UT. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over

irregular routes, transporting: *Sporting goods and component parts, metal stampings and materials* used in the manufacture of sporting goods, from San Francisco, Oakland, Los Angeles, and the Los Angeles Harbor commercial zone, Calif., to the plantsite of Miller Ski Co. at Orem, Utah, under contract with Miller Ski Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 134347 (Sub-No. 3), filed November 11, 1971. Applicant: SAMUEL M. COKER, doing business as COKER TRUCK LINE, 305 Blue Hills Drive, Nashville, TN 37214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and automobile accessories*, between Nashville, Tenn., on the one hand, and, on the other, points in Adair, Clinton, Cumberland, Edmonson, Green, Hart, Laurel, McCreary, Metcalfe, Monroe, Pulaski, Russell, Wayne, and Whitley Counties, Ky., under contract with Mid-State Automotive Distributors, Inc., Nashville, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 134477 (Sub-No. 16), filed November 5, 1971. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Paul Schanno (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Lakeville, Minn., to points in Iowa and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 134806 (Sub-No. 6), filed November 8, 1971. Applicant: B-D-R TRANSPORT, INC., Post Office Box 813, Brattleboro, VT 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum bowls and trays and coffee percolators or makers, household type*, from Chilton, Wis., to Boston, Mass., under contract with Cornwall Corp., Boston, Mass. NOTE: If a hearing is deemed necessary, applicant requests it be held at Brattleboro, Vt., or Boston, Mass.

No. MC 134806 (Sub-No. 7), filed November 8, 1971. Applicant: B-D-R TRANSPORT, INC., Post Office Box 813, Brattleboro, VT 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Titanium rings and metal alloy rings*, from Verdi, Nev., to points in Connecticut, under contract with Pratt & Whitney Aircraft, East Hartford, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Brattleboro, Vt., or Boston, Mass.

No. MC 135007 (Sub-No. 10), filed October 26, 1971. Applicant: AMERICAN TRANSPORT, INC., Millard, Nebr. 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Floor covering and floor tile and materials, equipment and supplies* used in installing and maintaining such floor covering and floor tile, from Lancaster, Pa., to points in Washington, Oregon, California, Arizona, Utah, Nevada, Idaho, Montana, and South Dakota; (2) *carpet lining*, from Torrington, Conn., to points specified in (1) above; and (3) *carpet*, from Ware, Mass., to points specified in (1) above, under contract with William P. Volker Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Burlingame, Calif.

No. MC 135145 (Sub-No. 2), filed November 1, 1971. Applicant: LUTHER TRANSFER & WAREHOUSE CO., INC., 1841 Industrial Avenue, San Angelo, TX 76901. Applicant's representative: Robert L. Strickland, 715 Frost National Bank Building, San Antonio, Tex. 78205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage;* (1) between Del Rio, Tex., on the one hand, and, on the other, points in Val Verde, Edwards, Kinney, and Maverick Counties, Tex., which are within a 25-mile radius of Del Rio; and (2) between points in Coke, Coleman, Concho, Crane, Crockett, Irion, Kimble, Menard, Reagan, Runnels, Schleicher, Sutton, Tom Green, and Upton Counties, Tex., restricted to the transportation of traffic having a prior or subsequent movement, in containers (except as to unaccompanied baggage), beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Angelo, Del Rio, or San Antonio, Tex.

No. MC 135283 (Sub-No. 6), filed November 8, 1971. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., Post Office Box 1665, Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Minden Beef Co., at or near Minden, Nebr., to points in Pennsylvania and Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Grand Island, Nebr.

No. MC 135352 (Sub-No. 2), filed November 12, 1971. Applicant: VANDER HART TRANSFER & STORAGE, INC., 1207 Franklin Street, Pella, IA 50219. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts, and furniture components; and plastic articles*, from Pella and Des Moines, Iowa, to St. Louis, Mo., under contract with Foam Molding Corp. of Iowa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 135420 (Sub-No. 2), filed November 9, 1971. Applicant: L & H REFRIGERATED EXPRESS, INC., Post Office Box 61, East Omaha, Avenue, Norfolk, NE 68701. Applicant's representative: Larry D. Knox (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh or frozen meats and/or packinghouse products* (except hides and commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Minden Beef Co. at Minden, Nebr., to points in Connecticut, Maine, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 135725 (Sub-No. 3), filed October 27, 1971. Applicant: FRY TRUCKING, INC., Wilton Junction, Iowa 52778. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and animal health products*, between Williamsburg, Iowa, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Missouri, Ohio, Tennessee, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 135868 (Sub-No. 1), filed November 2, 1971. Applicant: ASHTON SUPPLY COMPANY, a corporation, Post Office Box W, Vernal, UT 84078. Applicant's representative: Philip C. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle,

over irregular routes, transporting: *Ground barite*, in sacks and in bulk, from Dunphy, Nev., to points in Wasatch, Daggett, Duchesne, Uintah, Grand, and Carbon Counties, Utah, under contract with Baroid Division of National Lead Industries. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 135930 (Sub-No. 2), filed November 3, 1971. Applicant: RAM TRUCKING COMPANY, INC., 5410 North Wyandotte, Kansas City, MO 64118. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs and ice cubes*, between the plantsite of the Natural Storage Cave operated by Southeastern Public Service Co. at or near Bonner Springs, Kans., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), pursuant to a continuing contract with the Southeastern Public Service Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 135913 (Sub-No. 1), filed November 1, 1971. Applicant: BREEN TRUCKING, INC., 8459 Church Road, Grosse Isle, MI 48138. Applicant's representative: Theodore Polydoroff, 1140 Connecticut Avenue, Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Coated foundry sand* from the plant of C–E Cast Shell Products at or near Rockwood, Mich., to points in Kentucky, Illinois, Wisconsin, Indiana, Ohio, Pennsylvania, West Virginia, Maryland, Virginia, and New York; and, (2) *materials and supplies used in the manufacture of coated foundry sand* from points in the above-described destination territory to the plant of C–E Cast Shell Products at or near Rockwood, Mich., under a continuing contract with C–E Cast Shell Products. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136029 (Correction) filed September 13, 1971, published in the FEDERAL REGISTER issue of October 15, 1971, and republished as corrected this issue. Applicant: R. C. WILLIAMS, Sallisaw, Okla. 74955. Applicant's representative: Robert J. Mildfelt, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry lime and ground pulverized limestone*, from Marble City and Sallisaw, Okla., to points in Kansas, Missouri, Arkansas, Texas, Louisiana, and Oklahoma, under contract with St. Clair Lime Co. NOTE: The purpose of this republication is to add dry lime as a commodity, which was erroneously omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 136045 (Sub-No. 2), filed November 15, 1971. Applicant: JOHN R. WILLIAMS, 6205 South Second Avenue, Phoenix, AZ 85050. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in cans and bottles, from the plantsite of the National Brewing Co., located at Phoenix, Ariz., to points in Oregon, Washington, Idaho, Montana, Wyoming, Nevada, Utah, and Colorado and on return, *empty pallets and containers*. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix or Tucson, Ariz.

No. MC 136073 (Sub-No. 1), filed October 7, 1971. Applicant: PARTCO TRUCKING CO., INC., Box 322, Brainerd, MN 56401. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, logs, wood chips, sawdust, shavings, bark, pallets, boxes, crates and pallet, box, crate and furniture parts*, from points in Cass and Crow Wing Counties, Minn., to points in Illinois, Indiana, Iowa, Michigan, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin and to ports of entry on the United States-Canada boundary line in Minnesota, Montana, and North Dakota and (2) *equipment, materials and supplies*, used in the manufacture of lumber, and in logging operations (except in bulk), from points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Wisconsin, and Wyoming and from ports of entry on the United States-Canada boundary line in Minnesota, Montana, and North Dakota, to points in Cass and Crow Wing Counties, Minn., under contract with Park Region Timber Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 136163, filed October 29, 1971. Applicant: JEROME KELLY, JR., doing business as JEROME KELLY & SON, 2025 East Chase Street, Baltimore, MD 21213. Applicant's representative: Richard W. Kurrus, 2000 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Maryland, Pennsylvania, Massachusetts, Connecticut, West Virginia, South Carolina, Tennessee, Mississippi, Kentucky, Delaware, New Jersey, Rhode Island, Ohio, North Carolina, Florida, Alabama, Louisiana, Virginia, Georgia, New York, Indiana, Illinois, Michigan, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 136164, filed November 5, 1971. Applicant: OHIO REFRIGERATED TRANSPORT, INC., 27 South Perry Street, New Riegel, OH 44853. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products and meat byproducts* (except commodities in bulk), from Carey and New Riegel, Ohio, to points in and east of Wisconsin, Illinois, Louisiana, Missouri, Tennessee, and Mississippi and (2) *materials and supplies*, used in the processing, packaging and sale of meat, meat products and meat byproducts from points in the destination territory specified in (1) above to Carey and New Riegel, Ohio, under contract with Riegel Provision Co., and Donelson Packing Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136178, filed November 1, 1971. Applicant: JAMES F. KEENE, INC., 5258 Tractor Road, Toledo, OH 43612. Applicant's representative: Matt Kolb, Jr., 937 Spitzer Building, Toledo, Ohio 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles, and replacement vehicles therefor*, between points in Ohio, Michigan, and Indiana. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, Ohio.

MOTOR CARRIERS OF PASSENGERS

No. MC 3700 (Sub-No. 68), filed November 1, 1971. Applicant: MANHATTAN TRANSIT COMPANY, a corporation, Route 46, East Paterson, NJ 07407. Applicant's representative: Robert E. Goldstein, 8 West 40th Street, New York, NY 10018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip special operations, beginning and ending at New York, N.Y. and extending to Harrington Raceway, Harrington, Del. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 85819 (Sub-No. 5) (Correction) filed October 12, 1971, published in the FEDERAL REGISTER issue of November 11, 1971, and republished in part as corrected this issue. Applicant: GULF COAST MOTOR LINES, INC., 105 South Myrtle Avenue, Clearwater, FL 33516. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Passengers and their baggage* in the same vehicle with passengers, in special operations, in round trip sightseeing and pleasure tours: Beginning and ending at points in Pinellas, Hillsborough, Pasco, Hernando, Sumter, Lake, and Orange Counties, Fla., and extending to points in the United States

(except Hawaii); and (b) *passengers and their baggage* in charter operations from points on the applicant's regular routes in Florida to points in the United States (except Hawaii), and return, to wit: (1) Between Weeki Wachee and St. Petersburg, Fla., serving all intermediate points; over U.S. Highway 19 (also over alternate route U.S. Highway 19); and (2) between Weeki Wachee, Fla., and Orlando, Fla., serving all intermediate points: From Weeki Wachee over Florida Highway 50 to Orlando, and return over the same route. NOTE: Common control may be involved. The purpose of this republication is to redescribe the scope of the proposed authority. If a hearing is deemed necessary, application requests it be held at St. Petersburg or Tampa, Fla.

FREIGHT FORWARDER APPLICATION

No. FF-413 (OCEAN-AIR INTERNATIONAL, INC., Freight Forwarder Application) filed November 12, 1971. Applicant: OCEAN-AIR INTERNATIONAL, INC., Route 1, Burgettstown (Pittsburgh), Pa. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought under section 410, part IV of the Interstate Commerce Act, for a permit to continue operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, express, water, air, or motor vehicle, in the transportation of: *Used household goods, unaccompanied baggage, used automobiles,* when moving from or to dealers facilities, between points in the United States, except Alaska.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 22229 (Sub-No. 70), filed October 28, 1971. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta, GA 30316. Applicant's representative Robert O. Koch, 3800 Frederica Street, Owensboro, KY 42301. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) from Indianapolis, Ind., to St. Louis, Mo., from Indianapolis over Interstate Highway 70 (also U.S. Highway 40) where Interstate Highway 70 is incomplete to St. Louis, Mo., and return over the same route, as an alternate route for operating convenience only, serving no intermediate points, and serving Indianapolis, Ind., as a point of joinder only.

No. MC 47904 (Sub-No. 5), filed November 9, 1971. Applicant: INTERCITY TRANSPORTATION COMPANY, a corporation, 600 Turnpike Street, South Easton, MA 02375. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, Ma 02108. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Insulating materials,* except in bulk, from the plantsite of Certain-Teed St. Gobain Insulation Corp. located at Raritan Center, Edison Township, N.J., to points in Massachusetts and Rhode Island. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 61440 (Sub-No. 130), filed November 17, 1971. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, OK 73108. Applicant's representative: Richard H. Champlin, Post Office Box 82488, Oklahoma City, OK 73108. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading: (1) between St. Louis, Mo., and Kansas City, Mo., serving no intermediate points and serving Kansas City, Mo., as a point of joinder only, from St. Louis, Mo., over Interstate Highway 70 to Kansas City, Mo., and return over the same route; and (2) between Kansas City, Mo., and Denver, Colo., serving no intermediate points and serving Kansas City, Mo., as a point of joinder only, from Kansas City, Mo., over Interstate Highway 70 to Seibert, Colo., thence over U.S. Highway 24 to the intersection of U.S. Highway 24 and U.S. Highways 40 and 287, approximately 2 miles west of Limon, Colo., thence over U.S. Highways 40 and 278 to their junction with Interstate Highway 70, thence over Interstate Highway 70 to Denver, Colo., and return over the same route, as alternate routes for operating convenience only in conjunction with applicant's presently authorized regular route operations between St. Louis, Mo., and Denver, Colo., serving no intermediate points. NOTE: Lee Way's regular route extends from St. Louis, Mo., to Oklahoma City over U.S. Highway 66, thence over U.S. Highway 66 to the junction of U.S. Highway 270, thence over U.S. Highway 270 to Elmwood, Okla., thence over Oklahoma State Highway 3 to Boise City, Okla., thence over U.S. Highway 287 to Denver, Colo.

No. MC 128476 (Sub-No. 3), filed November 15, 1971. Applicant: U & ME TRANSFER, INC., 2626 Electronic Way, Post Office Box 2525, West Palm Beach, FL 33402. Applicant's representative: Lee K. Spencer (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, and supplies* having a prior or subsequent movement in interstate commerce, between West Palm Beach, Fla., and points in Martin, St. Lucie, Indian River, and Okeechobee Counties, Fla., under contract with Western Electric Co., Inc.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-17941 Filed 12-8-71;8:45 am]

PRICE COMMISSION

FOOD RETAILERS AND WHOLESALERS IN PUERTO RICO

Revocation of Authority for Temporary Price Increases in Perishable Foods

On November 27, 1971 (36 F.R. 22699) the Price Commission published a notice authorizing retailers and wholesalers in Puerto Rico to temporarily increase the prices on perishable foods shipped to Puerto Rico by air. The temporary increases were allowed to reflect increased costs of shipping by air due to the east coast docks tie-up. The circumstances of the dock tie-up are now improved to the extent that the Price Commission considers that there is no longer good reason for continuing the authority granted in the notice.

In consideration of the foregoing, the authority granted to retailers and wholesalers in Puerto Rico to make temporary increases in the prices of perishable foods to reflect increased costs of shipment by air is hereby revoked.

Issued in Washington, D.C., on December 8, 1971.

C. JACKSON GRAYSON, JR., *Chairman of the Price Commission.*

[FR Doc.71-18190 Filed 12-8-71;1:32 pm]

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federal register

THURSDAY, DECEMBER 9, 1971
WASHINGTON, D.C.
Volume 36 ■ Number 237

PART II

Nondiscrimination in Federally Assisted Programs

■

Notice of Proposed Rule Making

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d to d–4, prohibits discrimination on the ground of race, color, or national origin, in programs which receive Federal financial assistance. Twenty Federal agencies, which have regulations implementing title VI, are proposing amendments to their regulations in accordance with recommendations of an interagency committee. One agency is proposing its initial regulation.

Due to the subject matter of the regulations, there is no statutory requirement of publication in the FEDERAL REGISTER as proposed rule making. See 5 U.S.C. 533(a). It has been decided, however, that the public should have an opportunity to comment on the amendments.[1]

Under Executive Order 11247, the Attorney General has responsibility for coordinating the enforcement of title VI. Accordingly, the Department of Justice is publishing the amendments on behalf of the other departments and agencies. The amendments of the following agencies are published below: The Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; Interior; Justice; Labor; and State; and the Agency for International Development; Atomic Energy Commission; Civil Aeronautics Board; General Services Administration; National Aeronautics and Space Administration; National Science Foundation; Office of Economic Opportunity; Office of Emergency Preparedness; Small Business Administration; Tennessee Valley Authority and Veterans Administration.[2] Also published below is the initial title VI regulation of the National Foundation on the Arts and the Humanities.

Interested persons may participate in the consideration of the proposals by submitting written comments. Communications should be submitted in triplicate to the Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D.C. 20530. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

After comments have been received and analyzed, and any necessary changes have been made, the amendments and the regulation will be submitted to the President for approval in accordance with section 602 of title VI, 42 U.S.C. 2000d–1. The amendments and the regulation will take effect upon publication in the FEDERAL REGISTER after approval by the President.

The most important of the proposed uniform amendments involve:

(1) Specifying that the sites of facilities of federally assisted programs may not be selected with the purpose or effect of discrimination, on the ground of race, color, or national origin, against beneficiaries;

(2) Requiring affirmative action to overcome the effects of past discrimination;

(3) Providing that discriminatory employment practices are prohibited by title VI to the extent that such practices tend to cause discrimination in the services provided beneficiaries.

[1] In the past, title VI regulations and amendments to them have not been published as proposed rule making. With the exception of two departments, the amendments were adopted by the departments and agencies before the decision was made to publish them for comment. Accordingly, the preambles of the various amendments do not indicate that the proposed rule making procedure is being followed.

[2] Five agencies are completely reissuing their title VI regulations. They are: The Departments of Commerce; Defense; and Housing and Urban Development; the Office of Economic Opportunity; and the Office of Emergency Preparedness.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 15]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

The following proposed amendments to 7 CFR, Subtitle A, Part 15, Subpart A, primarily represent uniform revisions being jointly adopted by the various Departments and Agencies of the U.S. Government to put into effect clarifications to the regulations issued pursuant to title VI of the Civil Rights Act of 1964.

Title 7, CFR, Subtitle A, Part 15, Subpart A, is hereby amended as follows:

1. Section 15.1(a) is amended by inserting the language "of an applicant or recipient" immediately following the words "under any program or activity" so that the phrase reads "under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture or any Agency thereof."

2. Section 15.1(b) is amended to read as follows:

(b) The regulations in this part apply to any program or activity of an applicant or recipient for which Federal financial assistance is authorized under a law administered by the Department including, but not limited to, the Federal financial assistance listed in the appendix to this part. They apply to money paid, property transferred, or other Federal financial assistance extended to an applicant or recipient for its program or activity after the effective date of these regulations pursuant to an application approved or statutory or other provision made therefor prior to such effective date. The regulations in this part do not apply to (1) any Federal financial assistance by way of insurance or guaranty contract, (2) money paid, property transferred, or other assistance extended prior to the effective date of the regulations in this part, (3) any assistance to an applicant or recipient who is an ultimate beneficiary under any such program, or (4) except as provided in § 15.3 (c), any employment practice of any employer, employment agency or labor organization. The fact that a specific kind of Federal financial assistance is not listed in the appendix, shall not mean, if title VI of the Act is otherwise applicable, that such Federal financial assistance is not covered. Other Federal financial assistance under statutes now in force or hereinafter enacted may be added to this list by notice approved and issued by the Secretary and published in the FEDERAL REGISTER.

3. Section 15.2(d) is amended to read as follows:

(d) "Hearing Officer" means a hearing examiner appointed pursuant to 5 U.S.C. 3105, and designated to hold hearings under the regulations in this part or any person authorized to hold a hearing and make a final decision under the regulations in this part.

4. Section 15.3(a) is amended by inserting the language "or activity of the applicant or recipient" immediately following the language "under any program" so that the phrase reads "under any program or activity of the applicant or recipient to which these regulations apply."

5. Section 15.3(b) is amended by inserting a new subparagraph (3) reading as follows:

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any of its activities or programs to which the regulations in this part apply, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and these regulations.

6. Section 15.3(b), subparagraphs (3) and (4), are renumbered (4) and (5) respectively, and the renumbered subparagraph (4) is amended to read as follows:

(4) As used in this section, the services, financial aid, or other benefits provided under a program or activity of an applicant or recipient receiving Federal financial assistance shall be deemed to include any and all services, financial aid, or other benefit provided in or through a facility provided or improved in whole or part with the aid of Federal financial assistance.

7. Section 15.3(b) is further amended by adding the following new subparagraph (6) at the end thereof:

(6) These regulations do not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity of the applicant or recipient receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory

practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which these regulations apply, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act and the regulations in this part.

8. Section 15.3(c) is amended by adding the following at the end thereof: "Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulations in this part, tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the applicant or recipient to which these regulations apply, the foregoing provisions of this § 15.3(c) shall apply to the employment practices of the recipient or other persons subject to these regulations, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. The requirements applicable to construction employment under any program or actvity of the applicant or recipient shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it."

9. Section 15.4(a) (1) and (2) is amended to read as follows:

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which these regulations apply, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility, shall as a condition to its approval and the extension of any Federal financial assistance purusant to the application, contain or be accompanied by an assurance that the applicant's program or activity will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to the Act and the regulations in this part. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein, or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The Agency shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors, and subcontractors, successors in interest and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures, or improvements thereon, or interests therein, which was acquired through Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a convenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved through Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the Agency concerned, such a condition and right of reverter is appropriate to the purposes of the Federal financial assistance under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Agency may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

10. Section 15.4(b) is amended to read as follows:

(b) Every application by a State or a State Agency, including a State Extension Service, but not including an application for aid to an institution of higher education, to carry out its program or activity involving continuing Federal financial assistance to which the regulations in this part apply shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the Agency to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the regulations in this part: *Provided*, That where no application is required prior to payment, the State or State Agency, including a State Extension Service, shall, as a condition to the extension of any Federal financial assistance, submit an assurance complying with the requirements of subparagraphs (1) and (2) of this paragraph.

11. Section 15.4(e) is amended by substituting for the language "U.S. Commissioner of Education" and "Commissioner", where said language appears, the language "responsible official of the Department of Health, Education, and Welfare", and by inserting the phrase "within the earliest practical time" immediately following the language "determines is adequate to accomplish the purposes of the Act and this part" in the first sentence.

12. Section 15.9(d) is amended by substituting for the language "Sections 5–8 of the Administrative Procedure Act", where said language appears, the language "5 U.S.C. 554–557".

13. Section 15.10 is amended by adding the following new paragraph (g) at the end thereof:

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with the Act and these regulations and provides reasonable assurance that it will fully comply therewith. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 15.4 (a), (b), or (d) shall be restored to full eligibility to receive Federal financial assistance if it complies with the requirements of § 15.4(e) and is otherwise in compliance with the Act and the regulations in this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Secretary determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Secretary denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the denial to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure set forth in Subpart C of this part. The applicant or recipient will be restored to such eligibility if it proves at such a hearing,

that it has satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

14. Section 15.12(a) is amended by substituting for the language "(1) Executive Orders 10925 and 11114" where such language appears, the language "(1) Executive Order 11246".

15. Section 15.12(c) is amended by adding the following new sentence at the end thereof: "Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting under this paragraph shall have the same effect as though such action had been taken by the Secretary or an Agency of this Department."

16. Section 15.2(b) is amended to read as follows:

(b) "Agency" means any service, bureau, agency, office, administration, instrumentality of or corporation within the U.S. Department of Agriculture extending Federal financial assistance to any program or activity, or any officer or employee of the Department to whom the Secretary delegates authority to carry out any of the functions or responsibilities of an agency under this part.

17. The introductory heading of the appendix to the regulations in this part is revised to read as follows: "Federal Financial Assistance of the Department of Agriculture Covered by Title VI of the Civil Rights Act of 1964".

This amendment issued under section 602, 78 Stat. 252, 42 U.S.C. 2000d, and the laws referred to in the appendix.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

NOVEMBER 28, 1970.

[FR Doc.71-17869 Filed 12-8-71;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 4]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Notice is hereby given of the proposed amendment of 10 CFR Part 4. The changes put into effect clarification of the regulations previously issued under title VI of the Civil Rights Act of 1964.

The amendments to § 4.51 set forth the procedural consequences of a situation in which an applicant or recipient files an answer to a notice of opportunity for hearing but does not request a hearing. The amendments make it clear that he may do so without waiving the requirement for findings of fact or conclusions of law or the right to seek Commission review.

Appendix A of 10 CFR Part 4 describes the AEC financial assistance to which the part applies. The amendments make appropriate additions, deletions, and revisions in a few paragraphs of Appendix A in order to reflect program changes.

§ 4.12 [Amended]

1. A new paragraph (c) is added to § 4.12 of 10 CFR Part 4 to read as follows:

(c) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

2. Present paragraphs (c) and (d) of § 4.12 of 10 CFR Part 4 are relettered paragraphs (d) and (e), respectively.

3. A new paragraph (f) is added to § 4.12 of 10 CFR Part 4 to read as follows:

(f) This part does not prohibit the consideration of race, color or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

4. Section 4.13 of 10 CFR Part 4 is amended to read as follows:

§ 4.13 Employment practices.

(a) Where a primary objective of a program of Federal financial assistance to which this part applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (1) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, or (2) to provide work experience which contributes to the education or training of such individuals. (Examples of such programs are nuclear training equipment grants, grants and loans of materials for training, and fellowship programs.) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(b) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to this part tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part applies, the provisions of paragraph (a) of this section shall apply to the employment practices of the recipient or other persons subject to this part to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

§ 4.21 [Amended]

5. Paragraph (b) of § 4.21 of 10 CFR Part 4 is amended to read as follows:

(b) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the AEC to revert title to the property in the event of a breach of the covenant where, in the discretion of the AEC, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the AEC may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as the AEC deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

6. Section 4.22 of 10 CFR Part 4 is amended to read as follows:

§ 4.22 Continuing State programs.

Every application by a State or a State agency for continuing Federal financial

assistance shall require the submission of, and every grant, loan, or contract to or with a State or a State agency to carry out a program involving continuing Federal financial assistance to which this part applies, shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the grant, loan or contract, contain or be accompanied by, a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and shall provide or be accompanied by provision for such methods of administration for the program as are found by the responsible AEC official to give reasonable assurance that the recipient and all other recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part.

7. Paragraph (b) of § 4.23 of 10 CFR Part 4 is amended to read as follows:

§ 4.23 Elementary and secondary schools.

* * * * *

(b) Submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plan. In any case of continuing Federal financial assistance the responsible official of the Department of Health, Education, and Welfare may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purpose of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such plan, such plan shall be revised to conform to such final order, including any future modification of such order.

§ 4.25 [Amended]

8. New paragraphs (d) and (e) are added to § 4.25 of 10 CFR Part 4 to read as follows:

(d) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 4.34 to provide information as to the availability of the program or activity, and the rights of beneficiaries under this part, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will ensure that groups previously subjected to discrimination are adequately served.

(e) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

9. Section 4.49 of 10 CFR Part 4 is amended to read as follows:

§ 4.49 Other means authorized by law.

No action to effect compliance by any other means authorized by law shall be taken until (a) the responsible AEC official has determined that compliance cannot be secured by voluntary means, (b) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (c) the expiration of at least ten (10) days from the mailing of such notice to the recipient or other person. During this period of at least ten (10) days, additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 4.51 [Amended]

10. Paragraph (d) of § 4.51 of 10 CFR Part 4 is amended to read as follows:

(d) An applicant or recipient may file an answer, and waive or fail to request a hearing, without waiving the requirement for findings of fact and conclusions of law or the right to seek Commission review in accordance with the provisions of §§ 4.71–4.74. At the time an answer is filed the applicant or recipient may also submit written information or argument for the record if he does not request a hearing.

11. Paragraph (f) of § 4.51 of 10 CFR Part 4 is amended to read as follows:

(f) The failure of an applicant or recipient to file an answer within the period prescribed, or, if he requests a hearing, his failure to appear therefor, shall constitute a waiver by him of a right to (1) a hearing under section 602 of the Act and § 4.48, (2) conclusions of law, and (3) seek Commission review. In the event of such waiver, the responsible AEC official may find the facts on the basis of the record available and enter an order in substantially the form set forth in the notice of opportunity for hearing.

§ 4.63 [Amended]

12. The first sentence of paragraph (a) of § 4.63 of 10 CFR Part 4 is amended to read as follows:

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such procedures as are proper (and not inconsistent with §§ 4.61–4.64) relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 4.51, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. * * *

13. A new § 4.75 is added to 10 CFR Part 4 to read as follows:

§ 4.75 Posttermination proceedings.

(a) An applicant or recipient adversely affected by an order issued under § 4.74 shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part. An elementary or secondary school or school system which is unable to file an assurance of compliance with §§ 4.11–4.14 shall be restored to full eligibility to receive Federal financial assistance, if it files a court order or a plan for desegregation which meets the requirements of § 4.23, and provides reasonable assurance that it will comply with this court order or plan.

(b) Any applicant or recipient adversely affected by an order entered pursuant to § 4.74 may at any time request the responsible AEC official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the responsible AEC official determines that those requirements have been satisfied, he shall restore such eligibility.

(c) If the responsible AEC official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible AEC official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, the sanctions imposed by the order issued under § 4.74 shall remain in effect.

§ 4.91 [Amended]

14. Section 4.91 of 10 CFR Part 10 is amended by changing the last sentence thereof to read as follows:

* * * Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (a) Executive Orders 10925, 11114, and 11246 and regulations issued thereunder, or (b) Executive Order 11063 and regulations issued thereunder and any other regulations or instructions insofar as such order, regulations or instructions prohibit discrimination on the ground of race, color, or national origin in

any program or situation to which this part is inapplicable, or prohibit discrimination an any other ground.

§ 4.93 [Amended]

15. Section 4.93 of 10 CFR Part 4 is amended by adding the following sentence at the end thereof:

* * * Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the responsible AEC official.

16. The title of Appendix A of 10 CFR Part 4 is amended to read as follows:

APPENDIX A—FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES [1]

17. Footnote 1. to Appendix A of 10 CFR Part 4 is amended to read as follows:

[1] Categories of assistance may be added to Appendix A from time to time by notice published in the FEDERAL REGISTER. This part shall be deemed to apply to all grants, loans or contracts entered into under any such category of assistance on or after the effective date of the inclusion of the category of assistance in Appendix A.

18. Paragraph (b) of Appendix A of 10 CFR Part 4 is amended to read as follows:

(b) *Nuclear training equipment grants.* Grants of used equipment to colleges, universities, hospitals and eleemosynary or charitable institutions to help equip and modernize their scientific laboratories with respect to nuclear instrumentation and related equipment, with the objective of improving the conduct of educational and training activities in nuclear fields.

19. Paragraph (c) of Appendix A of 10 CFR Part 4 is amended to read as follows:

(c) *Grants of materials for training.* Grants of nuclear and other materials and of informational matter including slides and manuals to educational institutions for training and educational programs in nuclear fields.

20. Paragraph (d) of Appendix A of 10 CFR Part 4 is amended to read as follows:

(d) *Special fellowships.* Fellowship programs, providing for AEC payment of an educational allowance in lieu of tuition and fees to educational institutions as well as stipends and dependency allowances to the individual fellows, to encourage highly qualified individuals to prepare for careers in atomic energy and to assist educational institutions in developing nuclear science capabilities, as follows:

(1) AEC special fellowships in nuclear science and engineering.

(2) AEC special fellowships in radiation science and protection.

(3) AEC traineeships for graduate students in nuclear engineering.

21. Paragraph (f) of Appendix A of 10 CFR Part 4 is amended to read as follows:

(f) *Loan of nuclear and other materials for education and training.* Provision of AEC-owned materials, such as natural and enriched uranium, plutonium, and heavy water, to educational institutions, on a loan basis, without full-cost recovery; and loans of films, slides, manuals, and other materials to educational institutions, without full-cost recovery.

22. Paragraph (i) of Appendix A of 10 CFR Part 4 is amended to read as follows:

(i) *Fuel cycle assistance for nuclear reactors for research and training.* Research reactor fuel cycle assistance, without full-cost recovery, designed to aid nonprofit educational institutions having science and engineering programs to maintain nuclear reactors for research and training purposes, and providing the following principal forms of aid:

(1) Loan of enriched uranium;

(2) Funds for fuel element fabrication and spent fuel shipments; and

(3) Fuel processing service.

23. A new paragraph (q) is added to Appendix A of 10 CFR Part 4 to read as follows:

(q) *Loan of employees of AEC cost-type contractors.* Loan of personnel to colleges, universities, or other institutions or organizations, to teach or provide other assistance in furthering AEC policies, programs, and activities.

24. Present paragraph (q) of Appendix A of 10 CFR Part 4 is relettered paragraph (r) and is amended to read as follows:

(r) *AEC assistance provided through AEC cost-type contractors.* Agreements by AEC laboratories, other AEC cost-type contractors and universities operating nuclear reactors, to provide assistance, at AEC expense and without full-cost recovery, in connection with AEC programs or activities, of the types designated in this section.

25. Present paragraphs (r) and (s) of Appendix A of 10 CFR Part 4 are relettered paragraphs (s) and (t) respectively.

(Sec. 602, 78 Stat. 252. Interpret or apply Atomic Energy Act of 1954, as amended, 68 Stat. 919; 42 U.S.C. 2011)

Dated: October 15, 1970.

GLENN T. SEABORG,
Chairman,
Atomic Energy Commission.

[FR Doc.71-17870 Filed 12-8-71;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 112]

[Amdt. 2]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

These proposed amendments, except as described hereafter, are uniform revisions being jointly adopted by all Federal Departments and agencies with title VI responsibilities to put into effect clarification to their regulations adopted pursuant to title VI of the Civil Rights Act of 1964. Nonuniform amendments result from new responsibilities under section 312 of the Housing Act of 1964, section 7(e) of the Small Business Act and the adoption of a definition of "subrecipient."

Part 112 of Chapter I of Title 13 CFR is hereby amended by:

1. Revising § 112.2(a) and § 112.2(c) thereof to read as follows:

§ 112.2 Application of this part.

(a) Financial assistance activities: Except as hereinafter noted, this part applies to business activities or other activities receiving financial assistance pursuant to:

(1) Title IV of the Economic Opportunity Act of 1964;

(2) Sections 501 and 502 of the Small Business Investment Act of 1958;

(3) Sections 303, 304, and 305 of the Small Business Investment Act of 1958;

(4) Section 7(b)(1) of the Small Business Act involving individuals or organizations, whether or not operated for profit, which provide medical care or education or which conduct other activities of special significance to health, safety or welfare;

(5) Section 312 of the Housing Act of 1964;

(6) Section 7(e) of the Small Business Act; and

(7) Any other financial assistance program which, though not specifically referred to herein, is covered by title VI of the Civil Rights Act of 1964; whether extended directly or in cooperation with banks or other lenders through agreements to participate on an immediate basis. Other financial assistance programs under statutes now in force or hereafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

* * * * *

(c) The terms "applicant" and "recipient" mean, respectively, one who applies for and one who receives any of the financial assistance under any of the statutes referred to in paragraph (a) of this section. The term "recipient" also shall be deemed to include "subrecipients" of SBA financial assistance, i.e., concerns which secondarily receive financial assistance from the primary recipients of such financial assistance.

2. Adding the following paragraph (3) to § 112.3(b):

§ 112.3 Discrimination prohibited.

* * * * *

(b) * * *

(3) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

3. Revising § 112.4 thereof to read as follows:

§ 112.4 **Discrimination in employment.**

Small business concerns and development companies which apply for or receive any financial assistance of the kind described in subparagraphs (1) and (2) of § 112.2(a), including concerns which are identifiable beneficiaries of loans made under subparagraph (2), may not discriminate on the grounds of race, color, or national origin in their employment practices. Such assistance is deemed to have as a primary objective the providing of employment. Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of § 112.7(a) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity and nondiscriminatory treatment.

4. Revising § 112.9(d) thereof to read as follows:

(d) *Information to the public.* Each recipient shall make available to persons entitled under the Act and under this part to protection against discrimination by the recipient such information as SBA may find necessary to apprise them of their rights to such protection.

(1) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of equal opportunity. If the efforts required of the applicant or recipient under § 112.3(b)(3) to provide information as to the availability of equal opportunity, and the rights of individuals under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make equal opportunity fully available to racial and nationality groups previously subjected to discrimination.

(2) Even though an applicant or recipient has never used discriminatory policies, the opportunities in the business it operates may not in fact be equally available to some racial or nationality groups. In such circumstances a recipient may properly give special consideration to race, color, or national origin to make opportunity more widely available to such groups.

5. Revising § 112.11(d) thereof to read as follows:

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) SBA has determined that compliance cannot be secured by voluntary means; (2) the action has been approved by the Administrator or his designee; (3) the applicant or recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance; and (4) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient or other person to comply with this part and to take such corrective action as may be appropriate.

6. Revising § 112.12(d)(1) thereof to read as follows:

(d) *Procedures, evidence, and record.* (1) The hearing, decisions, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554 through 557 inclusive (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments, and briefs, request for findings, and other related matters. Both SBA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

7. Adding to § 112.13 the following paragraph (f):

(f) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Administrator determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such offical to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the Administrator. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

8. Revising § 112.15(a) thereof to read as follows:

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color, or national origin and which authorize the suspension or termination of or refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) any other orders, regulations or instructions, insofar as such order, regulations, or instructions prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable or prohibit discrimination on any other ground

9. Revising § 112.15(c) thereof to read as follows:

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government with the consent of such agencies, responsibilities in connection with the effectuation of the purpose of title VI of the Act and this part (other than responsibility for final decision as provided in § 112.13), including the achievement of effective coordination and maximum uniformity within SBA and within the Executive Branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Administrator of SBA.

HILARY SANDOVAL, JR.,
Administrator.

SEPTEMBER 23, 1970.

[FR Doc.71-17871 Filed 12-8-71;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 379]

[SPR-41, Amdt. 1]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Part 379 of the Board's special regulations effectuates the provisions of title

VI of the Civil Rights Act of 1964. Pursuant to recommendations of the interagency committee for uniform title VI regulation amendments, Part 379 is proposed to be amended. Only one matter warrants comment.[1]

Employment practices of recipients of Federal financial assistance are not generally subject to coverage by title VI requirements unless a primary purpose of the legislation under which Federal assistance is extended is to provide employment. (Sec. 604, 42 U.S.C. 2000d–3.) Since providing employment cannot be said to be a primary objctive of the subsidy program under section 406 of the Act, § 379.2(b) provides that the part does not apply to "any employment practice, under any such program, of any employer, employment agency, or labor organization." However, even if a primary purpose of a program is not to generate employment, the beneficiaries' right to equal treatment necessarily encompasses the employment practices of the recipient to the extent that such practices affect the equality of treatment afforded beneficiaries.[2] This principle is being incorporated in Part 379 by appropriate amendments of §§ 379.2 and 379.3.

Accordingly, the Civil Aeronautics Board hereby proposes to amend Part 379 of the Special Regulations as follows:

1. Amend § 379.2 to read as follows:

§ 379.2 Application of this part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Board, including the payment of compensation by the Board under section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376). It applies to money paid or other Federal financial assistance extended under any such program after the effective date of the part pursuant to a Board order, whether issued prior to or subsequent to such effective date, establishing a rate of compensation under section 406, or pursuant to an application for any other such Federal payment or financial assistance, whether approved prior to or subsequent to such effective date. This part does not apply to (a) money paid or other assistance extended under any such program before the effective date of this regulation, or (b) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 379.3(c).

2. Amend § 379.3 by redesignating present § 379.3(b) as § 379.3(b)(1), and adding new §§ 379.3(b) (2) and (3) and § 379.3(c). As amended, § 379.3(b) and § 379.3(c) will read as follows:

§ 379.3 Discrimination prohibited.

* * * * *

(b) *Specific discriminatory actions prohibited.* (1) No air carrier shall subject any person to discrimination on the ground of race, color, or national origin in connection with any air transportation for which such carrier is receiving or has claimed compensation payable by the Board under section 406 of the Federal Aviation Act of 1958.

(2) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Civil Rights Act of 1964 or this part.

(3) This part does not prohibit the consideration of race, color or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which the part applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Civil Rights Act of 1964.

(c) *Employment practices.* Where discrimination on the grounds of race, color or national origin in the employment practices of the recipient under any program to which this part applies tends, on the grounds of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part applies, then to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries, that recipient may not, directly or through contractual or other arrangements, subject a person to discrimination on the grounds of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees).

3. Amend paragraphs (b) and (d)(1) of § 379.8 to read as follows:

§ 379.8 Hearings.

* * * * *

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Board in Washington, D.C., at a time fixed by the Board unless it determines that the convenience of the applicant or recipient or of the Board requires that another place be selected. Hearings shall be held before the Board or, at its discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

* * * * *

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. Both the Board and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

4. Amend § 379.9 by adding a new § 379.9(f) to read as follows:

§ 379.9 Decisions and notices.

* * * * *

(f) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Board to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Board determines that those requirements have been satisfied, it shall restore such eligibility.

(3) If the Board denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the Board to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with the procedures set forth in § 379.8. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) shall remain in effect.

5. By amending § 379.11(c) to read as follows:

---

[1] In addition to the substantive amendments adopted herein, an editorial change has been made in § 379.8.

[2] U.S. v. Jefferson County Bd. of Ed., 372 F.2d 836, 882–886, (5 Cir., 1966), cert. den. 389 U.S. 840 (1967), reh. den. 389 U.S. 965 (1967); see also Rogers v. Paul, 382 U.S. 198 (1965) and Cyprus v. Newport News General Hospital, 375 F.2d 648 (C.A. 4, 1967).

§ 379.11 Effect on other remedies; coordination.

* * * * *

(c) *Supervision and coordination.* The Board may from time to time assign to officials of the Board, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Civil Rights Act of 1964 and this part (other than responsibility for final decision as provided in § 379.9), including the achievement of effective coordination and maximum uniformity within the Board and with other departments and agencies of the Government in the application of title VI and this part to similar programs and in similar situations. Any acton taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Board.

(Sec. 602, 78 Stat. 252; and secs. 102, 204, 404, 406, and 1002, Federal Aviation Act of 1958; 72 Stat. 740, 743, 760, 763, and 788; 49 U.S.C. 1302, 1324, 1374, 1376, and 1482)

Dated: November 24, 1970.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK.
Secretary.

[FR Doc.71-17872 Filed 12-8-71;8:45 am]

National Aeronautics and Space Administration

[14 CFR Part 1250]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

The following proposed amendments of 14 CFR Part 1250 are published to incorporate uniform revisions that are being jointly adopted by all Federal agencies to put into effect clarifications to the regulations enacted pursuant to title VI of the Civil Rights Act of 1964.

1. Paragraphs (g) and (j)(2) of § 1250.102 are revised to read as follows:

§ 1250.102 Definitions.

* * * * *

(g) "Principal Compliance Officer" means the Director, Headquarters Administration, Office of Organization and Management, NASA Headquarters, or any successor officer to whom the Administrator should delegate authority to perform the functions assigned to the Principal Compliance Officer by this part.

* * * * *

(j) * * *

(2) Each Director of a field installation which makes or administers grants and contracts of the kind listed in Appendix A, or any officer to whom he has delegated authority to act within the areas of responsibility assigned to him under this part.

2. Paragraph (a) of § 1250.103–2 is amended by the addition of subparagraph (3) and by renumbering subparagraphs (3), (4), (5), (6) as subparagraphs (4), (5), (6), (7); and paragraph (e) is revised, to read as follows:

§ 1250.103–2 Specific discriminatory acts prohibited.

(a) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

* * * * *

(e) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 1250.103–1. This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practices or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

3. Paragraph (c) of § 1250.103–3 is revised and paragraph (d) is added as follows:

§ 1250.103–3 Employment practices.

* * * * *

(c) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11246 or any Executive order which supersedes it.

(d) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of paragraph (a) of this section shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

4. Section 1250.103–4 is amended by the substitution of the title "Illustrative applications" for "Illustrations of discriminatory acts prohibited" and the addition of paragraphs (f) and (g) as follows:

§ 1250.103–4 Illustrative applications.

* * * * *

(f) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 1250.105 to provide information as to the availability of the program or activity, and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will insure that groups previously subjected to discrimination are adequately served.

(g) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

5. Paragraphs (e) through (g) of § 1250.104 are revised and a new paragraph (h) is added as follows:

§ 1250.104 Assurances.

* * * * *

(e) *Instrument effecting or recording transfers of real property.* The instrument effecting or recording the transfer, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government,

such covenant may also include a condition coupled with a right to be reserved by NASA to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible NASA official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee.

(f) *Assurances for transfer of surplus real property.* Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101–6.2).

(g) *Form of assurances.* The responsible NASA officials shall specify the form of assurances required by this § 1250.104 and the extent to which like assurances will be required by subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program.

(h) *Requests for proposals.* Any request for proposals issued by NASA which relates to covered financial assistance listed in Appendix A shall have set forth therein or have attached thereto the assurance prescribed in accordance with paragraph (g) of this section, and shall require that the proposer either include the assurance as a part of his signed proposal or identify and refer to an assurance already signed and submitted by the proposer.

§ 1250.107 [Amended]

6. Paragraph (d) of § 1250.107 is revised as follows: Subparagraph (2) is revoked, subparagraphs (3) and (4) are renumbered (2) and (3).

7. Paragraphs (b) and (d) of § 1250.108 are amended as follows:

§ 1250.108 Hearings.

* * * * *

(b) *Time and place of hearing.* Hearings shall be held at NASA Headquarters in Washington, D.C., at a time fixed by the Principal Compliance Officer unless he determines that the convenience of the applicant or recipient or of NASA requires that another place be selected. Hearings shall be held before the Administrator, or, at his discretion, before a hearing examiner designated in conformity with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

* * * * *

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (section 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. Both NASA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

8. Section 1250.109 is amended by the addition of paragraph (g) as follows:

§ 1250.109 Decisions and notices.

* * * * *

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the Principal Compliance Officer to restore fully the eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Principal Compliance Officer determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Principal Compliance Officer denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the Principal Compliance Officer. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 1250.111 [Amended]

9. Section 1250.111 is amended as follows:

a. In paragraph (a) the number 11114 is deleted and the number 11246 is substituted.

b. In paragraph (b) the word "programs" is deleted and the words "financial assisatnce" are substituted.

c. In paragraph (c) the sentence "Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action has been taken by the responsible official of this agency" is added at the end of the paragraph.

10. Appendix A is amended by the substitution of "NASA Federal Financial Assistance To Which This Part Applies" for "Programs of NASA To Which This Part Applies."

GEORGE M. LOW,
Acting Administrator.

[FR Doc.71–17873 Filed 12–8–71;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Part 8]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

The Department of Commerce, in conjunction with the other Federal agencies and under the coordination of the Attorney General, has participated in a continuing study of the regulations issued pursuant to title VI of the Civil Rights Act of 1964. This review has resulted in a number of proposed uniform amendments being jointly adopted by the Federal agencies, including the Department of Commerce, which add to or revise or revoke provisions of the existing regulations. The Department has also amended its regulations in several respects of a nonuniform nature, so as to (1) terminate their applicability to federally assisted programs which have by legislation been transferred to other Federal agencies, e.g., highway construction and related projects now under the Department of Transportation, and economic development programs now under the Appalachian Regional Commission; (2) apply the regulations to additional federally assisted programs now subject to administration by the Department; (3) revise the descriptions of the applicability of the regulations to several federally assisted programs administered by the Department; and (4) otherwise clarify the applicability of the regulations.

In consideration of the foregoing, it is proposed that Part 8 of Subtitle A of Title 15 of the Code of Federal Regulations be revised to read as follows:

Subpart A—General Provision; Prohibitions; Nondiscrimination Clause; Applicability to Programs

Sec.
8.1 Purpose.
8.2 Application of this part.

AUTHORITY: The provisions of this Part 8 issued under sec. 602, Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

Subpart A—General Provisions; Prohibitions: Nondiscrimination Clause; Applicability to Programs

§ 8.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program receiving Federal financial assistance from the Department of Commerce. This part is consistent with achievement of the objectives of the statutes authorizing the financial assistance given by the Department of Commerce as provided in section 602 of the Act.

§ 8.2 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including the federally assisted programs listed in Appendix A to this part and as said appendix may be amended. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to an application approved prior to such effective date.

(b) This part does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, except where such assistance was subject to the title VI regulations of this Department or of any other agency whose responsibilities are now exercised by this Department, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 8.4(c). The fact that a program is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to the list by notice published in the FEDERAL REGISTER.

§ 8.3 Definitions.

(a) "Department" means the Department of Commerce, and includes each and all of its operating and equivalent other units.

(b) "Secretary" means the Secretary of Commerce.

(c) "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(d) "Person" means an individual in the United States who is or is eligible to be a participant in or an ultimate beneficiary of any program which receives Federal financial assistance, and includes an individual who is an owner or member of a firm, corporation, or other business or organization which is or is eligible to be a participant in or an ultimate beneficiary of such a program. Where a primary objective of the Federal financial assistance to a program is to provide employment, "person" includes employees or applicants for employment of a recipient or other party subject to this part under such program.

(e) "Responsible department official" with respect to any program receiving Federal financial assistance means the Secretary or other official of the Department who by law or by delegation has the principal authority within the Department for the administration of a law extending such assistance. It also means any officials so designated by due delegation of authority within the Department to act in such capacity with regard to any program under this part.

(f) "Federal financial assistance" includes (1) grants, loans, or agreements for participation in loans, of Federal funds, (2) the grant or donation of Federal property or interests in property, (3) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property or in property in which the Federal Government has an interest, without consideration, or at a nominal consideration, or at a consideration which is reduced, for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to or use by the recipient, (4) waiver of charges which would normally be made for the furnishing of Government services, (5) the detail of Federal personnel, (6) technical assistance, and (7) any Federal agreement, arrangement, contract, or other instrument which has as one of its purposes the provision of assistance.

(g) "Program" includes any program, project, or activity for the planning or provision of services, financial aid, property, other benefits, or facilities for furnishing services, financial aid, property, or other benefits, whether provided by the recipient or by others through contracts or other arrangements with the recipient, with the aid of Federal financial assistance, or with the aid of any non-Federal funds, property, facilities or other resources which are provided to meet the conditions under which Federal financial assistance is extended or which utilizes federally assisted property, facilities or resources.

(h) "Facility" includes all or any portion of structures, equipment, vessels, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, contract for use, or acquisition of facilities.

(i) "Recipient" means any governmental, public or private agency, institution, organization, or other entity, or any individual, who or which is an applicant for Federal financial assistance, or to whom Federal financial assistance is extended directly or through another recipient for or in connection with any program. Recipient further includes a subgrantee, an entity which leases or operates a facility for or on behalf of a recipient, and any successors, assignees, or transferees of any kind of the recipient, but does not include any person who is an ultimate beneficiary under any program.

(j) "Primary recipient" means any recipient which is authorized or required to extend or distribute Federal financial assistance to another recipient for the purpose of carrying out a program.

(k) "Applicant" means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

(l) "Other parties subject to this part" includes any governmental, public or private agency, institution, organization, or other entity, or any individual, who or which, like a recipient, is not to engage in discriminatory acts with respect to applicable persons covered by this part, because of his or its direct or substantial participation in any program, such as a contractor, subcontractor, provider of employment, or user of facilities or services provided under any program.

§ 8.4 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) *Specific discriminatory acts prohibited.* (1) A recipient of Federal financial assistance, or other party subject to this part under any program to which this part applies, shall not participate, directly or through contractual or other arrangements, in any act or

course of conduct which, on the ground of race, color, or national origin:

(i) Denies to a person any service, financial aid, or other benefit provided under the program;

(ii) Provides any service, financial aid, or other benefit, to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subjects a person to segregation or separate or other discriminatory treatment in any matter related to his receipt (or nonreceipt) of any such service, financial aid, property, or other benefit under the program;

(iv) Restricts a person in any way in the enjoyment of services, facilities, or any other advantage, privilege, property, or benefit provided to others under the programs;

(v) Treats a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Denies a person an opportunity to participate in the program through the provision of property or services or otherwise, or affords him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section);

(vii) Denies a person the same opportunity or consideration given others to be selected or retained or otherwise to participate as a contractor, subcontractor, or subgrantee when a program is applicable thereto;

(viii) Denies a person the same opportunity or consideration given others to participate as a member of any planning, advisory or similar group or body which assists the recipient or is utilized under or in connection with the program.

(2) A recipient, or other party subject to this part under any program, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of persons to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program, shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect any persons of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or other party subject to this part may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(4) As used in this section, the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided or made available in or through or utilizing a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This part does not prohibit the consideration of race, color, or national origin in any program to which this part applies if the purpose and effect of such consideration are to remove or overcome the consequences of past or continuing discriminatory practices or impediments. Where previous or continuing discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part applies, the recipient or other party subject to this part has an obligation to take reasonable and affirmative action to remove or overcome the consequences of the prior or continuing discriminatory practice or usage, and to accomplish the purposes of the Act.

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient or other party subject to this part shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipients and other parties subject to this part shall take affirmative action to ensure that applicants are employed, and employees are treated during employment without regard to their race, color, or national origin. Such recipients and other parties subject to this part shall, as may be required by supplemental regulations, develop a written affirmative action program. The requirements applicable to construction employment under any such program shall be in addition to those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it. Federal financial assistance to programs under laws funded or administered by the Department which has as a primary objective the providing of employment include those set forth in Appendix A II of this part.

(2) Where a primary objective of the Federal financial assistance to a program to which this part applies is not to provide employment, but discrimination on the grounds of race, color, or national origin, in the employment practices of the recipient or other party subject to this part, tends, on the grounds of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of, or to subject them to discrimination under any such program, the provisions of subparagraph (1) of this paragraph shall apply to the employment practices of the recipient or other party subject to this part, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of such persons.

§ 8.5 Nondiscrimination clause.

(a) *Applicability.* Every application for, and every grant, loan, or contract authorizing approval of, Federal financial assistance to carry out a program and to provide a facility subject to this part, and every modification or amendment thereof, shall, as a condition to its approval and to the extension of any Federal financial assistance pursuant thereto, contain or be accompanied by an assurance that the program will be conducted in compliance with all requirements imposed by or pursuant to this part. The assurances shall be set forth in a nondiscrimination clause. The responsible Department official shall specify the form and contents of the nondiscrimination clause for each program as appropriate.

(b) *Contents.* Without limiting its scope or language in any way, a nondiscrimination clause shall contain, where determined to be appropriate, and in an appropriate form, reference to the following assurances, undertakings, and other provisions:

(1) That the recipient or other party subject to this part will not participate directly or indirectly in the discrimination prohibited by § 8.4, including employment practices when a program covering such is involved.

(2) That when employment practices are covered, the recipient or other party subject to this part will (i) in all solicitations or advertisements for employees placed by or for the recipient, state that qualified applicants will receive consideration for employment without regard to race, color or national origin; (ii) notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding of the recipient's commitments under this section; (iii) post the nondiscrimination clause and the notice to labor unions in conspicuous places available to employees and applicants for employment; and (iv) otherwise comply with the requirements of § 8.4(c).

(3) That in a program involving continuing Federal financial assistance, the

recipient thereunder (i) will state that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (ii) will provide for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that all recipients of Federal financial assistance under such program and any other parties connected therewith subject to this part will comply with all requirements imposed by or pursuant to this part.

(4) That the recipient agrees to secure the compliance or to cooperate actively with the Department to secure the compliance by others with this part and the nondiscrimination clause as may be directed under an applicable program. For instance, the recipient may be requested by the responsible Department official to undertake and agree (i) to obtain or enforce, or to assist and cooperate actively with the responsible Department official in obtaining or enforcing, the compliance of other recipients or of other parties subject to this part with the nondiscrimination required by this part; (ii) to insert appropriate nondiscrimination clauses in the respective contracts with or grants to such parties; (iii) to obtain and to furnish to the responsible Department official such information as he may require for the supervision or securing of such compliance; (iv) to carry out sanctions for noncompliance with the obligations imposed upon recipients and other parties subject to this part; and (v) to comply with such additional provisions as the responsible Department official deems appropriate to establish and protect the interests of the United States in the enforcement of these obligations. In the event that the cooperating recipient becomes involved in litigation with a noncomplying party as a result of such departmental direction, the cooperating recipient may request the Department to enter into such litigation to protect the interests of the United States.

(5) In the case of real property, structures or improvements thereon, or interests therein, which are acquired for a program receiving Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective

(6) In programs receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance the nondiscrimination requirements of this part shall extend to any facility located wholly or in part in such space.

(7) That a recipient shall not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly.

(8) Provisions specifying the extent to which like assurances will be required of subgrantees, contractors and subcontractors, lessees, transferees, successors in interest, and other participants in the program.

(9) Provisions which give the United States a right to seek judicial enforcement of the assurances.

(10) In the case where any assurances are required from an academic, a medical care, detention or correctional, or any other institution or facility, insofar as the assurances relate to the institution's practices with respect to the admission, care, or other treatment of persons by the institution or with respect to the opportunity of persons to participate in the receiving or providing of services, treatment, or benefits, such assurances shall be applicable to the entire institution of facility. That requirement may be waived by the responsible Department official if the party furnishing the assurances establishes to the satisfaction of the responsible Department official that the practices in designated parts or programs of the institution or facility will in no way affect its practices in the program of the institution or facility for which Federal financial assistance is or is sought to be provided, or affect the beneficiaries of or participants in such program. If in any such case the assistance is or is sought for the construction of a facility or part of a facility, the assurances shall in any event extend to the entire facility and to facilities operated in connection therewith.

(11) In the case where the Federal financial assistance is in the form of or to aid in the acquisition of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipients, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient or transferee retains ownership or possession of the property, whichever is longer. In the case of any other type or form of assistance, the assurances shall be in effect for the duration of the period during which Federal financial assistance is extended to the program.

§ 8.6 Applicability of this part to Department assisted programs.

The following examples illustrate the applicability of this part to programs which receive or may receive Federal financial assistance administered by the Department. The fact that a particular program is not listed does not indicate that it is not covered by this part. The discrimination referred to is that described in § 8.4 against persons on the ground of race, color, or national origin.

(a) *Assistance to support economic development programs.* Discrimination in which recipients and other parties subject to this part shall not engage, directly or indirectly, includes discrimination in (1) the letting of contracts or other arrangements for the planning, designing, engineering, acquisition, construction, rehabilitation, conversion, enlargement, installation, occupancy, use, maintenance, leasing, subleasing, sales, or other utilization or disposition of property or facilities purchased or financed in whole or in part with the aid of Federal financial assistance; (2) the acquisition of goods or services, or the production, preparation, manufacture, marketing, transportation, or distribution of goods or services in connection with a program or its operations, (3) the onsite operation of the project or facilities; (4) services or accommodations offered to the public in connection with the program; and (5) in employment practices in connection with or which affect the program (as defined in § 8.4(c)); in the following programs:

(i) Any program receiving Federal financial assistance for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage.

(ii) Any program receiving Federal financial assistance in the form of loans or direct or supplementary grants for the acquisition or development of land and improvements for public works, public service or development facility usage, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment.

(iii) In any program receiving any form of technical assistance designed to

alleviate or prevent conditions of excessive employment or underemployment.

(iv) In any program receiving Federal financial assistance in the form of administrative expense grants.

(b) *Assistance to support the training of students.* A current example of such assistance is that received by State maritime academies or colleges, by contract, of facilities (vessels), related equipment and funds to train merchant marine officers. In this and other student training programs, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in the selection of persons to be trained and in their treatment by the recipients in any aspect of the educational process and discipline during their training, or in the availability or use of any academic, housing, eating, recreational, or other facilities and services, or in financial assistance to students furnished or controlled by the recipients or incidental to the program. In any case where selection of trainees is made from a predetermined group, such as the students in an institution or area, the group must be selected without discrimination.

(c) *Assistance to support mobile or other trade fairs.* In programs in which operators of mobile trade fairs using U.S.-flag vessels and aircraft and designed to exhibit and sell U.S. products abroad, or in which other trade fairs or exhibitions, receive technical and financial assistance, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in the selection or retention of any actual or potential exhibitors, or in access to or use of the services or accommodations by, or otherwise with respect to treatment of, exhibitors or their owners, officers, employees, or agents.

(d) *Assistance to support business entities eligible for trade adjustment assistance.* In programs in which eligible business entities receive any measure or kind of technical, financial or tax adjustment assistance because of or in connection with the impact of U.S. international trade upon such business, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in their employment practices as defined in § 8.4(c).

(e) *Assistance to support research and development and related activities.* In programs in which individuals, educational or other institutions, public governmental or business entities receive Federal financial assistance in order to encourage or foster research or development activities as such, or to obtain, promote, develop, or protect thereby technical, scientific, environmental, or other information, products, facilities, resources, or services which are to be made available to or used by others, but where such programs do not constitute Government procurement of property or services, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination with respect to (1) the choice, retention or treatment of contractors, subcontractors, subgrantees or of any other person; (2) the provision of services, facilities, or financial aid; (3) the participation of any party in the research activities; (4) the dissemination to or use by any person of the results or benefits of the research or development, whether in the form of information, products, services, facilities, resources, or otherwise. If research is performed within an educational institution under which it is expected that students or others will participate in the research as a part of their experience or training, on a compensated or uncompensated basis, there shall be no discrimination in admission of students to, or in their treatment by, that part of the school from which such students are drawn or in the selection otherwise of trainees or participants. The recipient educational institutions will be required to give the assurances provided in § 8.5(b)(10).

(f) *Assistance to aid in the operations of vessels engaged in U.S. foreign commerce.* In programs in which the operators of American-flag vessels used to furnish shipping services in the foreign commerce of the United States receive Federal financial assistance in the form of operating differential subsidies, discrimination which is prohibited by recipients and other parties subject to this part includes discrimination in soliciting, accepting or serving in any way passengers or shippers of cargo entitled to protection in the United States under the Act.

Subpart B—General Compliance

§ 8.7 Cooperation, compliance reports and reviews and access to records.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients and other parties subject to this part in obtaining compliance with this part and shall provide assistance and guidance to recipients and other parties to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient and other party subject to this part shall keep such records and submit to the responsible Department official timely, complete, and accurate compliance reports at such times and in such form and containing such information as the responsible Department official may determine to be necessary to enable him to ascertain whether the recipient or such other party has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, or under which a recipient is obligated to obtain or to cooperate in obtaining the compliance of other parties subject to this part, such other recipients or other parties shall also submit such compliance reports to the primary recipient or recipients as may be necessary to enable them to carry out their obligations under this part.

(c) *Access to sources of information.* Each recipient or other party subject to this part shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this part. Where any information required of a recipient or other party is in the exclusive possession of another who fails or refuses to furnish this information, the recipient or other party shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient or other party subject to this part shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner as this part and the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

(e) *Compliance review.* The responsible Department official or his designee shall from time to time review the practices of recipients and other parties subject to this part to determine whether they are complying with this part.

§ 8.8 Complaints.

(a) *Filing complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official a written complaint. A complaint shall be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official.

§ 8.9 Intimidatory or retaliatory acts prohibited.

(a) No recipient or other party subject to this part shall intimidate, threaten, coerce, or discriminate against, any person for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because the person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part.

(b) The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial or other proceeding arising thereunder.

§ 8.10 Investigations.

(a) *Making the investigation.* The responsible Department official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient or other party subject to this part, the circumstances under which the

possible noncompliance with this part occurred, and other factors relevant to a determination as to whether there has been a failure to comply with this part.

(b) *Resolution of matters.* (1) If an investigation pursuant to paragraph (a) of this section indicates a failure to comply with this part, the responsible Department official will so inform the recipient or other party subject to this part and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 8.11.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the responsible Department official will so inform the recipient or other party subject to this part and the complainant, if any, in writing.

§ 8.11 Procedures for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 8.5.* If a recipient or other party subject to this part fails or refuses to furnish an assurance required under § 8.5 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under said paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application or contract therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the recipient or other party subject to this part of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by such recipient or other party to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary pursuant to § 8.13(e), and (4) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient or other party as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other party has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other party. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other party to comply with this part and to take such corrective action as may be appropriate.

§ 8.12 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 8.11(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected recipient or other party subject to this part. This notice shall advise the recipient or other party of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the recipient or other party may request of the responsible Department official that the matter be scheduled for hearing, or (2) advise the recipient or other party that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. A recipient or other party may waive a hearing and submit written information and argument for the record. The failure of a recipient or other party to request a hearing under this paragraph of this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 8.11(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official or hearing officer unless he determines that the convenience of the recipient or other party or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official, or at his discretion, before a hearing officer.

(c) *Right to counsel.* In all proceedings under this section, the recipient or other party and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedures Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the recipient or other party shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 8.13.

§ 8.13 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing officer such hearing officer shall either make an initial decision, if so authorized, or certify

the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the recipient or other party subject to this part. Where the initial decision is made by the hearing officer, the recipient or other party may within 30 days of the mailing of such notice of initial decision file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion within 45 days after the initial decision serve on the recipient or other party a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing officer pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing, the recipient or other party shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the recipient or other party and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 8.12(a) a decision shall be made by the responsible departmental official on the record and a copy of such decision shall be given in writing to the recipient or other party, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the recipient or other party has failed to comply.

(e) *Approval by Secretary.* Any final decision of a responsible Department official (other than the Secretary) which provides for the suspension or termination of, or the refusal to grant or continue, Federal financial assistance, or the imposition of any other sanction available under this part of the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the recipient or other party determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) Any recipient or other party which is adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any recipient or other party adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the recipient or other party has met the requirements of subparagraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Department official denies any such request, the recipient or other party may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with rules of procedure issued by the responsible Department official. The recipient or other party will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 8.14 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 8.15 Effect on other laws; supplementary instructions; coordination.

(a) *Effect on other laws.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any recipient or other party subject to this part of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibtied by this part, except that nothing in this part shall be deemed to relieve any one of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be demeed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Department official shall issue and promptly make available to interested parties forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 8.13), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this Department.

Dated: November 16, 1970.

MAURICE H. STANS,
Secretary of Commerce.

APPENDIX A

I. FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

1. Loans, grants, technical and other assistance for public works and development facilities, for supplementing Federal grants-in-aid, for private businesses, and for other purposes, including assistance in connection with designated economic development districts and regions, under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 et seq.) and its predecessor Area Redevelopment Act (42 U.S.C. 2501 et seq.).

2. Operating differential subsidy assistance to operators of U.S.-flag vessels engaged in U.S. foreign commerce (46 U.S.C. 1171 et seq.).

3. Assistance to operate State Maritime Academies and Colleges to train merchant marine officers (46 U.S.C. 1381–1388).

4. Assistance to trade fair operators (46 U.S.C. 1122b).

5. Trade adjustment assistance to eligible U.S. businesses under the Trade Expansion Act of 1962 (19 U.S.C. 1911–1920).

6. Grants to nonprofit institutions or organizations to further or obtain scientific research to be made available to the public or interested businesses or organizations (e.g., 42 U.S.C. 1891–1893).

7. Assistance to upgrade commercial fishing vessels and gear (16 U.S.C. 742c).

8. Trade adjustment assistance to eligible U.S. business under the Automotive Products Trade Act of 1965 (Public Law 89–283, 79 Stat. 1016).

9. Assistance to State projects designed for the research and development of commercial fisheries resources of the nation (16 U.S.C. 779a–779f).

10. Assistance to States in controlling and eliminating jellyfish, other such pests and floating seaweed (16 U.S.C. 1201 et seq.).

11. Assistance to States and other non-Federal interests under cooperative agreements to conserve, develop, and enhance Anadromous and Great Lakes Fisheries (16 U.S.C. 757a et seq.).

12. Assistance to States in the acquisition, development, and propagation of disease resistant oysters (16 U.S.C. 760j–760l).

13. Fishing Development of the South Pacific—Cooperation with State agencies, island governments and educational, industrial or other organizations or individuals in conducting fishing exploration and scientific studies for development and utilization of the high seas fishing resources of the Pacific Ocean (16 U.S.C. 758b).

14. Migratory Marine Fishing Program—Cooperation or contract with State and other institutions or agencies in research and study of migratory marine fish of interest to recreational fishermen (16 U.S.C. 760f).

15. Grants for education and training of personnel in commercial fishing (16 U.S.C. 760d).

16. Grants and other assistance under the National Sea Grant College and Program Act of 1966 (33 U.S.C. 1121–1124).

17. Cooperation with State or local governments, private agencies, organizations or individuals interested in fishery commodities in order to promote the flow of domestic fishery products by conducting an educational service and fishery technological, biological and related research programs (15 U.S.C. 713c–3).

II. A PRIMARY OBJECTIVE OF THE FEDERAL FINANCIAL ASSISTANCE LISTED IN APPENDIX AI WHICH IS AUTHORIZED BY EACH OF THE FOLLOWING STATUTES IS TO PROVIDE EMPLOYMENT

1. Public Works and Economic Development Act of 1965, as amended, and predecessor Area Redevelopment Act.

2. Trade Expansion Act of 1962.

[FR Doc.71–17874 Filed 12–8–71;8:45 am]

TENNESSEE VALLEY AUTHORITY

[18 CFR Part 302]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

The purpose of the following proposed amendments of Part 302 of 18 CFR is to incorporate in TVA's regulations under title VI of the Civil Rights Act of 1964 uniform revisions that are being jointly adopted in the interest of clarification by all agencies subject to title VI.

1. The entry for § 302.11 in the table of contents for Part 302 is revised to read:

Sec.
302.11 Effect on other regulations; supervision and coordination.

2. Subparagraphs (3) and (4) of paragraph (b) of § 302.3 are renumbered as subparagraphs (4) and (5), respectively, and the following new subparagraphs (3) and (6) are inserted:

§ 302.3 Discrimination prohibited.

* * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

* * * * *

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

3. Paragraph (b) of § 302.4 is revised to read as follows:

§ 302.4 Assurances required.

* * * * *

(b) In the case of real property, structures or improvements thereon, or interests therein, which is acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer by TVA of real property or interest therein, the instrument effecting or recording the transfer of title shall contain a convenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

4. Paragraph (d) of § 302.7 is revised to read as follows:

§ 302.7 Procedure for effecting compliance.

* * * * *

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) TVA has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

5. Paragraph (d)(1) of § 302.8 is revised to read as follows:

§ 302.8 Hearings.

* * * * *

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with the procedures contained in 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both TVA and the recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the

hearing at the outset of or during the hearing.

* * * * *

6. A new paragraph (g) is added to § 302.9 as follows:

§ 302.9 Decisions and notices.

* * * * *

(g) *Posttermination proceedings.* (1) A recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if he satisfies the terms and conditions of that order for such eligibility or if he brings himself into compliance with this regulation and provides reasonable assurance that he will fully comply with this regulation.

(2) Any recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request TVA to restore fully his eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the recipient has met the requirements of subparagraph (1) of this paragraph. If TVA determines that those requirements have been satisfied, it shall restore such eligibility.

(3) If TVA denies any such request, the recipient may submit a request for a hearing in writing, specifying why he believes TVA to have been in error. The recipient shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by TVA. The recipient will be restored to such eligibility if he proves at such a hearing that he satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

1. The title of § 302.11 is revised, the existing language of the section is designated paragraph (a), and a new paragraph (b) is added, all to read as follows:

§ 302.11 Effect on other regulations; supervision and coordination.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by TVA which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this regulation applies, and which authorize the suspension or termination of or refusal to grant or to continue financial assistance to any recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) any other regulations or instructions, insofar as they prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this regulation is inapplicable, or prohibit discrimination on any other ground.

(b) *Supervision and coordination.* TVA may from time to time assign to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 302.9), including the achievement of effective coordination and maximum uniformity within the Executive Branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by TVA.

8. The heading of Appendix A is revised to read:

APPENDIX A—FEDERAL FINANCIAL ASSISTANCE TO WHICH THESE REGULATIONS APPLY

Dated: September 15, 1970.

TENNESSEE VALLEY AUTHORITY,
LYNN SEEBER,
General Manager.

[FR Doc.71-17875 Filed 12-8-71;8:45 am]

DEPARTMENT OF STATE

[22 CFR Part 141]

[Dept. Reg. 108.631]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Part 141 of Title 22 of the Code of Federal Regulations is proposed to be amended as set forth below. The purpose of these proposed amendments is to promote uniformity among the Federal agencies. These amendments are uniform amendments adopted jointly by all Government agencies having title VI responsibilities, for the purpose of effecting necessary clarification to the title VI regulations.

1. Section 141.2 is revised to read as follows:

§ 141.2 Application of this part.

This part applies to any program for which Federal financial assistance, as defined in this part, is authorized under a law administered by the Department including, but not limited to, the federally assisted programs and activities listed in Appendix A of this part. It applies to Federal financial assistance of any form, including property which may be acquired as a result of and in connection with such assistance, extended under any such program after the effective date of this regulation, even if the application is approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance of guaranty contracts, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this regulation, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization except to the extent described in § 141.3(d), or (e) any assistance to an activity carried on outside the United States by a person, institution, or other entity not located in the United States. The fact that a program or activity is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Transfers of surplus property in the United States are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

2. In § 141.3 subparagraphs (1)(vi) and (2) of paragraph (b) are amended and new paragraphs (b)(5) and (d) are added to read as follows:

§ 141.3 Discrimination prohibited.

* * * * *

(b) * * *

(1) * * *

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise afford him an opportunity to do so which is different from that afforded others under the program, including the opportunity to participate in the program as an employee in accordance with paragraph (d) of this section.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the location or site of any facilities, or services, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration or select locations or sites for any facilities or services, which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

* * * * *

(5) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences

of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

* * * * *

(d) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (i) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (ii) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, (iii) to provide work experience which contributes to the education or training of such individuals, or (iv) to provide remunerative activity to such individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of the foregoing paragraph of this paragraph (d) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

3. In § 141.4 paragraphs (a) and (b) (1) are revised and a new paragraph (c) is added to read as follows:

§ 141.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, shall contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. The assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application.

(2) In any case where the Federal assistance is to provide, or is in the form of personal property, or real property or structures or any interest therein, or such property is acquired as a result of and in connection with such assistance, the assurance shall obligate the recipient, or, in the case of subsequent transfers, the transferees, for the period during which the property is used for a purpose for which the Federal assistance was, or is extended, or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Any assurance relating to property provided under or acquired as a result of or in connection with such assistance shall as appropriate require any instrument effecting or recording transfer, title or other evidence of ownership or right to possession, to include a covenant or condition assuring nondiscrimination for the period of obligation of the recipient or any transferee, which may contain a right to be reserved to the Department to revert title or right to possession. Where no transfer of property is involved, but property is improved or any interest of the recipient or transferee therein is increased as a result of a program of Federal financial assistance, the recipient or transferee shall agree to include such covenant or condition in any subsequent transfer of such property. Failure to comply with any such conditions or requirements contained in such assurances shall render the recipient and the transferees, where appropriate, presumptively in noncompliance.

(3) The responsible Department official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education, including assistance for construction, for research, for a special training project, for a student loan program, or for any other purpose, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

* * * * *

(c) *Elementary and secondary schools.* The requirements of paragraph (a) (1) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible official of the Department of Health, Education, and Welfare may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

4. Section 141.7(a) is revised to read as follows:

§ 141.7 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

* * * * *

§ 141.8 [Amended]

5. At the end of the second sentence of § 141.8(b), change the period to a comma and add the phrase: "in accordance with 5 U.S.C. 3105 and 3344 (formerly section 11 of the Administrative Procedure Act)." In (d) lines 4 and 5, change the Administrative Procedure Act citation to read "5 U.S.C. 554–557 (formerly sections 5–8 of the Administrative Procedure Act)." Paragraph (e) of the same section is amended to read as follows:

(e) *Consolidated or joint hearings; hearings before other agencies.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and regulations of one or more other

Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part, except that procedural requirements of the hearing agency if other than this Department may be adopted insofar as it is determined by the Secretary that variations from the procedures described in this section or elsewhere as may be required under this part do not impair the rights of the parties. The Secretary may also transfer the hearing of any complaint to any other department or agency, with the consent of that Department or Agency, (1) where Federal financial assistance to the applicant or recipient of the other Department or Agency is substantially greater than that of the Department of State, or (2) upon determination by the Secretary that such transfer would be in the best interests of the Government of effectuating this part. Final decisions in all such cases, insofar as this part is concerned, shall be made in accordance with § 141.9.

§ 141.9 [Amended]

6. In § 141.9 a new paragraph (g) is added to read as follows:

(g) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this paragraph shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information establishing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility, but such determination shall be in writing and shall be supported by evidence and findings of fact which shall be retained by the Department.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Department official. The burden of substantiating compliance with the requirements of subparagraph (1) of this paragraph shall be on the applicant or recipient. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

7. In § 141.11 paragraph (b) is amended to read as follows:

§ 141.11 Effect on other regulations; forms and instructions.

* * * * *

(b) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this Department.

8. In § 141.12 paragraphs (e) and (f) are amended and a new paragraph (j) is added to read as follows:

§ 141.12 Definitions.

* * * * *

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, and (4) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance or other benefits to individuals whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient. Services, financial aid, or other benefits shall include those provided with the aid of or through any facility provided for by the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions in order to receive Federal assistance.

* * * * *

(j) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

9. The title in Appendix A is changed to read as follows:

GRANTS AND ACTIVITIES TO WHICH THIS PART APPLIES

(Sec. 602, Civil Rights Act of 1964, 78 Stat. 252; sec. 4, 63 Stat. 111, as amended; 42 U.S.C. 2000d, 22 U.S.C. 2658)

[SEAL] WILLIAM P. ROGERS,
Secretary of State.

JANUARY 29, 1971.

[FR Doc.71-17876 Filed 12-8-71;8:45 am]

Agency for International Development

[22 CFR Part 209]

[A.I.D. Reg. 9]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Purpose of proposed amendments. The amendments being proposed to this regulation are the uniform amendments adopted jointly by all Government agencies having title VI responsibilities, for the purpose of effecting necessary clarification to the title VI regulations.

1. The present § 209.4(b)(3) is redesignated as § 209.4(b)(4).

2. The present § 209.4(b)(4) is redesignated § 209.4(b)(5).

3. The following new paragraph is added to the regulation and is designated as § 209.4(b)(3):

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act of this regulation.

4. The following new paragraph is added to the regulation and is designated as § 209.4(b)(6):

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

5. Section 209.5(a)(2) is revised to read as follows:

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Agency official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new or improvement of existing facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

6. Section 208.8 is corrected to read § 209.8.

7. Section 209.8(d) is revised to read as follows:

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Agency official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

8. The last sentence of § 209.9(b) is revised to read as follows: "Hearings shall be held before the Administrator or before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act)."

9. The first sentence of § 209.9(d)(1) is revised to read as follows:

(1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. * * *

10. The following new paragraph is added to the regulation and designated as § 209.10(f):

(f) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Agency official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Agency official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

11. The last sentence of § 209.12(a) is revised to read as follows: "Nothing in this part, however, shall be deemed to supersede any of the following (including future amendment thereof): (1) Executive Order 11246, and regulations issued thereunder, or (2) any other regulation or instruction insofar as it prohibits discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibits discrimination on any other ground."

12. The following new sentence is added to § 209.12(b) at the end thereof: "Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this Agency."

13. The title of Appendix A to the regulation is revised to read as follows:

FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS REGULATION APPLIES

JOHN A. HANNAH,
Administrator, Agency for International Development.

OCTOBER 7, 1970.

[FR Doc.71-17877 Filed 12-8-71;8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 1]

[Docket No. R-71-.....]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

The regulations to effectuate the provisions of title VI of the Civil Rights Act of 1964, published under Part 1 of Subtitle A of Title 24 of the Code of Federal Regulations (issued at 29 F.R. 16280, Dec. 4, 1964, and amended at 32 F.R. 14819, Oct. 26, 1967 and 36 F.R. 8784, May 13, 1971), are hereby proposed to be amended to effect certain clarifications in such regulations, to be consistent with the uniform amendments being adopted by Federal agencies; to include certain nonuniform minor revisions such as those set forth in § 1.7(e) and § 1.8(b); to make a nonuniform substantive change, in § 1.4(b)(2)(i), deleting "location or" because of new § 1.4(b)(3) concerning site selection; to add in § 1.5 a new paragraph (e), concerning elementary and secondary schools; to amend Appendix A to include additional Department assistance to which this Part 1 applies; and otherwise to revise such regulations to read as follows:

Sec.
1.1 Purpose.
1.2 Definitions.
1.3 Applictaion of Part 1.
1.4 Discrimination prohibited.
1.5 Assurances required.
1.6 Compliance information.
1.7 Conduct of investigations.
1.8 Procedure for effecting compliance.
1.9 Hearings.
1.10 Decisions and notices.
1.11 Judicial review.
1.12 Effect on other regulations; forms and instructions.
Appendix A.

AUTHORITY: The provisions of this Part 1 issued under sec. 602, 78 Stat. 252, 42 U.S.C. 2000d-1; sec. 7(d), 79 Stat. 670, 42 U.S.C. 3535(d); and the laws listed in Appendix A to this Part 1.

§ 1.1 Purpose.

The purpose of this Part 1 is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development.

§ 1.2 Definitions.

As used in this Part 1—

(a) The term "Department" means the Department of Housing and Urban Development.

(b) The term "Secretary" means the Secretary of Housing and Urban Development.

(c) The term "responsible Department official" means the Secretary or, to the extent of any delegation of authority by the Secretary to act under this Part 1, any other Department official to whom the Secretary may hereafter delegate such authority.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants, loans, and advances of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. The term "Federal financial assistance" does not include a contract of insurance or guaranty.

(f) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program or activity, or who otherwise participates in carrying out such program or activity (such as a redeveloper in the Urban Renewal Program), including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program or activity.

(g) The term "applicant" means one who submits an application, contract, request, or plan requiring Department approval as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, contract, request, or plan.

§ 1.3 Application of Part 1.

This Part 1 applies to any program or activity for which Federal financial assistance is authorized under a law administered by the Department, including any program or activity assisted under the statutes listed in Appendix A of this Part 1. It applies to money paid, property transferred, or other Federal financial assistance extended to any such program or activity on or after January 3, 1965. This Part 1 does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended to any such program or activity before January 3, 1965, (c) any assistance to any person who is the ultimate beneficiary under any such program or activity, or (d) any employment practice, under any such program or activity, of any employer, employment agency, or labor organization, except to the extent described in § 1.4(c). The fact that certain financial assistance is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such financial assistance is not covered. Other financial assistance under statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 1.4 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity to which this Part 1 applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program or activity to which this Part 1 applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny a person any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;

(ii) Provide any housing, accommodations, facilities, services, financial aid, or other benefits to a person which are different, or are provided in a different manner, from those provided to others under the program or activity;

(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;

(iv) Restrict a person in any way in access to such housing, accommodations, facilities, services, financial aid, or other benefits, or in the enjoyment of any advantage or privilege enjoyed by others in connection with such housing, accommodations, facilities, services, financial aid, or other benefits under the program or activity;

(v) Treat a person differently from others in determining whether he satisfies any occupancy, admission, enrollment, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any housing, accommodations, facilities, services, financial aid, or other benefits provided under the program or activity;

(vi) Deny a person opportunity to participate in the program or activity through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program or activity (including the opportunity to participate in the program or activity as an employee but only to the extent set forth in paragraph (c) of this section).

(2) (i) A recipient, in determining the types of housing, accommodations, facilities, services, financial aid, or other benefits which will be provided under any such program or activity, or the class of persons to whom, or the situations in which, such housing, accommodations, facilities, services, financial aid, or other benefits will be provided under any such program or activity, or the class of persons to be afforded an opportunity to participate in any such program or activity, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect to persons of a particular race, color, or national origin.

(ii) A recipient, in operating low-rent housing with Federal financial assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1401 et seq.), shall assign eligible applicants to dwelling units in accordance with a plan, duly adopted by the recipient and approved by the responsible Department official, providing for assignment on a community-wide basis in sequence based upon the date and time the application is received, the size or type of unit suitable, and factors affecting preference or priority established by the recipient's regulations, which are not inconsistent with the objectives of title VI of the Civil Rights Act of 1964 and this Part 1. The plan may allow an applicant to refuse a tendered vacancy for good cause without losing his standing on the list but shall limit the number of refusals without cause as prescribed by the responsible Department official.

(iii) The responsible Department official is authorized to prescribe and promulgate plans, exceptions, procedures, and requirements for the assignment and reassignment of eligible applicants and tenants consistent with the purpose of subdivision (ii) of this subparagraph, this Part 1, and title VI of the Civil Rights Act of 1964, in order to effectuate and insure compliance with the requirements imposed thereunder.

(3) In determining the site or location of housing, accommodations, or facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from,

denying them the benefits of, or subjecting them to discrimination under any program to which this Part 1 applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this Part 1.

(4) As used in this Part 1 the housing, accommodations, facilities, services, financial aid, or other benefits provided under a program or activity receiving Federal financial assistance shall be deemed to include any housing, accommodations, facilities, services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in paragraphs (b) and (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This Part 1 does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the ground of race, color, or national origin. Where previous discriminatory practice or usage tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this Part 1 applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program or activity to which this Part 1 applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program or activity (including recruitment or recruitment advertising, employment, layoff, termination, upgrading, demotion, transfer, rates of pay or other forms of compensation and use of facilities). The requirements applicable to construction employment under such program or activity shall be those specified in or pursuant to Part III of Executive Order 11246 or any executive order which supersedes or amends it.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to this Part 1 tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this Part 1 applies, the provisions of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to this Part 1 to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

§ 1.5 Assurances required.

(a) *General.* (1) Every contract for Federal financial assistance to carry out a program or activity to which this Part 1 applies, executed on or after January 3, 1965, and every application for such Federal financial assistance submitted on or after January 3, 1965, shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to such contract or application, contain or be accompanied by an assurance that the program or activity will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this Part 1. In the case of a contract or application where the Federal financial assistance is to provide or is in the form of personal property or real property or interest therein or structures thereon, the assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the contract or application. The responsible Department official shall specify the form of the foregoing assurance for such program or activity, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program or activity. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, acquired through a program of Federal financial assistance the instrument effecting any disposition by the recipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case where Federal financial assistance is provided in the form of a transfer of real property or interests therein from the Federal Government, the instrument effecting or recording the transfer shall contain such a covenant.

(3) In program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this Part 1 shall extend to any facility located wholly or in part in such space.

(b) *Preexisting contracts—funds not disbursed.* In any case where a contract for Federal financial assistance, to carry out a program or activity to which this Part 1 applies, has been executed prior to January 3, 1965, and the funds have not been fully disbursed by the Department, the responsible Department official shall, where necessary to effectuate the purposes of this Part 1, require an assurance similar to that provided in paragraph (a) of this section as a condition to the disbursement of further funds.

(c) *Preexisting contracts—periodic payments.* In any case where a contract for Federal financial assistance, to carry out a program or activity to which this Part 1 applies, has been executed prior to January 3, 1965, and provides for periodic payments for the continuation of the program or activity, the recipient shall, in connection with the first application for such periodic payments on or after January 3, 1965, (1) submit a statement that the program or activity is being conducted in compliance with all requirements imposed by or pursuant to this Part 1 and (2) provide such methods of administration for the program or activity as are found by the responsible Department official to give reasonable assurance that the recipient will comply with all requirements imposed by or pursuant to this Part 1.

(d) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of persons as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such persons, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(e) *Elementary and secondary schools.* The requirements of this section with respect to any elementary or

secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this Part 1 within the earliest practicable time, and provides reasonable assurance that it will carry out such plan.

§ 1.6 Compliance information.

(a) *Cooperation and assistance.* The responsible Department official and each Department official who by law or delegation has the principal responsibility within the Department for the administration of any law extending financial assistance subject to this Part 1 shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Part 1 and shall provide assistance and guidance to recipients to help them comply voluntarily with this Part 1.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this Part 1.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertainent to ascertain compliance with this Part 1. Where any information required of a recipient is in the exclusive possession of any other agency, institution, or person and this agency, institution, or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Part 1 and its applicability to the program or activity under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Departmnt official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this Part 1.

§ 1.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this Part 1.

(b) *Complaints.* Any person who believes himself or any specific class of persons to be subjected to discrimination prohibited by this Part 1 may by himself or by a representative file with the responsible Department official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his designee.

(c) *Investigations.* The responsible Department official or his designee shall make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this Part 1. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this Part 1 occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this Part 1.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this Part 1, the responsible Department official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1.8.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Department official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Act or this Part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this Part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this Part 1, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this Part 1 may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 1.5.* If an applicant fails or refuses to furnish an assurance required under § 1.5 or otherwise fails or refuses to comply with the requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to a contract therefor approved prior to January 3, 1965.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this Part 1, (3) the action has been approved by the Secretary, and (4) the expiration of 30 days after the Secretary has filed with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient. During this period of at least 10 days additional efforts shall be made to persuade the applicant or recipient to comply with this Part 1 and to take such corrective action as may be appropriate.

§ 1.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated time and place. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph (a) or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1.8(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Department official unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the responsible Department official or, at his discretion, before a hearing examiner designated in accordance with sections 3105 and 3344 of title 5, United States Code.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 and in accordance with the Practice and Procedure for Hearings issues by the Department and published in Part 2 of this subtitle relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this Part 1, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the Department and the applicant or recipient, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this Part 1 with respect to two or more programs or activities to which this Part 1 applies, or noncompliance with this Part 1 and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this Part 1. Final decisions in such cases insofar as this Part 1 is concerned, shall be made in accordance with § 1.10.

§ 1.10 Decisions and notices.

(a) *Decision by person other than the responsible Department official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient by certified or registered mail, return receipt requested. Where the initial decision is made by the hearing examiner, the applicant or recipient may, within the period provided for in the rules of Practice and Procedure for Hearings issued by the Department (Part 2 of this subtitle), file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official, in which event a copy shall also be sent to the complainant.

(b) *Decisions on record or review by the responsible Department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1.9(a) a decision shall be made by the responsible Department official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any, by certified or registered mail, return receipt requested.

(d) *Rulings required.* Each decision of a hearing examiner or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Part 1 with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, to the program or activity involved and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this Part 1, including provisions designed to assure that no Federal financial assistance will thereafter be extended for such program or activity to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this Part 1, or to have otherwise failed to comply with this Part 1, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this Part 1.

(f) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibilty or if it brings itself into compliance with this Part 1 and provides reasonable assurance that it will fully comply with this Part 1.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this

paragraph. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with the Practice and Procedure for Hearings issued by the Department (Part 2 of this subtitle). The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

§ 1.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1.12 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against persons on the ground of race, color, or national origin under any program or activity to which this Part 1 applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant or recipient for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this Part 1, except that nothing in this Part 1 shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to January 3, 1965. Nothing in this Part 1, however, shall be deemed to supersede any of the following (including future amendments thereof):

(1) Executive Orders 11246 and 11375 and regulations issued thereunder, or (2) Executive Order 11063 and regulations issued thereunder, or any other order, regulations or instructions, insofar as such order, regulations, or instructions, prohibit discrimination on the ground of race, color, or national origin in any program or activity or situation to which this Part 1 is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* The responsible Department official shall assure that forms and detailed instructions and procedures for effectuating this Part 1 are issued and promptly made available to interested persons.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agency, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this Part 1 (other than responsibility for final decision as provided in § 1.10), including the achievement of effective coordination and maximum uniformity within the Department and within the Executive Branch of the Government in the application of title VI and this Part 1 to similar programs or activities and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this Department.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

APPENDIX A

FEDERAL FINANCIAL ASSISTANCE OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TO WHICH THIS PART 1 APPLIES

1. Advance Acquisition of Land. Sec. 704, Housing and Urban Development Act of 1965, 42 U.S.C. 3104.

2. Advice and Assistance with respect to Housing for Low and Moderate Income Families. Sec. 106, Housing and Urban Development Act of 1968, as amended by Sec. 903(a) Housing and Urban Development Act of 1970, 12 U.S.C. 1701x.

3. Alaska Housing Assistance. Sec. 1004, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3371.

4. College Housing Program. Title IV, Housing Act of 1950, 12 U.S.C. 1749.

5. Community Disposition Program. Atomic Energy Community Act of 1955, secs. 11–13, 21, 31–36, 41–43, 51–57, 61–66, 101–103, 111–119, 42 U.S.C. 2301; E.O. 11105, 28 F.R. 3909.

6. Comprehensive Planning Assistance and Comprehensive Planning Research and Demonstration Programs. Sec. 701, Housing Act of 1954, 40 U.S.C. 461.

7. Counselling Service to Mortgagors and Prospective Mortgagors. Sec. 237(e), National Housing Act, 12 U.S.C. 1715z–2.

8. Federal-State Training and City Planning and Urban Studies Fellowship Programs. Title VIII, Housing Act of 1964, 20 U.S.C. 801–807.

9. Grants for Housing Management Training. Sec. 803, Housing Act of 1964, 83 Stat. 393 (1969), 84 Stat. 1809 (1970), 20 U.S.C. 803.

10. Home Ownership for Lower Income Families. Sec. 235, National Housing Act, 12 U.S.C. 1715z.

11. Housing for Elderly or Handicapped. Sec. 202, Housing Act of 1959, 12 U.S.C. 1701q.

12. Loan and Grant Assistance for Planning Housing Projects in Appalachia, sec. 207, Appalachian Regional Development Act of 1965, as amended, 81 Stat. 257, 40 U.S.C. App. 207.

13. Low-Income Housing Demonstration Grant Program. Sec. 207, Housing Act of 1961, 42 U.S.C. 1436.

14. Low-Rent Public Housing Program (including housing in private accommodations). United States Housing Act of 1937, 42 U.S.C. 1401.

15. Model Cities Program. Title I, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3301.

16. National Flood Insurance Program. Title XIII, Housing and Urban Development Act of 1968, 42 U.S.C. 4001.

17. Neighborhood Facilities Grants. Sec. 703, Housing and Urban Development Act of 1965, 42 U.S.C. 3103.

18. New Communities. Title IV, Housing and Urban Development Act of 1968, 42 U.S.C. 3901.

19. Loans and Grants for New Community Development Programs. Secs. 710 to 729, Housing and Urban Development Act of 1970, 42 U.S.C. 4511.

20. New Technologies in the Development of Housing for Lower Income Families. Sec. 108, Housing and Urban Development Act of 1968, 12 U.S.C. 1701z.

21. Open-Space Land Programs. Title VII, Housing Act of 1961, 42 U.S.C. 1500, Note.

22. Public Facilities Liquidating Programs. See, generally, title II of Independent Offices Appropriation Act of 1955, Public Law 83–428, 12 U.S.C. 1701g–5.

23. Public Facility Loans Program. Title II, Housing Amendments of 1955, 42 U.S.C. 1491–1497 except 1492(a)(2) Assistance for Mass Transportation Facilities and Equipment (transferred to Secretary of Transportation by Reorganization Plan No. 2 of 1968, 33 F.R. 6965).

24. Public Works Acceleration Act Program. Public Works Acceleration Act, 42 U.S.C. 2641.

25. Public Works Planning Advances. Sec. 702, Housing Act of 1954, 40 U.S.C. 462.

26. Rehabilitation Loan Program. Sec. 312, Housing Act of 1964, 42 U.S.C. 1452b.

27. Rent Supplement Program. Sec. 101, Housing and Urban Development Act of 1965, 12 U.S.C. 1701s.

28. Rental and Cooperative Housing for Lower Income Families. Sec. 236, National Housing Act, 12 U.S.C. 1715z–1.

29. Research and Technology. Title V, Housing and Urban Development Act of 1970, 12 U.S.C. 1701z–1—1701z–4.

30. Sale of Surplus Federal Land for Housing, sec. 414, Housing and Urban Development Act of 1969, 40 U.S.C. 484b.

31. Special Assistance Functions. Sec. 305, National Housing Act, 12 U.S.C. 1720, including purchase of below market interest rate mortgages insured by FHA under sec. 221(d)(3). National Housing Act, 12 U.S.C. 1715*l*(d)(3).

32. Technical Assistance to Contractors or Subcontractors. Sec. 911(b), Housing and Urban Development Act of 1970, 15 U.S.C. 694(a). Note.

33. Urban Information and Technical Assistance Services. Title IX, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3351–3356.

34. Urban Mass Transportation Programs (Research, Development and Demonstration Projects; Grants for Technical Studies; Grants for Research and Training). Secs. 6(a), 9, and 11 of the "Urban Mass Transportation Act of 1964, as amended"; Reorganization Plan No. 2 of 1968, 33 FR 6965; 49 U.S.C. 1605(a), 1607(a), 1609(c).

35. Urban Renewal Demonstration Grant Program. Sec. 314, Housing Act of 1954, 42 U.S.C. 1452a.

36. Urban Renewal Program (Urban Renewal Projects and Neighborhood Development Programs, Code Enforcement Programs, Demolition Programs, Rehabilitation Grants, Interim Assistance Grants, and Community Renewal Programs). Title I, Housing Act of 1949, 42 U.S.C. 1450.

37. Urban Research and Technology. Title III, Housing Act of 1948, 12 U.S.C. 1701e, 1701f; sec. 602, Housing Act of 1956, 12 U.S.C. 1701d–3; and secs. 1010 and 1011, Demonstration Cities and Metropolitan Development Act of 1966, 42 U.S.C. 3372 and 3373.

38. Water and Sewer Facilities Grants. Sec. 702, Housing and Urban Development Act of 1965, 42 U.S.C. 3102.

[FR Doc.71-17878 Filed 12-8-71;8:45 am]

DEPARTMENT OF JUSTICE

[28 CFR Part 42]

[Order No. 471–71]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

I. The following proposed amendments to the Department of Justice regulation implementing title VI of the Civil Rights Act of 1964 are part of a joint effort by the Federal departments and agencies with title VI responsibility to effectuate uniform revision of the existing title VI regulations.

Pursuant to the authority granted by section 602 of title VI, 78 Stat. 252, 42 U.S.C. 2000d–1, it is proposed that the implementing regulation of the Department of Justice (28 CFR, Subpart 42–C) be amended in the manner set forth below.

§ 42.103 [Amended]

1. In § 42.103 *Application of this subpart*, the third sentence is amended by deleting the phrase "(b) any employment practice concerning which the primary purpose of the Federal assistance is not that of providing employment as described in § 42.104(c)" and substituting the following: "(b) Employment practices except to the extent described in § 42.104(c)."

2. Section 42.104 is amended as follows: a. In paragraph (b) by renumbering present subparagraphs (3) and (4) as (4) and (5) respectively and by adding new subparagraphs (3) and (6); b. in paragraph (c) by designating the present provision as subparagraph (1), by adding the following sentence at the end of that provision and by adding the following new subparagraph (2). As amended, § 42.104 reads as follows:

§ 42.104 Discrimination prohibited.

* * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this subpart.

* * * * *

(6) (i) A recipient may consider race, color, or national origin in administering a program if the purpose of such consideration is to overcome the effect of prior practices or conditions which had the effect of limiting participation by persons of a particular race, color or national origin and to provide equal access to the program.

(ii) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or natonal origin, the recipient must take reasonable steps to overcome the effects of the prior discrimination.

(c) *Employment practices.* (1) * * * The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(2) In regard to Federal financial assistance which does not have providing employment as a primary objective, the provisions of subparagraph (1) of this paragraph apply to the employment practices of the recipient if discrimination on the ground of race, color, or national origin in such employment practices tends, on the ground of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of or to subject them to discrimination under the program receiving Federal financial assistance. In any such case, the provisions of subparagraph (1) of this paragraph shall apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

3. Section 42.105(a) is amended by designating the present provision as subparagraph (1), by replacing the second sentence of that provision with the following sentence and by adding the following new subparagraph (2):

§ 42.105 Assurance required.

* * * * *

(a) *General.* (1) * * * In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, such assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. * * *

(2) In the case of real property, structures or improvements thereon, or interest therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter are appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee.

* * * * *

§ 42.109 [Amended]

4.a. In § 42.109 *Hearings*, the second sentence in paragraph (a) is amended by deleting the phrase "section 11 of the Administrative Procedure Act" and substituting the following: "5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act)."

b. In § 42.109 *Hearings*, the first sentence in paragraph (d) is amended by deleting the phrase "sections 5 through 8 of the Administrative Procedure Act (5 U.S.C. 1004 through 1007)" and substituting the following: "5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act)."

5. Section 42.110 is amended by adding new paragraph (g) as follows:

§ 42.110 Decisions and notices.

* * * * *

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Department official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 42.112 [Amended]

6. Section 42.112 *Effect on other regulations; forms and instructions,* is amended as follows: a. In paragraph (a) by deleting the phrase "part or of any" and substituting the following: "part, of Executive Order 10925, 11114 or 11246, or of any.";

b. In paragraph (c) by deleting "§ 42.110(d)" in the first sentence and substituting "§ 42.110(e)" and by adding at the end the following sentence.: "Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Attorney General."

II. The appendix to the Department of Justice regulations implementing title VI of the Civil Rights Act of 1964 is hereby amended to read as follows:

APPENDIX A—ASSISTANCE ADMINISTERED BY THE DEPARTMENT OF JUSTICE TO WHICH THIS SUBPART APPLIES

1. Assistance provided by the Law Enforcement Assistance Administration pursuant to the Law Enforcement Assistance Act of 1965, and title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Omnibus Crime Control Act of 1970, 42 U.S.C. 3711–3781.

2. Assistance provided by the Federal Bureau of Investigation through its National Academy and law enforcement training activities pursuant to title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by the Omnibus Crime Control Act of 1970, 42 U.S.C. 3744.

3. Assistance provided by the Bureau of Narcotics and Dangerous Drugs pursuant to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 872.

Dated: December 1, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-17879 Filed 12-8-71;8:46 am]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 31]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Pursuant to the authority contained in section 602 of title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241), it is proposed that Part 31 of Title 29 of the Code of Federal Regulations be amended.

Part 31 will be amended to reflect current statutory citations and to add several paragraphs. These amendments incorporate uniform revisions being jointly adopted by Federal agencies, as well as a new provision (§ 31.3(d)) pertaining to employment practices, to put into effect clarifications to the regulations enacted pursuant to title VI of the Civil Rights Act of 1964. In addition, these amendments reflect other minor changes, such as the deletion of obsolete statutory references and the substitution of new statutory references.

1. Section 31.3 is amended as follows: Subparagraph (3) of paragraph (b) is redesignated subparagraph (4), subparagraph (4) of paragraph (b) is redesignated subparagraph (5), a new subparagraph (3) is added to subparagraph (b), paragraph (c) is deleted, and new paragraphs (c), (d), and (e) are added. As amended, § 31.3 reads as follows:

§ 31.3 General standards.

* * * * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) As used in this section the services, financial aid, or other benefit provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Overcoming the effects of past discrimination.* (1) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practices or usage, and to accomplish the purposes of the Act.

(2) The following will illustrate the application of the provisions of the foregoing paragraph to programs for which Federal financial assistance is furnished by this Department:

(i) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 31.7 (d) to provide information as to the availability of the program or activity, and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will insure that groups previously subjected to discrimination are adequately served.

(ii) Even though an applicant or recipient has never used discriminatory policies, the srevices and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups not then being adequately served. For example, where an employment service office is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

(d) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this regulation applies is to provide employment, such as those programs described in § 31.5, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program including recruitment, examination, appointment, training, promotion, retention or any other personnel action.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the ground of race, color or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of the foregoing paragraph shall apply to the employment practices of the recipient to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries. Accordingly, the employment practices of recipients under programs enumerated in §§ 31.4 and 31.6 are subject to the provisions of this paragraph (d) to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, the beneficiaries of the Federal financial assistance.

(3) The requirements applicable to construction employment under any program for which Federal financial assistance is furnished by this Department shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(e) *Application of standards.* The application of the foregoing standards to programs for which Federal financial assistance is furnished by this Department is set forth in §§ 31.4–31.6. Nothing contained in those sections limits the general application of this § 31.3.

2. Section 31.5 is amended as follows: Paragraphs (a) and (b) are amended, and a new paragraph (c) is added. As amended, § 31.5 reads as follows:

§ 31.5 Manpower Development and Training Act, work-incentive under Social Security Act, work-training under Economic Opportunity Act and other Government-sponsored training.

In the administration of the Manpower Development and Training Act, title IV of the Social Security Act, as amended, title I, parts B and D, of the Economic Opportunity Act, and any other training sponsored by the Department of Labor:

(a) Any contract, subcontract, agreement or arrangement with a recipient of Federal financial assistance which provides for the registration, counseling, testing, guidance, selection or referral to training or employment of any individual shall contain an assurance and provide that such service shall be furnished without discrimination because of race, color, or national origin and that violation shall constitute grounds for termination of the contract, subcontract, agreement or arrangement and shall include provisions which give the United States a right to seek its judicial enforcement.

(b) Any such contract, subcontract, agreement or arrangement providing for training or employment shall also contain an assurance and provide that the recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to any such trainee while receiving training or employment thereunder, shall be without regard to race, color, or national origin, and that violation shall constitute grounds for termination of the contract, subcontract, agreement or arrangement and shall include provisions which give the United States a right to seek its judicial enforcement.

(c) (1) In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the contract, subcontract, agreement or arrangement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the Secretary, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Secretary may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumberance remains effective.

3. Section 31.6 is amended as follows: The heading is revised and the first sentence of § 31.6 is revised. As amended, § 31.6 reads as follows:

§ 31.6 State and Federal unemployment insurance programs; allowances under trade readjustment assistance program, Manpower Development and Training Act and Social Security Act.

In the administration of the Federal and State unemployment insurance programs, and in the payment of allowances under the Trade Expansion Act, the Manpower Development and Training Act and the Social Security Act, as amended, by a recipient of Federal financial assistance:

(a) The filing for, adjudication and payment of benefits, establishment and maintenance of physical facilities and other application of the laws shall be without regard to race, color or national origin.

4. In § 31.10, paragraph (b) and paragraph (d) (1) are revised to read as follows:

§ 31.10 Hearings.

* * * * *

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Department in Washington, D.C., at a time fixed by the Secretary unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before the Secretary or before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

* * * * *

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

* * * * *

5. Section 31.11 is amended to add a new paragraph (f) to read as follows:

§ 31.11 Decisions and notices.

* * * * *

(f) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (c) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (c) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the Secretary determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the Secretary denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes the Secretary to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the Secretary. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order

issued under paragraph (e) of this section shall remain in effect.

6. Section 31.13 is amended as follows: Paragraph (a) is amended, paragraph (b) is renumbered (b)(1) and a new paragraph (b)(2) is added. As amended, § 31.13 reads as follows:

§ 31.13 Effect on other regulations; supervision and coordination.

(a) *Effect on other regulations.* All regulations, orders or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective data of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925, 11114 and 11246 and regulations issued thereunder, (2) The "Standards for a Merit System of Personnel Administration," issued jointly by the Secretaries of Defense, of Health, Education, and Welfare, and of Labor, 23 F.R. 734, or (3) any other regulation or instruction insofar as it prohibits discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibits discrimination on any other ground.

(b) *Supervision and coordination.* (1) The Secretary may from time to time assign to officials of other departments or agencies of the Government (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 31.11), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations.

(2) Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the Secretary.

(Sec. 602, 42 U.S.C. 2000d; 42 U.S.C. 501; 29 U.S.C. 49k; and 5 U.S.C. 301)

Signed at Washington, D.C., this 12th day of March 1971.

JAMES D. HODGSON,
Secretary of Labor.

[FR Doc.71-17880 Filed 12-8-71;8:46 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 300]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

The following proposed reissuance is being made of this part in accordance with uniform regulation amendments being jointly adopted by Federal departments and agencies to clarify their regulations enacted pursuant to title VI of the Civil Rights Act of 1964. One nonuniform change is also being made: The addition of a subpart dealing with nondiscrimination in elementary and secondary schools. Such a subpart was included in the original title VI regulations of other departments and agencies.

§ 300.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred as the "Act") to the end that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from any component of the Department of Defense.

§ 300.2 Definitions.

(a) "Component" means the Office of the Secretary of Defense, a military department or a Defense agency.

(b) "Responsible Department official" means the Secretary of Defense or other official of the Department of Defense or component thereof who by law or by delegation has the principal responsibility within the Department or component for the administration of the law extending such assistance.

(c) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(d) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(e) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals, or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(f) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(g) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(h) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(i) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible Department official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request or plan.

§ 300.3 Application.

This part applies to any program for which Federal financial assistance is authorized under a law administered by any component of the Department of Defense, including the federally assisted programs and activities listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to approval prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance guaranty contracts, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any

such program, of any employer, employment agency, or labor organization, except as noted in § 300.4(b)(4). The fact that a program or activity is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 300.4 Policy.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) In determining the site or location of facilities, make selections with the purpose of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part;

(iv) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(v) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(vi) Treat an individual differently from others in determining whether he satisfies an admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vii) Be prohibited from considering race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act;

(viii) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(4) Where a primary objective of the Federal financial assistance is not to provide employment, but nevertheless discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to this part tends, on the grounds of race, color, or national origin of the intended beneficiaries, to exclude intended beneficiaries from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part applies, the recipient or other persons subject to this part are prohibited from (directly or through contractual or other arrangements) subjecting an individual to discrimination on the grounds of race, color, or national origin in its employment, practices under such program (including recruitment or recruitment advertising; employment, layoff or termination; upgrading, demotion or transfer; rates of pay or other forms of compensation; and use of facilities), to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of the beneficiaries.

(5) The enumeration of specific forms of prohibited discrimination in this subsection does not limit the generality of the prohibition in paragraph (a) of this section.

§ 300.5 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower and Reserve Affairs) shall be responsible for insuring that the policies of this part are effectuated throughout the Department of Defense. He may review from time to time as he deems necessary the implementation of these policies by the components of the Department of Defense.

(b) The Secretary of each Military Department is responsible for implementing this part with respect to programs and activities receiving financial assistance from his Military Department; and the Assistant Secretary of Defense (Manpower and Reserve Affairs) is responsible for similarly implementing this part with respect to all other components of the Department of Defense. Each may designate official(s) to fulfill this responsibility in accordance with § 300.2(b).

(c) The Assistant Secretary of Defense (Manpower and Reserve Affairs) or, after consultation with the Assistant Secretary of Defense (Manpower and Reserve Affairs), the Secretary of each Military Department or other responsible Department official designated by the Assistant Secretary of Defense (Manpower and Reserve Affairs) may assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 300.11, including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this agency.

§ 300.6 Assurances required.

(a) *General.* (1)(i) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies and every application for Federal financial assistance to provide a facility shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part.

(ii) In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the

assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. In any case in which Federal financial assistance is extended without an application having been made, such extension shall be subject to the same assurances as if an application had been made. The responsible Department official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective. In programs receiving Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part shall extend to any facility located wholly or in part in such space.

(3) The assurance required in the case of a transfer of surplus personal property shall be inserted in a written agreement by and between the Department of Defense component concerned and the recipient.

(b) *Continuing State programs.* Every application by a State agency to carry out a program involving continuing Federal financial assistance to which this part applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible Department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part. In cases of continuing State programs in which applications are not made, the extension of Federal financial assistance shall be subject to the same conditions under this subsection as if applications had been made.

(c) *Assurances from institutions.* (1) In the case of Federal financial assistance to an institution of higher education, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Department official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participate in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(d) *Elementary and secondary schools.* The requirement of paragraph (a), (b), or (c) of this section, with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the said Department officer may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purpose of the Act or this part within the earliest practicable time. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of said order.

§ 300.7 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations imposed pursuant to this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other institution or person and this institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department

official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 300.8 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or his designee(s) shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official.

(c) *Investigations.* The responsible Department official will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination of whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Department official will so inform the recipent and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided in § 300.9.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the responsible Department official will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall not be disclosed except when necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

§ 300.9 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law as determined by the responsible Department official. Such other means may include, but are not limited to (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) applicable proceedings under State or local law.

(b) *Noncompliance with § 300.6.* If an applicant fails or refuses to furnish an assurance required under § 300.6 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The component of the Department of Defense concerned shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that the component shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* Except as provided in paragraph (b) of this section no order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding, after opportunity for a hearing (as provided in § 300.10), of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; (3) the action has been approved by the Secretary of Defense pursuant to § 300.11; and (4) the expiration of 30 days after the Secretary of Defense has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to affect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Assistant Secretary of Defense (Manpower and Reserve Affairs), (3) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (4) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 300.10 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 300.11, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of hearing. An applicant or recipient may waive a hearing and submit written information and argument. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 300.11(g) of this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the responsible component of the Department of Defense in Washington, D.C. at a time fixed by the responsible Department official unless he determines that the convenience of the applicant or recipient or of the component requires that another place be selected. Hearings shall be held before the responsible Department official or, at his discretion, before a hearing examiner designated by him.

(c) *Hearing examiner.* The examiner shall be a field grade officer or civilian employee above the grade of GS–12 (or the equivalent) who shall be a person admitted to practice law before a Federal court or the highest court of a State.

(d) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the responsible component of the Department shall have the right to be represented by counsel.

(e) *Procedures.* (1) The recipient shall receive an open hearing at which he or his counsel may examine any witnesses present. Both the responsible Department official and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in

the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(f) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Assistant Secretary of Defense (Manpower and Reserve Affairs), the Secretary of a Military Department, or other responsible Department official designated by the Assistant Secretary of Defense (Manpower and Reserve Affairs) after consultation with the Assistant Secretary of Defense (Manpower and Reserve Affairs) may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of appropriate procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 300.11.

§ 300.11 Decisions and notices.

(a) *Decision by person other than the responsible department official.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Department official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible Department official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Department official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible Department official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Department official.

(b) *Decisions on record or review by the responsible department official.* Whenever a record is certified to the responsible Department official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section or whenever the responsible Department official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Department official shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 300.10(a) a decision shall be made by the responsible Department official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Department official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by the Secretary of Defense.* Any final decision of a responsible Department official which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary of Defense, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Contents of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible department official that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Department official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Department official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Department official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Department official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this subsection are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 300.12 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 300.13 Effect on other issuances.

(a) All issuances heretofore issued by any officer of the Department of Defense or its components which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part.

(b) Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925, 11114, and 11246 and issuances thereunder, (2) the "Standards for a Merit System of Personnel Administration," issued jointly by the Secretaries of Defense, of Health, Education, and Welfare, and of Labor, 28 F.R. 734, or (3) Executive Order 11063 and issuances thereunder, or any other issuances, insofar as

such order or issuances prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

§ 300.14 Implementation.

The Secretary of each Military Department shall submit regulations implementing this part to the Assistant Secretary of Defense (Manpower and Reserve Affairs).

(Public Law 88-352; Civil Rights Act, 1964; 78 Stat. 241, July 2, 1964)

DAVID PACKARD,
Deputy Secretary of Defense.

MAY 27, 1971.

APPENDIX A

FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

1. The Army and Air National Guard (Title 32, United States Code).
2. Various programs involving loan or other disposition of surplus property (various general and specialized statutory provisions including: 40 U.S.C. 483, 484, 512; 49 U.S.C. 1101–1119; 10 U.S.C. 2541, 2542, 2543, 2572, 2662, 7308, 7541, 7542, 7545, 7546, 7547).
3. National Program for Promotion of Rifle Practice (10 U.S.C 4307 and annual Department of Defense Appropriation Act).
4. National Defense Cadet Corps Program (10 U.S.C. 3540(b), 4651).
5. Office of Civil Defense assistance to programs of adult education in civil defense subjects (50 U.S.C. App. 2281 (e), (f)).
6. Office of Civil Defense radiological instruments grants (50 U.S.C. App. 2281(h)).
7. Office of Civil Defense program (with Public Health Service) for development of instructional materials on medical self-help (50 U.S.C. App. 2281 (e), (f)).
8. Office of Civil Defense university extension programs for civil defense instructor training (50 U.S.C. App. 2281(e)).
9. Office of Civil Defense programs for survival supplies and equipment, survival training, emergency operating center construction, and personnel and administrative expenses (50 U.S.C. App. 2281(i), 2285).
10. Office of Civil Defense Shelter Provisioning Program (50 U.S.C. App. 2281(h)).
11. Office of Civil Defense assistance to students attending Office of Civil Defense schools (50 U.S.C. App. 2281(e)).
12. Office of Civil Defense loans of equipment or materials from OCD stockpiles for civil defense, including local disaster purposes (50 U.S.C. App. 2281).
13. Navy Science Cruiser Program (Sec Nav Instruction 5720.19A).
14. Civil Air Patrol (10 U.S.C. 9441).
15. Research grants made under the authority of Public Law 85-934 (42 U.S.C. 1892).
16. Contracts with nonprofit institutions of higher education or with nonprofit organizations whose primary purpose is the conduct of scientific research, wherein title to equipment purchased with funds under such contracts may be vested in such institutions or organizations under the authority of Public Law 85-934 (42 U.S.C. 1891).
17. Army Corps of Engineers participation in cooperative investigations and studies concerning erosion of shores of coastal and lake waters (33 U.S.C. 426).
18. Army Corps of Engineers assistance in the construction of works for the restoration and protection of shores and beaches (33 U.S.C. 426 e-h).
19. Public park and recreational facilities at water resource development projects under the administrative jurisdiction of the Department of the Army (16 U.S.C. 460d and Federal Water Project Recreation Act, Public Law 89-722, 79 Stat. 218, July 9, 1965).
20. Payment to States of proceeds of lands acquired by the United States for flood control, navigation, and allied purposes (33 U.S.C. 701-c-3).
21. Grants of easements without consideration, or at a nominal or reduced consideration, on lands under the control of the Department of the Army at water resource development projects. (33 U.S.C. 558c and 702 d-1; 10 U.S.C. 2668 and 2669; 43 U.S.C. 961; 40 U.S.C. 319.)
22. Army Corps of Engineers assistance in the construction of small boat harbor projects (33 U.S.C. 540 and 577, and 47 Stat. 42, Feb. 10, 1932).

[FR Doc.71-17881 Filed 12-8-71;8:46 am]

OFFICE OF EMERGENCY PREPAREDNESS

[32 CFR Part 1704]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Pursuant to and in conformity with section 602, 78 Stat. 252, Public Law 81-875; 42 U.S.C. 1855-1855g; Public Law 89-769 and Public Law 91-79, it is proposed that Title 32 be amended by adding a new Part 1704. For purposes of codification, all OEP regulations will eventually be placed under a single title in the Code of Federal Regulations. At present the OEP has regulations appearing in Title 32 and Title 32A of the Code of Federal Regulations. This new Part 1704 supersedes OEP Regulation 5 in Title 32A.

This reprint includes uniform revisions being jointly adopted by the Federal departments and agencies to put into effect clarifications to the regulations enacted pursuant to title VI of the Civil Rights Act of 1964. In revising these regulations all references to the "Interim Emergency Management of Resources Program" have been deleted because title VI no longer has any application to that program.

Sec.

AUTHORITY: The provisions of this Part 1704 issued under sec. 602, 78 Stat. 252, Public Law 81-875; 42 U.S.C. 1855-1855g; Public Law 89-769 and Public Law 91-79.

§ 1704.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Office of Emergency Preparedness.

§ 1704.2 Definitions.

As used in this part—

(a) The term "responsible agency official" with respect to any program receiving Federal financial assistance means the Director of the Office of Emergency Preparedness or other official of the agency who by law or by delegation has the principal responsibility within the agency for the administration of the law extending such assistance.

(b) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(c) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(d) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which

must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(e) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(f) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(g) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(h) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible agency official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

§ 1704.3 Application of this part.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination by those receiving assistance under the "Federal Disaster Assistance" program (Public Law 81–875; 42 U.S.C. 1855–1855g; Public Law 89–769 and Public Law 91–79).

§ 1704.4 Further application of this part.

Other programs under statutes hereafter enacted may be covered by this part. This part applies to any program for which Federal financial assistance is authorized under a law administered by the Office of Emergency Preparedness. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under such program, of any employer, employment agency, or labor organization, except to the extent described in § 1704.5.

§ 1704.5 Specific discriminatory actions prohibited.

(a) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:

(1) Deny any individual any service, financial aid, or other benefit provided under the program;

(2) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(3) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(5) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(6) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program.

(b) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(c) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(d) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(e) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 1704.4.

(f) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

§ 1704.6 Life, health, and safety.

Notwithstanding the provisions of § 1704.5, a recipient of Federal financial assistance shall not be deemed to have failed to comply with § 1704.3, if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health or safety.

§ 1704.7 Assurances required.

Every application for Federal financial assistance to carry out a program to which this part applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible agency official shall specify the form of the foregoing assurances for each program, and

the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

§ 1704.8 Elementary and secondary schools.

The requirements of § 1704.7 with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (a) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (b) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purpose of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plans; in any case of continuing Federal financial assistance the responsible agency official may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case to which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

§ 1704.9 Assurances from institutions.

(a) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by § 1704.7 shall extend to admission practices and to all other practices relating to the treatment of students.

(b) The assurances required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institutions or to the opportunity to participate in the provision of services or other benefits to such individuals; shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the Director of the Office of Emergency Preparedness that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

§ 1704.10 Compliance information.

(a) *Cooperation and assistance.* The responsible official in the Office of Emergency Preparedness shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible agency official or his designee timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the responsible agency official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or his complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible agency official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible agency official finds necessary to apprise such persons of the protection against discrimination assured them by the Act and this part.

§ 1704.11 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible agency official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the National Office or any Regional Office of the Office of Emergency Preparedness a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible agency official or his designee.

(c) *Investigations.* The responsible agency official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review or the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible agency official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1704.12.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible agency official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1704.12 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 1704.7.* If an applicant fails or refuses to furnish an assurance required under § 1704.7 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this sec-

tion. The agency shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such subsection except that the agency shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application thereof approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible agency official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Director of the Office of Emergency Preparedness pursuant to § 1704.14, and (4) the expiration of 30 days after the Director has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible agency official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 1704.13 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1704.12(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible agency official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1704.12(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the National Office of the Office of Emergency Preparedness in Washington, D.C., at a time fixed by the responsible agency official unless he determines that the convenience of the applicant or recipient or of the agency requires that another place be selected. Hearings shall be held before the responsible agency official or, at his discretion, before a hearing examiner designated in accordance with section 11 of the Administrative Procedures Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the agency shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedures Act), and in accordance with such rules of procedures as are proper and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the agency and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Director of the Office of Emergency Preparedness may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 1704.14.

§ 1704.14 Decisions and notices.

(a) *Decision by person other than the responsible agency official.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible agency official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible agency official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible agency official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible agency official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible agency official.

(b) *Decisions on record or review by the responsible agency official.* Whenever a record is certified to the responsible agency official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever he conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of his final decision shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1704.13(a) a decision shall be made by the responsible agency official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible agency

official shall set forth his rulings on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Director.* Any final decision of a responsible agency official (other than the Director of the agency) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Director of the Office of Emergency Preparedness who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Director of the Office of Emergency Preparedness that it will fully comply with this part.

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 1704.5 shall be restored to full eligibility to receive Federal financial assistance, if it files a court order or a plan for desegregation which meets the requirements of § 1704.8, and provides reasonable assurance that it will comply with this court order or plan.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section above may at any time request the responsible agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible agency official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible agency official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 1704.15 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1704.16 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Office of Emergency Preparedness which impose requirements designed to prohibit any discrimnation against individuals on the ground of race, color, or national origin, under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede Executive Orders 10925, 11114, and 11246 (including future amendments thereof and regulations issued thereunder, or any other regulations or instructions, insofar as such regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible agency official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* (1) The Director of the Office of Emergency Preparedness may from time to time assign to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purpose of title VI of the Act and this part (other than responsibility for final decision as provided in § 1704.14), including the achievement of effective coordination and maximum uniformity within the agency and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations.

(2) Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this agency.

This Part 1704 supersedes OEP Reg. 5 which was published in the FEDERAL REGISTER on January 9, 1965 (30 F.R. 321). OEP Reg. 5 is hereby revoked.

Dated: October 8, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

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VETERANS ADMINISTRATION

[38 CFR Part 18]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Pursuant to recommendations of the Interagency Committee for Uniform Title VI Regulation Amendments for the purpose of putting into effect clarifications to the regulations enacted pursuant to title VI of the Civil Rights Act of 1964, it is proposed that Part 18, Chapter I of Title 38, Code of Federal Regulations—Nondiscrimination in Federally Assisted Programs of the Veterans Administration—Effectuation of title VI of the Civil Rights Act of 1964, be amended.

The amendments are as follows:

1. Section 18.2 is revised to read as follows:

§ 18.2 Application of this part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Veterans Administration, including the federally assisted programs and activities listed in Appendix A to this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of this part pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistace by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 18.3. The fact that a program or activity is not listed in Appendix A to this part shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under

statutes now in force or hereinafter enacted may be added to Appendix A to this part by notice published in the FEDERAL REGISTER.

2. In § 18.3, paragraph (b) is amended to read as follows:

§ 18.3 Discrimination prohibited.

* * * * *

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on grounds of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under this program;

(vi) Deny a person an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(4) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This section does not prohibit the consideration of race, color or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in the program or activity receiving Federal financial assistance, on the grounds of race, color or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this section applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

* * * * *

3. In § 18.4, paragraphs (a) and (b) are amended and paragraph (c) is added so that the added and amended material reads as follows:

§ 18.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. Every program of Federal financial assistance shall require the submission of such an assurance. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible agency official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR Subpart 101–6.2).

(b) *Continuing State programs.* Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this part applies (including the programs listed in Appendix A to this part) shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible agency official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part. In any case in which the recipient is claiming financial assistance under a continuing program pursuant to arrangements entered into prior to the effective date of this part, the assurances provided by this paragraph shall be included in the first application or claim for assistance on or after the effective date of this part.

(c) *Elementary and secondary schools.* The requirements of paragraph (a) or (b) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible agency official determines is adequate to accomplish the purposes of the Act and this part, at the earliest practicable time, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible agency official may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

§ 18.5 [Revoked]

4. Section 18.5 is revoked. See Appendix B of this part.

5. In § 18.8, paragraph (d) is amended to read as follows:

§ 18.8 Procedure for effecting compliance.

* * * * *

(d) *Other means authorized by law.* No action to effect compliance with title VI of the Act by any other means authorized by law shall be taken by the Veterans Administration until (1) the responsible agency official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

6. In § 18.9, paragraphs (b) and (d) (1) are amended to read as follows:

§ 18.9 Hearings.

* * * * *

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Veterans Administration in Washington, D.C., at a time fixed by the responsible agency official unless he determines that the convenience of the applicant or recipient or of the Veterans Administration requires that another place be selected. Hearings shall be held before the responsible agency official or, at his discretion, before a hearing examiner appointed in accordance with section 3105 of title 5, United States Code, or detailed under section 3344 of title 5, United States Code.

* * * * *

(d) *Procedures, evidence, and record.* (1) The hearing, decision and any administrative review thereof shall be conducted in conformity with the procedures contained in 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Veterans Administration and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

* * * * *

7. In § 18.10, paragraphs (a), (b), (c), (d), and (e) are amended and paragraph (g) is added so that the amended and added material reads as follows:

§ 18.10 Decisions and notices.

(a) *Procedure on decisions by hearing examiner.* If the hearing is held by a hearing examiner, such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible agency official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible agency official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible agency official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible agency official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible agency official.

(b) *Decisions on record or review by the responsible agency official.* Whenever a record is certified to the responsible agency official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible agency official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a written copy of the final decision of the responsible agency official shall be sent to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 18.9(a) a decision shall be made by the responsible agency official on the record and a written copy of such decision shall be sent to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing examiner or responsible agency official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Administrator.* Any final decision by a hearing examiner which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Administrator personally, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

* * * * *

(g) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this section and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible agency official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible agency official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

8. In § 18.12, paragraphs (a) and (c) are amended to read as follows:

§ 18.12 Effect on other regulations, forms, and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions issued before the effective date of this part by any officer of the Veterans Administration which impose requirements designed to prohibit any discrimination against individuals on the grounds of race, color, or national origin under any program to which this part applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby supereseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 (3 CFR, 1959–1963 Comp., p. 448), 11114 (3 CFR, 1959–1963, p. 774), and 11246 (3 CFR, 1965 Supp., p. 167) and regulations issued thereunder, or (2) Executive Order 11063 (3 CFR, 1959–1963 Comp., p. 652) and regulations issued thereunder, or any other

orders, regulations, or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

* * * * *

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of the Veterans Administration or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 18.10) including the achievement of effective coordination and maximum uniformity within the Veterans Administration and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action has been taken by the responsible official of this Agency.

9. In § 18.13, paragraphs (c), (f), and (h) are amended and paragraph (i) is added so that the amended and added material reads as follows:

§ 18.13 Definitions.

As used in this part—

* * * * *

(c) The term "responsible agency official" with respect to any program receiving Federal financial assistance means the Administrator or other official of the Veterans Administration or an official of another department or agency to the extent the Administrator has delegated his authority to such official.

* * * * *

(f) The term "program," except those specifically excluded in § 18.2, includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals conducted under a law administered by the Veterans' Administration, including but not limited to the programs and activities listed in Appendix A to this part. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

* * * * *

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in the United States, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "applicant" means a person who submits an application, request, or plan required to be approved by the Administrator, or by a recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

10. Appendix B (formerly § 18.5) is added to read as follows:

APPENDIX B

ILLUSTRATIVE APPLICATIONS

The following examples, without being exhaustive, will illustrate the application of the nondiscrimination provisions to certain grants of the Veterans Administration. (In all cases the discrimination prohibited is discrimination on the grounds of race, color, or national origin prohibited by title VI of the Act and this part, as a condition of the receipt of Federal financial assistance.)

(a) In grants which support the provision of health or welfare services for veterans in State homes, discrimination in the selection or eligibility of individuals to receive the services, and segregation or other discriminatory practices in the manner of providing them, are prohibited. This prohibition extends to all facilities and services provided by the State as grantee under the program or by a political subdivision of the State. It extends also to services purchased or otherwise obtained by the grantee (or political subdivision) from hospitals, nursing homes, schools, and similar institutions for beneficiaries of the program, and to the facilities in which such services are provided, subject, however, to the provisions of § 18.3(c).

(b) In grants to assist in the construction of facilities for the provision of health or welfare services assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be prohibited as a condition of Federal operating grants for the support of such services. Thus, as a condition of grants for the construction of a State home for furnishing nursing home care, assurances will be required that there will be no discrimination in the admission or treatment of patients. In the case of such grants the assurance will apply to patients, to interns, residents, student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the nursing home, and will apply to the entire facility for which, or for a part of which, the grant is made, and to facilities operated in connection therewith.

(c) Upon transfers of real or personal surplus property for health or educational uses, discrimination is prohibited to the same extent as in the case of grants for the construction of facilities or the provision of equipment for like purposes.

(d) A recipient may not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly. Thus a State, in selecting or approving projects or sites for the construction of a nursing home which will receive Federal financial assistance, may not base its selections or approvals on criteria which have the effect of defeating or of substantially impairing accomplishment of the objectives of the Federal assistance program with respect to individuals of a particular race, color, or national origin.

(Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1; 38 U.S.C. 641, 644, 5031–5037, 5055, 3402(a)(2), Chapters 31, 34, 35, and 36)

DONALD E. JOHNSON,
Administrator of Veterans Affairs.

OCTOBER 13, 1970.

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GENERAL SERVICES ADMINISTRATION

[41 CFR Part 101–6]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Subpart 101–6.2 is amended to include uniform revisions being adopted by agencies for the purpose of clarifying their regulations previously issued pursuant to title VI of the Civil Rights Act of 1964. The amendment also provides that the title VI regulations of the Department of Transportation will apply in the case of property transferred or conveyed by GSA, without monetary consideration, for public airport purposes, and that the title VI regulations of the Department of the Interior will apply in the case of conveyance of surplus real property for public park, public recreation, or historic monument purposes. The program involving stabilization payments to small domestic producers of lead and zinc ores and concentrates has been deleted, the statutory authority for the program having expired. A new program, surplus real property for housing for persons of low or moderate income has been added, and the title VI regulations of the Department of Housing and Urban Development will apply thereto. Additionally, a number of editorial changes have been made to reflect changes in statutory authorities.

The table of contents for Part 101–6 is amended to provide a revised title for Subpart 101–6.2 and new and revised section entries, as follows:

Subpart 101–6.2—Nondiscrimination in Programs Receiving Federal Financial Assistance

Subpart 101–6.2—Nondiscrimination in Programs Receiving Federal Financial Assistance

1. Section 101–6.201 is revised to read as follows:

§ 101–6.201 Scope of subpart.

This subpart provides the regulations of the General Services Administration (GSA) under title VI of the Civil Rights Act of 1964 (52 U.S.C. 2000d—2000d–4) concerning nondiscrimination in federally assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA.

2. Section 101–6.203 is revised to read as follows:

§ 101–6.203 Application of subpart.

(a) Subject to paragraph (b) of this section, this subpart applies to any program for which Federal financial assistance is authorized under a law administered in whole or in part by GSA, including the laws listed in § 101–6.217. It applies to money paid, property transferred, or other Federal financial assistance extended to any such program after the effective date of this subpart pursuant to an application approved prior to such effective date. This subpart does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended to any such program before the effective date of this subpart, except to the extent otherwise provided by contract, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 101–6.204–2(d). The fact that a statute which authorizes GSA to extend Federal financial assistance to a program or activity is not listed in § 101–6.217 shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs involving statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

(b) The regulations issued by the following Departments pursuant to title VI of the Act shall be applicable to the programs involving Federal financial assistance of the kind indicated, and those Departments shall respectively be responsible for determining and enforcing compliance therewith:

(1) Department of Health, Education, and Welfare—donation or transfer of surplus property for purposes of education or public health (§ 101–6.217 (a)(2) and (b)).

(2) Department of Defense—donation of surplus personal property for purposes of civil defense (§ 101–6.217(a)(2)).

(3) Department of Transportation—donation of property for public airport purposes (§ 101–6.217(c)). GSA will, however, be responsible for obtaining such assurances as may be required in applications and in instruments effecting the transfer of property.

(4) Department of the Interior—disposal of surplus real property, including improvements, for use as a public park, public recreational area, or historic monument (§ 101–6.217(d) (1) and (2)). GSA will, however, be responsible for obtaining such assurances as may be required in applications and in instruments effecting the transfer of property for use as a historic monument.

(5) Department of Housing and Urban Development—disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (§ 101–6.217(q)).

(c) Each Department named in paragraph (b) of this section shall keep GSA advised of all compliance and enforcement actions, including sanctions imposed or removed, taken by it with respect to the programs specified in paragraph (b) of this section to which the regulations of such Department apply.

3. Section 101–6.204–2 is amended to read as follows:

§ 101–6.204–2 Specific discriminatory actions prohibited.

(a)(1) In connection with any program to which this subpart applies, a recipient may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

* * * * *

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the ground of race, color, or national origin or with the purpose or effect of defeating or susbtantially impairing the accomplishment of the objectives of the Act or this subpart.

(4) This subpart does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the ground of race, color, or national origin. Where previous discriminatory practice or usage tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this subpart applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

* * * * *

(d) (1) Where a primary objective of the Federal financial assistance to a program to which this subpart applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including, but not limited to, recruitment or recruitment advertising; employment; layoff or termination; upgrading, demotion, or transfer; rates of pay or other forms of compensation; selection for training, including apprenticeship; and use of facilities). The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or the corresponding provisions of any Executive order which supersedes it.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to this subpart tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this subpart applies, the provisions of subparagraph (1) of this paragraph (d) shall apply to the employment practices of the recipient or other persons subject to this subpart, to the extent necessary to insure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

4. Section 101–6.205–1 is amended to read as follows:

§ 101–6.205–1 General.

* * * * *

(b) In the case of real property, structures or improvements thereon, or interests therein, which is acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by GSA to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible GSA official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing con-

struction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

* * * * *

5. Section 101–6.205–2 is revised to read as follows:

§ 101–6.205–2 Continuing State programs.

Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this subpart applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (a) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this subpart, and (b) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible GSA official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this subpart.

6. Section 101–6.205–3 is revised to read as follows:

§ 101–6.205–3 Elementary and secondary schools.

The requirements of §§ 101–6.205–1 and 101–6.205–2 with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (a) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (b) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this subpart within the earliest practicable time, and provides reasonable assurance that it will carry out such plan. In any case of continuing Federal financial assistance such responsible official may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this subpart. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

7. Section 101–6.206 is amended to read as follows:

§ 101–6.206 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions of this subpart to certain programs for which Federal financial assistance is extended by GSA (in all cases the discrimination prohibited is discrimination on the ground of race, color, or national origin, prohibited by title VI of the Act and this subpart):

* * * * *

(g) In the program involving the transfer of surplus real property for use in the provision of rental or cooperative housing to families or individuals of low or moderate income (§ 101–6.217(q)), discrimination in the selection and assignment of tenants is prohibited.

* * * * *

In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 101–6.209–4 to provide information as to the availability of the program or activity and the rights of beneficiaries under this subpart have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will ensure that groups previously subjected to discrimination are adequately served.

(j) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances, an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

8. Sections 101–6.207, including the subsections thereof, and 101–6.208 are deleted and reserved as follows:

§ 101–6.207 [Reserved]

§ 101–6.208 [Reserved]

9. Section 101–6.211–4 is revised to read as follows:

§ 101–6.211–4 Other means authorized by law.

No action to effect compliance by any other means authorized by law shall be taken until (a) the responsible GSA official has determined that compliance cannot be secured by voluntary means, (b) the recipient or other person has been notified of his failure to comply and of the action to be taken to effect compliance, and (c) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with this subpart and to take such corrective action as may be appropriate.

10. Section 101–6.212–2 is revised to read as follows:

§ 101–6.212–2 Time and place of hearing.

Hearings shall be held, at a time fixed by the responsible GSA official, at the offices of GSA in Washington, D.C., unless such official determines that the convenience of the applicant or recipient or of GSA requires that another place be selected. Hearings shall be held before the responsible GSA official or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 or 3344 (section 11 of the Administrative Procedure Act).

11. Section 101–6.212–4 is amended to read as follows:

§ 101–6.212–4 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 101–6.212–1, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both GSA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

* * * * *

12. Section 101–6.213–7 is added as follows:

§ 101–6.213–7 Post termination proceedings.

(a) An applicant or recipient adversely affected by an order issued under § 101–6.213–6 shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 101–6.204 shall be restored to full eligibility to receive Federal financial assistance if it files a court order or a plan

for desegregation meeting the requirements of § 101–6.205–3 and provides reasonable assurance that it will comply with this court order or plan.

(b) Any applicant or recipient adversely affected by an order entered pursuant to § 101–6.213–6 may at any time request the responsible GSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the responsible GSA official determines that those requirements have been satisfied, he shall restore such eligibility.

(c) If the responsible GSA official denies any such request, the applicant or recipient may submit a request, in writing, for a hearing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible GSA official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, the sanctions imposed by the order issued under § 101–6.213–6 shall remain in effect.

13. Section 101–6.215–1 is amended to read as follows:

§ 101–6.215–1 Effect on other regulations.

* * * * *

(a) Executive Orders 10925, 11114, and 11246, and regulations issued thereunder.

(b) Any other orders, regulations, or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this subpart is inapplicable, or prohibit discrimination on any other ground.

14. Section 101–6.215–3 is revised to read as follows:

§ 101–6.215–3 Supervision and coordination.

The Administrator may from time to time assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this subpart (other than responsibility for final decision as provided in § 101–6.213), including the achievement of effective coordination and maximum uniformity within GSA and within the executive branch of the Government in the application of title VI and this subpart to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the responsible GSA official.

15. Section 101–6.217 is amended to read as follows:

§ 101–6.217 Laws authorizing Federal financial assistance for programs to which this subpart applies.

(a) (1) Donation of surplus personal property to educational activities which are of special interest to the armed services (section 203(j)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j)(2)).

(2) Donation of surplus personal property for use in any State for purposes of education, public health, or civil defense, or for research for any such purposes (sections 203(j) (3) and (4) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484 (j) (3) and (4)), and the making available to State agencies for surplus property, or the transfer of title to such agencies, of surplus personal property approved for donation for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(n) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(n)).

(b) Disposal of surplus real and related personal property for purposes of education or public health, including research (section 203(k)(1) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)(1)).

(c) Donation of property for public airport purposes (section 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(g); section 23 of the Airport and Airway Development Act of 1970, Public Law 91–258).

(d) (1) Disposal of surplus real property, including improvements, for use as a historic monument (section 13(h) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(h)).

(2) Disposal of surplus real and related personal property for public park or public recreational purposes (section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)(2)).

* * * * *

(q) Disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (section 414 of the Housing and Urban Development Act of 1969, Public Law 91–152).

* * * * *

(Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1)

Dated: November 13, 1970.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.71–17884 Filed 12–8–71;8:46 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 17]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Most of the following proposed amendments make uniform revisions which all agencies are adopting to clarify regulations issued pursuant to the Civil Rights Act of 1964. A few of the amendments deal with departmental administration and procedures. Enforcement responsibility has been vested in the Office of the Secretary rather than in the office or bureau administering the Federal financial assistance. Final decision authority is placed in the Office of Hearings and Appeals in the Department. Appendix A is modified to bring up to date reference to the statutes under which federally assisted programs are administered by the Department of the Interior.

§ 17.2 [Amended]

1. Section 17.2 is redesignated as § 17.2(a) and paragraphs (a), (b), (c), and (d) of § 17.2 are redesignated as subparagraphs (1), (2), (3), and (4) of § 17.2(a).

2. In § 17.2, paragraph (b) is added to read as follows:

(b) In any program receiving Federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, to the extent that rights to space on, over, or under any such property are included as part of the program receiving that assistance, the nondiscrimination requirement of this part shall extend to any facility located wholly or in part of that space.

§ 17.3 [Amended]

3. Paragraph (b) of § 17.3 is amended as follows: Subparagraphs (3) and (4) are redesignated as subparagraphs (5) and (6). Subparagraphs (3) and (4) are revised to read as follows:

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(4) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color or national origin, to exclude individuals from participation in, to deny

them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

4. Paragraph (c) of § 17.3 is revised to read as follows:

(c) *Employment practices.* (1) Where a primary objective of a program of Federal financial assistance to which this part applies is to provide employment, a recipient or other party subject to this part shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities, and treatment of employees). Such recipient shall take affirmative action to insure that applicants are employed, and employees are treated during employment, without regard to their race, color, or national origin. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(2) The requirements of subparagraph (1) of this paragraph apply to programs under laws funded or administered by the Department where a primary objective of the Federal financial assistance is (i) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (ii) to assist such individuals in meeting expenses incident to the commencement or continuation of their education or training, or (iii) to provide work experience which contributes to the education or training of such individuals. Assistance given under the following laws has one of the above purposes as a primary objective: Water Resources Research Act of 1964, title I, 78 Stat. 329, and those statutes listed in Appendix A where the facilities or employment opportunities provided are limited, or a preference is given, to students, fellows, or other persons in training or related employment.

(3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefit of, or to subject them to discrimination under any program to which this regulation applies, the provisions of subparagraph (1) of this paragraph shall apply to the employment practices of the recipient or other persons subject to this part, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

5. Paragraph (e) of § 17.3 is deleted.

§ 17.4 [Amended]

6. Paragraph (a) of § 17.4 is revised to read as follows:

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, except a program to which paragraph (b) of this section applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by, an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. Every program of Federal financial assistance shall require the submission of such an assurance. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, or improvement of real property or structures, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended to the program. In the case where the assistance is sought for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith. The Secretary shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case where Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property or interest therein from the Federal Government is involved, but property is acquired or improved under a program of Federal financial assistance, the recipient shall agree to include such covenant in any subsequent transfer of such property. When the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the Secretary, such a condition and right to reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing facilities on such property for the purposes for which the property was transferred, the Secretary may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to subordinate such right of reversion to the lien of such mortgage or other emcumbrance.

7. In § 17.4(b)(1)(ii), the phrase "the Secretary or his designee" is substituted for the phrase "the head of the bureau or office administering the Federal financial assistance."

8. Subparagraph (2) in the first sentence of § 17.4(c) is revised to read as follows: (c) * * * (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible official of the Department of Health, Education, and Welfare may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part.

9. Paragraph (d) of § 17.4 is revised by substituting in subparagraph (2) the phrase "the Secretary or his designee" for the phrase "the head of the bureau official administering the Federal financial assistance."

10. Section 17.5 is revised to read as follows:

§ 17.5 **Compliance information.**

(a) *Cooperation and assistance.* The Secretary or his designee shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Secretary or his designee timely, complete and accurate compliance reports, at such times, and in such form and containing such information, as the Secretary or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the

case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Secretary or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Secretary or his designee finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

11. Paragraphs (a), (b), (c), and (d) of § 17.6 are revised to read as follows:

§ 17.6 Conduct of investigations.

(a) *Periodic compliance reviews.* The Secretary or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the Secretary a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the Secretary, or his designee.

(c) *Investigations.* Whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part, a prompt investigation shall be made. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the recipient shall be informed in writing and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 17.7.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the recipient and complainant, if any, shall be informed in writing.

* * * * *

§ 17.7 [Amended]

12. Subparagraph (1) of § 17.7(c) is revised to read as follows:

(1) The Secretary or his designee has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means.

13. Paragraph (d) of § 17.7 is revised as follows: Subparagraph (2) is deleted and subparagraphs (3) and (4) are redesignated as subparagraphs (2) and (3). Subparagraph (1) is revised to read as follows:

(1) The Secretary or his designee has determined that compliance cannot be secured by voluntary means.

§ 17.8 [Amended]

14. In the second sentence of paragraph (a) of § 17.8 the words "the head of the bureau or office or" are deleted.

15. Paragraph (b) of § 17.8 is revised to read as follows:

(b) *Time and place of hearing.* Hearings shall be held at the Office of Hearings and Appeals of the Department in the Washington, D.C., area, at a time fixed by the hearing examiner to whom the matter has been assigned unless he determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings shall be held before a hearing examiner designated by the Office of Hearings and Appeals in accordance with 5 U.S.C. sections 3105 and 3344.

16. In subparagraph (1) of paragraph (d) of § 17.8 the phrase "in conformity with sections 5 through 8 of the Administrative Procedure Act (5 U.S.C. 1004 through 1007)" is amended to read "in conformity with 5 U.S.C. sections 554–557."

17. Section 17.9 is revised to read as follows:

§ 17.9 Decisions and notices.

(a) *Initial decision by a hearing examiner.* The hearing examiner shall make an initial decision and a copy of such initial decision shall be sent by registered mail, return receipt requested to the recipient or applicant.

(b) *Review of the initial decision.* The applicant or recipient may file his exceptions to the initial decision, with his reasons therefor, with the Director, Office of Hearings and Appeals, within 30 days of receipt of the initial decision. In the absence of exceptions, the Director, Office of Hearings and Appeals, on his own motion within 45 days after the initial decision, may notify the applicant or recipient that he will review the decision. In the absence of exceptions or a notice of review, the initial decision shall constitute the final decision subject to the approval of the Secretary pursuant to paragraph (f) of this section.

(c) *Decisions by the Director, Office of Hearings and Appeals.* Whenever the Director, Office of Hearings and Appeals, reviews the decision of a hearing examiner pursuant to paragraph (b) of this section, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contention, and a copy of the final decision of the Director, Office of Hearings and Appeals, shall be given to the applicant or recipient and to the complainant, if any.

(d) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to paragraph (a) of § 17.8, a decision shall be made by the Director, Office of Hearings and Appeals on the record and a copy of such decision shall be given in writing to the applicant or recipient and to the complainant, if any.

(e) *Rulings required.* Each decision of a hearing examiner or the Director, Office of Hearings and Appeals, shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(f) *Approval by Secretary.* Any final decision of a hearing examiner or of the Director, Office of Hearings and Appeals, which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Secretary, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(g) *Content of decisions.* The final decision may provide for the suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this regulation, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Secretary that it will fully comply with this part.

(h) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (g) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into

compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (g) of this section may at any time request the Secretary to restore fully its eligibility to receive Federal finance assistance.

(3) If the Secretary denies any such request, the applicant or recipient may submit to the Secretary a request for a hearing in writing, specifying why it believes the Secretary to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record in accordance with the procedures set forth in Part 17A of this title. The applicant or recipient shall be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph.

(4) While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (g) of this section shall remain in effect.

§ 17.11 [Amended]

18. Subparagraph (1) in the second sentence of paragraph (a) of § 17.11 is amended to read, "(1) Executive Orders 10925, 11114, and 11246 and regulations issued thereunder."

19. In paragraph (b) of § 17.11, the phrase "The Secretary or his designee" is substituted for the phrase "the head of each bureau and office administering Federal financial assistance."

20. Paragraph (c) of § 17.11 is revised by addition of the following as a final sentence: "Any action taken, determination made or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the Secretary of this Department."

21. Section 17.12 is revised by amending paragraph (c) and adding paragraph (k) to read as follows:

§ 17.12 Definitions.

* * * * *

(c) The term "Secretary" means the Secretary of the Interior or, except in § 17.9(f) any person to whom he has delegated his authority in the matter concerned.

* * * * *

(k) The term "Office of Hearings and Appeals" refers to a constituent office of the Department established July 1, 1970. 35 F.R. 12081 (1970).

22. In Appendix A, part I, item 7 is deleted and items 8 through 21 are redesignated as items 7 through 20.

23. In Appendix A, part III, item 3 is added to read as follows:

3. Sealing and filling of voids in abandoned coal mines, reclamation of surface mine areas, and extinguishing mine fires (79 Stat. 13, as amended, 40 U.S.C. sec. 205).

24. In paragraph (a) of part IV in Appendix A, the heading is amended and items 5 and 7 are revised to read as follows:

(a) Grants of Federal funds.

* * * * *

5. Anadromous Fish Act of 1965 (79 Stat. 1125, 16 U.S.C. secs. 757a–757f).

* * * * *

7. Jellyfish Act of 1966 (80 Stat. 1149, 16 U.S.C. secs. 1201–1205).

25. Items 2 and 3 are deleted from paragraph (b) of part IV in Appendix A and items 4 through 6 are redesignated as items 2 through 4.

26. Items 1, 4 and 5 are deleted from paragraph (c) of part IV in Appendix A and items 2, 3, and 6 are redesignated as items 1, 2 and 3.

27. Item 3 in paragraph (a) of section V in Appendix A is revised and item 9 is added in the same paragraph, to read as follows:

3. Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. sec. 47a).

* * * * *

9. Outdoor Recreation Programs (78 Stat. 897, as amended, 16 U.S.C. secs. 4601–4—4601–11).

28. Any rule, order, policy, guideline, finding, determination, authorization, requirement, designation or other action prescribed, issued or taken before the effective date of these amendments under Part 17 shall have the same effect as if these amendments to Part 17 had not been made. No administrative proceeding shall abate by reasons of the taking effect of these amendments. Administrative proceedings initiated under Part 17 prior to these amendments and not finally disposed of prior to such effective date shall be governed by the provisions of Part 17 as amended. If any case under Part 17 where a hearing examiner had rendered an initial or recommended decision, the case shall be concluded in accordance with the provisions of Part 17 as amended.

FRED J. RUSSELL,
Acting Secretary of the Interior.

DECEMBER 3, 1970.

[FR Doc.71-17885 Filed 12-8-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 80]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Amendments to 45 CFR Part 80 are proposed for the purposes indicated below. Revisions similar to those described below (except for revisions described in items numbered 6–8) are uniform changes being adopted by other agencies which provide Federal financials assistance, pursuant to title VI of the Civil Rights Act of 1964. The revisions described under items 6–8 below are not uniform; they are procedural in nature and designed for the regulation of this agency only. In addition, citations to statutory authority are added immediately after each section of 45 CFR Part 80.

1. The present subparagraphs (3) and (4) of § 80.3(b) are renumbered (4) and (5), respectively, and a new subparagraph (3) is added to clarify nondiscrimination requirements with respect to the selection of sites and locations for facilities which affect the provision of federally assisted benefits.

2. A new § 80.3(b)(6) is added to specify that affirmative steps to make services more equitably available are not prohibited and that such steps are required when necessary to overcome the consequences of prior discrimination. Illustrative applications are added as § 80.6 (i) and (j).

3. A subparagraph is added to §80.3(c) to state the rule concerning discriminatory employment practices which result in excluding individuals from participation in, denying them the benefits of, or subjecting them to discrimination under any program or activity to which this regulation applies.

4. Section 80.4(a)(2) is revised to delete the requirement that surplus property transfers contain a reverter for breach of the nondiscrimination provisions and instead to authorize a reverter discretionary with the responsible department official in the case of any real property transfer. As revised, a covenant running with the land, to assure nondiscriminatory use, will be included when any Federal financial assistance is extended in the form of a transfer of real property by the Federal Government. In other cases where property is acquired or improved with Federal financial assistance, the amendment requires that the recipient agree to include such a convenant in any subsequent transfer.

5. Language of § 80.4(b) which provided that noncomplying features of existing continuing State programs could be corrected in the future has been deleted. These programs have now had ample time to achieve full compliance under the Act.

6. Section 80.9(a) provided that in the case of a waiver of a right to a hearing the decision may be made on the basis of "such information as is available." This is amended to provide that the decision in such a case may be made on the basis of "such information as may be filed as the record."

7. Under § 80.10, prior to the present amendment, a party to a proceedings could request the Secretary to review a hearing examiner's decision even though there was no request for the intervening review of the Reviewing Authority, which is a matter of right. The amendment to § 80.10(c) authorizes a request for review by the Secretary only if the matter has first been considered by the Reviewing Authority.

8. Subparagraph (4) of § 80.10(g) duplicates the provision of the last sentence of subparagraph (3) of such section. Subparagraph (4) is deleted to eliminate that inadvertent duplication.

9. A sentence is added to § 80.12(c) specifying that actions taken by an official of another Department or Agency under an assignment of responsibility shall have the same effect as though taken by the responsible official of this Department.

10. In some provisions the word "program" has been used to refer to the arrangement under which Federal financial assistance is made available; in other places it was used to mean the operation or activity of the applicant or recipient. Technical revisions are made in the designation of Part 80 and throughout the regulation to eliminate the use of "program" to refer to the arrangement under which Federal financial assistance is made available.

11. Clause 3 is added to § 80.12(a) to make clear that these regulations and amendments will not affect the requirements for Emergency School Assistance as published in 35 F.R. 13442 and codified as 45 CFR Part 181.

12. The listing of Appendix A is revised to eliminate the use of "program" to refer to the arrangement under which Federal financial assistance is made available and to bring the listings in the Appendix up to date.

1. The designation of Part 80 is amended to read:

PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE THROUGH THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

2. Section 80.2 is amended to read:

§ 80.2 Application of this regulation.

This regulation applies to any program for which Federal financial assistance is authorized to be extended to a recipient under a law administered by the Department, including the Federal assistance programs and activities listed in Appendix A of this regulation. It applies to money paid, property transferred, or other Federal financial assistance extended after the effective date of the regulation pursuant to an application approved prior to such effective date. This regulation does not apply to (a) any Federal financial assistance by way of insurance or guaranty contracts, (b) money paid, property transferred, or other assistance extended before the effective date of this regulation, (c) the use of any assistance by any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 80.3. The fact that a type of Federal assistance is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that a program is not covered. Federal financial assistance under statutes not in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

(Secs. 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253; 42 U.S.C. 2000d–1, 2000d–3)

§ 80.3 [Amended]

3. Section 80.3(b) is amended by renumbering the present subparagraphs (3) and (4), as subparagraphs (4) and (5), respectively, and adding new subparagraphs (3) and (6). As so changed, subparagraphs (3), (4), (5), and (6) read as follows:

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any programs to which this regulation applies, on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) As used in this section, the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the ground of race, color, or national origin. Where previous discriminatory practice or usage tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

4. Paragraphs (c) and (d) of § 80.3 are amended to read:

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this regulation applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (i) to reduce the unemployment of such individuals or to keep them through employment to meet subsistence needs, (ii) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, (iii) to provide work experience which contributes to the education or training of such indviduals, or (iv) to provide remunerative activity to such individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market. The following, under existing laws, have one of the above objectives as a primary objective:

(*a*) Projects under the Public Works Acceleration Act, Public Law 87–658, 42 U.S.C. 2641–2643.

(*b*) Community work and training assisted under title IV of the Social Security Act, 42 U.S.C. 609.

(*c*) Work-study under the Vocational Education Act of 1963, as amended, 20 U.S.C. 1371–1374.

(*d*) Programs assisted under laws listed in Appendix A as respects employment opportunities provided thereunder, or in facilities provided thereunder, which are limited, or for which preference is given, to students, fellows, or other persons in training for the same or related employments.

(*e*) Assistance to sheltered workshops under the Vocational Rehabilitation Act, 29 U.S.C. 32–34, 41a and 41b.

(2) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the foregoing provisions of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

(d) *Indian Health and Cuban Refugee Services.* An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 80.4 [Amended]

5. Subparagraph (2) of § 80.4(a) is amended to read:

(2) Where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government the instrument effecting or recording the transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose

for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved but property is improved with Federal financial assistance, the recipient shall agree to include such a convenant to any subsequent transfer of the property. Where the property is obtained from the Federal Government, such convenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Department official, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the responsible Department official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

6. Paragraph (b) of § 80.4 is amended to read:

(b) *Continuing State programs.* Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this regulation applies (including the Federal financial assistance listed in Part 2 of Appendix A) shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this regulation, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible department official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this regulation.

7. Subparagraph (1) of § 80.4(d) is amended to read:

(d) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for special training project, for student loans or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

8. The introductory statement of § 80.5 and paragraphs (a), (b), (e), and (h) are amended and paragraphs (i) and (j) are added as illustrative applications of the new § 80.3(b)(6) to read:

§ 80.5 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions to some programs aided by Federal financial assistance of the Department. (In all cases the discrimination prohibited is discrimination on the ground of race, color, or national origin prohibited by title VI of the Act and this regulation, as a condition of the receipt of Federal financial assistance.)

(a) In federally assisted programs for the provision of health or welfare services, discrimination in the selection or eligibility of individuals to receive the services, and segregation or other discriminatory practices in the manner of providing them, are prohibited. This prohibition extends to all facilities and services provided by the grantee under the program or, if the grantee is a State, by a political subdivision of the State. It extends also to services purchased or otherwise obtained by the grantee (or political subdivision) from hospitals, nursing homes, schools, and similar institutions for beneficiaries of the program, and to the facilities in which such services are provided, subject, however, to the provisions of § 80.3(e).

(b) In federally affected area assistance (Public Law 815 and Public Law 874) for construction aid and for general support of the operation of elementary or secondary schools, or in more limited support to such schools such as for the acquisition of equipment, the provision of vocational education, or the provision of guidance and counseling services, discrimination by the recipient school district in any of its elementary or secondary schools in the admission of students, or in the treatment of its students in any aspect of the educational process, is prohibited. In this and the following illustrations the prohibition of discrimination in the treatment of students or other trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the grantee or other recipient.

* * * * *

(e) In grants to assist in the construction of facilities for the provision of health, educational, or welfare services, assurances will be required that services will be provided without discrimination, to the same extent that discrimination would be prohibited as a condition of Federal operating grants for the support of such services. Thus, as a condition of grants for the construction of academic, research, or other facilities at institutions of higher education, assurances will be required that there will be no discrimination in the admission or treatment of students. In case of hospital construction grants the assurance will apply to patients, to interns, residents, student nurses, and other trainees, and ot the privilege of physicians, dentists, and other professionally qualified persons to practice in the hospital, and will apply to the entire facility for which, or for a part of which, the grant is made, and to facilities operated in connection therewith. In other construction grants the assurances required will similarly be adapted to the nature of the activities to be conducted in the facilities for construction of which the grants have been authorized by Congress.

* * * * *

(h) A recipent may not take action that is calculated to bring about indirectly what this regulation forbids it to accomplish directly. Thus, a State, in selecting or approving projects or sites for the construction of public libraries which will receive Federal financial assistance, may not base its selections or approvals on criteria which have the effect of defeating or of substantially impairing accomplishment of the objectives of the Federal assistance as respects individuals of a particular race, color, or national origin.

(i) In some situations, even though past discriminatory practices attributable to a recipient or applicant have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts require of the applicant or recipient under § 80.6(d), to provide information as to the availability of the program or activity and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary under the requirement stated in the second sentence of § 80.3 (b)(6) for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, or special arrangements for obtaining referrals or making selections which will insure that groups previously subjected to discrimination are adequately served.

(j) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances, an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

§ 80.6 [Amended]

9. Paragraph (d) of § 80.6 is amended to read:

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries,

and other interested persons such information regarding the provisions of this regulation and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this regulation.

10. Paragraph (a) of § 80.9 is amended to read:

§ 80.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 80.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Department official that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 80.8(c) of this regulation and consent to the making of a decision on the basis of such information as may be filed as the record.

* * * * *

§ 80.10 [Amended]

11. Paragraphs (e) and (f) of § 80.10 are amended to read:

(e) *Review in certain cases by the Secretary.* If the Secretary has not personally made the final decision referred to in paragraphs (a), (b), or (c) of this section, a recipient or applicant or the counsel for the Department may request the Secretary to review a decision of the Reviewing Authority in accordance with rules of procedure issued by the responsible Department official. Such review is not a matter of right and shall be granted only where the Secretary determines there are special and important reasons therefor. The Secretary may grant or deny such request, in whole or in part. He may also review such a decision upon his own motion in accordance with rules of procedure issued by the responsible Department official. In the absence of a review under this paragraph, a final decision referred to in paragraphs (a), (b), or (c) of this section shall become the final decision of the Department when the Secretary transmits it as such to Congressional committees with the report required under section 602 of the Act. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this regulation, including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this regulation, or to have otherwise failed to comply with this regulation, unless and until it corrects its noncompliance and satisfies the responsible Department official that it will fully comply with this regulation.

12. Subparagraph (4) of § 80.10(g) is deleted.

13. Paragraph (a) of § 80.12 is amended and a new concluding sentence is added to paragraph (c) to read:

§ 80.12 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by any officer of the Department which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this regulation applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this regulation, except that nothing in this regulation shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this regulation. Nothing in this regulation, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) The "Standards for a Merit System of Personnel Administration," issued jointly by the Secretaries of Defense, of Health, Education, and Welfare, and of Labor, Part 70 of this chapter; (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this regulation is inapplicable, or prohibit discrimination on any other ground; or (3) requirements for Emergency School Assistance as published in 35 F.R. 13442 and codified as Part 181 of this title.

* * * * *

(c) *Supervision and coordination.* The responsible Department official may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this regulation (other than responsibility for review as provided in § 80.10(e)), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this regulation to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the responsible official of this Department.

§§ 80.1, 80.2, 80.3, 80.4, 80.5, 80.6, 80.7, 80.8, 80.9, 80.10, 80.11, 80.12 [Amended]

14. The following citations are added immediately after each of the listed sections of 45 CFR Part 80 as indicated below:

Section 80.1: (Sec. 601, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d.)

Section 80.2: (Secs. 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253; 42 U.S.C. 2000d–1, 2000d–3.)

Section 80.3: (Secs. 601, 602, 604, Civil Rights Act of 1964; 78 Stat. 252, 253; 42 U.S.C. 2000d, 2000d–1, 2000d–3.)

Section 80.4: (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1, sec. 182; 80 Stat. 1209; 42 U.S.C. 2000d–5.)

Section 80.5: (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

Section 80.6: (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

Section 80.7: (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1.)

Section 80.8: (Secs. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d–1. Sec. 182, 80 Stat. 1209; 42 U.S.C. 2000d–5.)

Section 80.9: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

Section 80.10: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

Section 80.11: (Sec. 603, Civil Rights Act of 1964; 78 Stat. 253; 42 U.S.C. 2000d–2.)

Section 80.12: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

Section 80.13: (Sec. 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d–1.)

Dated: November 4, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education and Welfare.

APPENDIX A

FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

Part. 1. Assistance other than for State-Administered Continuing Programs

1. Loans for acquisition of equipment for academic subjects, and for minor remodeling (20 U.S.C. 445).

2. Construction of facilities for institutions of higher education (20 U.S.C. 701–758).

3. School construction in federally affected and in major disaster areas (20 U.S.C. 631–647).

4. Construction of educational broadcast facilities (47 U.S.C. 390–399).

5. Loan service of captioned films and educational media; research on, and production and distribution of, educational media for the handicapped, and training of persons in the use of such media for the handicapped (20 U.S.C. 1452).

6. Demonstration residential vocational education schools (20 U.S.C. 1321).

7. Research and related activities in education of handicapped children (20 U.S.C. 1441).

8. Educational research, dissemination and demonstration projects; research training; and construction under the Cooperative Research Act (20 U.S.C. 331–332(b)).

9. Research in teaching modern foreign languages (20 U.S.C. 512).

10. Training projects for manpower development and training (42 U.S.C. 2601, 2602, 2610a–2610c).

11. Research and training projects in Vocational Education (20 U.S.C. 1281(a), 1282–1284).

12. Allowances to institutions training NDEA graduate fellows (20 U.S.C. 461–465).

13. Grants for training in librarianship (20 U.S.C. 1031–1033).

14. Grants for training personnel for the education of handicapped children (20 U.S.C. 1431).

15. Allowances to institutions training teachers and related educational personnel in elementary and secondary education, or postsecondary vocational education (20 U.S.C. 1111–1118).

16. Recruitment, enrollment, training and assignment of Teacher Corps personnel (20 U.S.C. 1101–1107a).

17. Operation and maintenance of schools in federally affected and in major disaster areas (20 U.S.C. 236–241; 241–1; 242–244).

18. Grants or contracts for the operation of training institutes for elementary or secondary school personnel to deal with special educational problems occasioned by desegregation (42 U.S.C. 2000c–3).

19. Grants for inservice training of teachers and other school personnel and employment of specialists in desegregation problems (42 U.S.C. 2000c–4).

20. Higher education student loan program (title II, National Defense Education Act, 20 U.S.C. 421–429).

21. Educational opportunity grants and assistance for State and private programs of low-interest insured loans and State loans to students in institutions of higher education (title IV, Higher Education Act of 1965, 20 U.S.C. 1061–1087).

22. Grants and contracts for the conduct of Talent Search, Upward Bound, and special services programs (20 U.S.C. 1068).

23. Land-grant college aid (7 U.S.C. 301–308; 32;–326; 328–331).

24. Language and area centers (title VI, National Defense Education Act, 20 U.S.C. 511).

25. American Printing House for the Blind (20 U.S.C. 101–105).

26. Future Farmers of America (36 U.S.C. 271–291) and similar programs.

27. Science clubs (Public Law 85–875, 20 U.S.C. 2, note).

28. Howard University (20 U.S.C. 121–129).

29. Gallaudet College (31 District of Columbia Code, Ch. 10).

30. Establishment and operation of a model secondary school for the deaf by Gallaudet College (31 District of Columbia Code 1051–1053; 80 Stat. 1027–1028).

31. Faculty development programs, workshops and institutes (20 U.S.C. 1131–1132).

32. National Technical Institute for the Deaf (20 U.S.C. 681–685).

33. Institutes and other programs for training educational personnel (Parts D, E and F, title V, Higher Education Act of 1965) (20 U.S.C. 1119–1111c–4).

34. Grants and contracts for research and demonstration projects in librarianship (20 U.S.C. 1034).

35. Acquisition of college library resources (20 U.S.C. 1021–1028).

36. Grants for strengthening developing institutions of higher education (20 U.S.C. 1051–1054); National Fellowships for teaching at developing institutions (20 U.S.C. 1055), and grants to retired professors to teach at developing institutions (20 U.S.C. 1056).

37. College Work-Study Program (42 U.S.C. 2751–2757).

38. Financial assistance for acquisition of higher education equipment, and minor remodeling (20 U.S.C. 1121–1129).

39. Grants for special experimental demonstration projects and teacher training in adult education (20 U.S.C. 1208).

40. Grant programs for advanced and under graduate international studies (20 U.S.C. 1171–1176; 22 U.S.C. 2452(b)).

41. Experimental projects for developing State leadership or establishment of special services (20 U.S.C. 865).

42. Grants to and arrangements with State educational and other agencies to meet special educational needs of migratory children of migratory agricultural workers (20 U.S.C. 241e(c)).

43. Grants by the Commissioner of Education to local educational agencies for supplementary educational centers and services; guidance, counseling, and testing (U.S.C. 841–844; 844b).

44. Resource centers for improvement of education of handicapped children (20 U.S.C. 1421) and centers and services for deaf-blind children (20 U.S.C. 1422).

45. Recruitment of personnel and dissemination of information on education of handicapped (20 U.S.C. 1433).

46. Grants for research and demonstrations relating to physical education or recreation for handicapped children (20 U.S.C. 1442) and training of physical educators and recreation personnel (20 U.S.C. 1443).

47. Dropout prevention projects (20 U.S.C. 887).

48. Bilingual education programs (20 U.S.C. 880b–880b–6).

49. Grants to agencies and organizations for Cuban refugees (22 U.S.C. 2601(b)(4)).

50. Grants and contracts for special programs for children with specific learning disabilities including research and related activities, training, and operating model centers (20 U.S.C. 1461).

51. Curriculum development in vocational and technical education (20 U.S.C. 1391).

52. Establishment, including construction, and operation of a National Center on Educational Media and Materials for the Handicapped (20 U.S.C. 1453).

53. Grants and contracts for the development and operation of experimental preschool and early education programs for handicapped (20 U.S.C. 1423).

54. Grants to public or private nonprofit agencies to carry on the Follow Through Program in kindergarten and elementary schools (42 U.S.C. 2809(a)(2)).

55. Grants for programs of cooperative education and grants and contracts for training and research in cooperative education (20 U.S.C. 1087a–1087c).

56. Grants and contracts to encourage the sharing of college facilities and resources (network for knowledge) (20 U.S.C. 1133–1133b).

57. Grants, contracts, and fellowships to improve programs preparing persons for public service and to attract students to public service (20 U.S.C. 1134–1134b).

58. Grants for the improvement of graduate programs (20 U.S.C. 1135–1135c).

59. Contracts for expanding and improving law school clinical experience programs (20 U.S.C. 1136–1136b).

60. Exemplary programs and projects in vocational education (20 U.S.C. 1301–1305).

61. Grants to reduce borrowing cost for construction of residential schools and dormitories (20 U.S.C. 1323).

62. Project grants and contracts for research and demonstration relating to new or improved health facilities and services (sec. 304, Public Health Service Act, 42 U.S.C. 242b).

63. Grants for construction or modernization of emergency rooms of general hospitals (title VI, part C, Public Health Service Act, 42 U.S.C. 291r–291t).

64. Institutional and special project grants to schools of nursing (secs. 805–808, Public Health Service Act, 42 U.S.C. 296d–296g).

65. Grants for construction and initial staffing of facilities for prevention and treatment of alcoholism (sec. 241–2, Community Mental Health Centers Act (42 U.S.C. 2688f and g).

66. Grants for construction and initial staffing of specialized facilities for the treatment of alcoholics requiring care in such facilities (sec. 243, Community Mental Health Centers Act, 42 U.S.C. 2688h).

67. Special project grants for training programs, evaluation of existing treatment programs, and conduct of significant programs relating to treatment of alcoholics (sec. 246, Community Mental Health Centers Act, 42 U.S.C. 2688k).

68. Grants for construction and initial staffing of treatment facilities for narcotic addicts (sec. 251, Community Mental Health Centers Act, 42 U.S.C. 2688m).

69. Special project grants for training programs, evaluation of existing treatment programs, and conduct of significant programs relating to treatment of narcotic addicts (sec. 252, Community Mental Health Centers Act, 42 U.S.C. 2688n).

70. Grants for consultation services for Community Mental Health Centers, alcoholism prevention and treatment facilities, specialized facilities for alcoholics, treatment facilities for narcotic addicts, and facilities for mental health of children (sec. 264, Community Mental Health Centers Act, 42 U.S.C. 2688t).

71. Grants for construction and initial staffing of facilities for mental health of children (sec. 271, Community Mental Health Centers Act, 42 U.S.C. 2688W).

72. Special project grants for training programs and evaluation of existing treatment program relating to mental health of children (sec. 272, Community Mental Health Centers Act, 42 U.S.C. 2688x).

73. Grants and loans for construction and modernization of medical facilities in the

District of Columbia (Public Law 90-457; 82 Stat. 631-3).

74. Teaching facilities for nurse training (secs. 801-804, Public Health Service Act, 42 U.S.C. 296-296c).

75. Teaching facilities for allied health professions personnel (sec. 791, Public Health Service Act, 42 U.S.C. 295h).

76. Mental retardation research facilities (title VII, part D, Public Health Service Act, 42 U.S.C. 295-295e).

77. George Washington University Hospital construction (76 Stat. 83, Public Law 87-460, May 31, 1962).

78. Research projects, including conferences, communication activities and primate or other center grants (secs. 301, 303, 304, and 308, Public Health Service Act, 42 U.S.C. 241, 242a, 242b, and 242f).

79. General research support (sec. 301(d), Public Health Service Act, 42 U.S.C. 241).

80. Mental health demonstrations and administrative studies (sec. 303(a)(2), Public Health Service Act, 42 U.S.C. 242a).

81. Migratory workers health services (sec. 310, Public Health Service Act, 42 U.S.C. 242b).

82. Immunization programs (sec. 317, Public Health Service Act, 42 U.S.C. 247b).

83. Health research training projects and fellowship grants (secs. 301, 433, Public Health Service Act, 42 U.S.C. 241, 289c).

84. Categorical (heart, cancer, air pollution, etc.) grants for training, traineeships or fellowships (secs. 303, 433, etc., Public Health Service Act, 42 U.S.C. 242a, 289c, etc.; sec. 103 Clean Air Act, 42 U.S.C. 1857b).

85. Advanced professional nurse traineeships (sec. 821, Public Health Service Act, 42 U.S.C. 297).

86. Department projects under Appalachian Regional Development Act (40 U.S.C. App. A).

87. Grants to institutions for traineeships for professional public health personnel (sec. 306, Public Health Service Act, 42 U.S.C. 242d).

88. Grants for graduate or specialized training in public health (sec. 309, Public Health Service Act, 42 U.S.C. 242g).

89. Health professions school student loan program (title VII, part C, Public Health Service Act, 42 U.S.C. 294-2941).

90. Grants for provision in schools of public health of training, consultation and technical assistance in the fields of public health and in the administration of State or local public health programs (sec. 309(c), Public Health Service Act U.S.C. 242g(c)).

91. Project grants for developing and revising comprehensive regional, metropolitan area, or other local area plans for health services (sec. 314(b), Public Health Service Act, 42 U.S.C. 246(b)).

92. Project grants for training, studies, or demonstrations looking toward the development of improved comprehensive health planning (sec. 314(c), Public Health Service Act, 42 U.S.C. 246(c)).

93. Project grants for health services development (sec. 314(e), Public Health Service Act, 42 U.S.C. 246(e)).

94. Institutional and special grants to health professions schools (title VII, part E, Public Health Service Act, 42 U.S.C. 295f-295f-4).

95. Improvement grants to centers for allied health professions (sec. 792, Public Health Service Act, 42 U.S.C. 295h-1).

96. Scholarship grants to health professions schools (title VII, part F, Public Health Service Act, 42 U.S.C. 295h-1).

97. Scholarship grants to schools of nursing (title VIII, part D, Public Health Service Act, 42 U.S.C. 298c-298c-6).

98. Traineeships for advanced training of allied health professions personnel (sec. 793, Public Health Service Act, 42 U.S.C. 295h-2).

99. Grants for the development of curriculums and methods of training of health technologists (sec. 794, Public Health Service Act 42 U.S.C. 295-h-3).

100. Contracts to encourage full utilization of nursing educational talent (sec. 868, Public Health Service Act, 42 U.S.C. 289c-7).

101. Grants to community mental health centers for the compensation of professional and technical personnel for the initial operation of new centers or of new services in centers (Community Mental Health Centers Act, part B, 42 U.S.C. 2688-2688d).

102. Grants for the planning, construction, equipment and operation of multicounty demonstration health projects in the Appalachian region (sec. 202 of Appalachian Regional Development Act, Public Law 89-4, as amended, Public Law 90-103, 40 U.S.C. App. 202).

103. Education, research, training, and demonstrations in the fields of heart disease, cancer, stroke and related diseases (secs. 900-910, Public Health Service Act, 42 U.S.C. 299a-j).

104. Assistance to medical libraries (secs. 390-399, Public Health Service Act, 42 U.S.C. 280b-280b-9).

105. Nursing student loans (secs. 822-828, Public Health Service Act, 42 U.S.C. 297a-g).

106. Hawaii leprosy payments (sec. 331, Public Health Service Act, 42 U.S.C. 255).

107. Heart disease laboratories and related facilities for patient care (sec. 412(d), Public Health Service Act, 42 U.S.C. 287a(d)).

108. Grants for construction of hospitals serving Indians (Public Law 85-151, 42 U.S.C. 2005).

109. Indian Sanitation Facilities (Public Law 86-121, 42 U.S.C. 2004a).

110. Research projects relating to maternal and child health services and crippled children's services (42 U.S.C. 712).

111. Maternal and child health special project grants to State agencies and institutions of higher learning (42 U.S.C. 703(2)).

112. Maternity and infant care and family planning services; special project grants to local health agencies and other organizations (42 U.S.C. 708).

113. Special project grants to State agencies and institutions of higher learning for crippled children's services (42 U.S.C. 704 (2)).

114. Special project grants for health of school and preschool children (42 U.S.C. 709) and for dental health of children (42 U.S.C. 710).

115. Grants to institutions of higher learning for training personnel for health care and related services for mothers and children (42 U.S.C. 711).

116. Grants and contracts for the conduct of research, experiments, or demonstrations relating to the development, utilization, quality, organization, and financing of services, facilities, and resources of hospitals, long-term care facilities, or other medical facilities (sec. 304, Public Health Service Act, as amended by Public Law 90-174, 42 U.S.C. 242b).

117. Health research facilities (title VII, part A, Public Health Service Act, 42 U.S.C. 292-292j).

118. Teaching facilities for health professions personnel (title VII, part B, Public Health Service Act, 42 U.S.C. 293-293h).

119. Project grants and contracts for research, demonstrations, surveys and studies in the field of air pollution control (secs. 103 and 104, Clean Air Act, 42 U.S.C. 1857b and 1857b-1).

120. Grants to State, interstate and local agencies for planning, developing, establishing, improving, and maintaining air pollution control programs (section 105, Clean Air Act, 42 U.S.C. 1857c).

121. Grants to interstate agencies for expediting the establishment of air quality standards in interstate air quality control regions (sec. 106, Clean Air Act, 42 U.S.C. 1857c-1).

122. Grants to State agencies to develop uniform motor vehicle emission device inspection and emission testing programs (sec. 209, Clean Air Act, 42 U.S.C. 1857f-6b).

123. Solid waste disposal project grants and contracts for research, training, demonstrations, surveys and studies (sec. 204, Solid Waste Disposal Act, 42 U.S.C. 3253).

124. Grants to State and interstate agencies for conducting surveys of solid waste disposal problems and practices and developing disposal plans (sec. 205, Solid Waste Disposal Act, 42 U.S.C. 3255).

125. Project grants and contracts for research, development, training, and studies in the field of electronic product radiation (sec. 356, Public Health Service Act, 42 U.S.C. 263d).

126. Project grants and contracts for research, studies, demonstrations, training, and education relating to coal mine health (sec. 501, Federal Coal Mine Health and Safety Act of 1969, Public Law 91-173).

127. Surplus real and related personal property disposal (40 U.S.C. 484(k)).

128. Supplementary medical insurance benefits for the aged (title XXIII, part B, Social Security Act, 42 U.S.C. 1395j-1395w).

129. Issuance of rent-free permits for vending stands, credit unions, employee associations, etc. (20 U.S.C. 107-107f; 45 CFR Part 20; sec. 25, 12 U.S.C. 1770).

130. Grants for special vocational rehabilitation projects (29 U.S.C. 34(a)(1)).

131. Experimental, pilot or demonstration projects to promote the objectives of title I, X, XIV, XVI, or XIX or part A of title IV of the Social Security Act (42 U.S.C. 1315).

132. Social Security and welfare cooperative research or demonstration projects (42 U.S.C. 1310).

133. Child welfare research, training, or demonstration projects (42 U.S.C. 626).

134. Training projects (title V, Older Americans Act, 42 U.S.C. 3041-3042).

135. Grants for expansion of vocational rehabilitation services (29 U.S.C. 34(a)(2)(A)).

136. Grants for construction of rehabilitation facilities (29 U.S.C. 41a (a)-(e)) and for initial staffing of rehabilitation facilities (29 U.S.C. 41a(f)).

137. Project development grants for rehabilitation facilities (29 U.S.C. 41a(g)(2)).

138. Rehabilitation Facility improvement grants (29 U.S.C. 41b(b)).

139. Agreement for the establishment and operation of a national center for deaf-blind youths and adults (29 U.S.C. 42a).

140. Project grants for services for migratory agricultural workers (29 U.S.C. 42b).

141. Grants for initial staffing of community mental retardation facilities (42 U.S.C. 2671-2677).

142. Grants for training welfare personnel and for expansion and development of undergraduate and graduate social work programs (42 U.S.C. 906, 908).

143. Research and development projects concerning older Americans (42 U.S.C. 3031-3032).

144. Special project grants to State agencies for health of school and preschool children (42 U.S.C. 709) and for dental health of children (42 U.S.C. 710).

145. Grants to States for training of nursing home administrators (42 U.S.C. 1396g(e)).

146. Contracts or jointly financed cooperative arrangements with industry (29 U.S.C. 34(a)(2)(B)).

147. Project grants for new careers in rehabilitation (29 U.S.C. 34(a)(2)(C)).

148. Children of low-income families (20 U.S.C. 241a–241m).
149. Grants for training (29 U.S.C. 37(a)(2)).
150. Grants for projects for training services (29 U.S.C. 41b(a)).
151. Grants for comprehensive juvenile delinquency planning (42 U.S.C. 3811).
152. Grants for project planning in juvenile delinquency (42 U.S.C. 3812).
153. Grants for juvenile delinquency rehabilitative services projects (42 U.S.C. 3822, 3842).
154. Grants for juvenile delinquency preventive services projects (42 U.S.C. 3832, 3842).
155. Grants for training projects in juvenile delinquency fields (42 U.S.C. 3861).
156. Grants for development of improved techniques and practices in juvenile delinquency services (42 U.S.C. 3871).
157. Grants for technical assistance in juvenile delinquency services (42 U.S.C. 3872).
158. Grants for State technical assistance to local units in juvenile delinquency services (42 U.S.C. 3873).
159. Retired senior volunteer program (42 U.S.C. 3044).
160. Foster grandparent program (42 U.S.C. 3044b).
161. Grants for public service careers projects (42 U.S.C. 2744).
162. Grants to public or private nonprofit agencies to carry on the Project Headstart Program (42 U.S.C. 2809(a)(1)).
163. Project grants for new careers for the handicapped (29 U.S.C. 34(a)(2)(D)).

Part 2. Continuing Assistance to State Administered Programs

1. Grants to States for public library services and construction, interlibrary cooperation and specialized State library services for certain State institutions and the physically handicapped (20 U.S.C. 351–358).
2. Grants to States for strengthening instruction in academic subjects (20 U.S.C. 441–444).
3. Grants to States for vocational education (20 U.S.C. 1241–1264).
4. Arrangements with State education agencies for training under the Manpower Development and Training Act (42 U.S.C. 2601-2602, 2610a).
5. Grants to States to assist in the elementary and secondary education of children of low-income families (20 U.S.C. 241a–241m).
6. Grants to States to provide for school library resources, textbooks and other instructional materials for pupils and teachers in elementary and secondary schools (20 U.S.C. 821–827).
7. Grants to States to strengthen State departments of education (20 U.S.C. 861–870).
8. Grants to States for community service programs (20 U.S.C. 1001–1011).
9. Grants to States for adult basic education and related research, teacher training and special projects (20 U.S.C. 1201–1213).
10. Grants to State educational agencies for supplementary educational centers and services, and guidance, counseling and testing (20 U.S.C. 841–848).
11. Grants to States for research and training in vocational education (20 U.S.C. 1281(b)).
12. Grants to States for exemplary programs and projects in vocational education (20 U.S.C. 1301–1305).
13. Grants to States for residential vocational education schools (20 U.S.C. 1322).
14. Grants to States for consumer and homemaking education (20 U.S.C. 1341).
15. Grants to States for cooperative vocational education program (20 U.S.C. 1351–1355).
16. Grants to States for vocational work-study programs (20 U.S.C. 1371–1374).
17. Grants to States to attract and qualify teachers to meet critical teaching shortages (20 U.S.C. 1108–1110c).
18. Grants to States for education of handicapped children (20 U.S.C. 871–880).
19. Grants for administration of State plans and for comprehensive planning to determine construction needs of institutions of higher education (20 U.S.C. 715(b)).
20. Grants to States for comprehensive health planning (sec. 314(a), Public Health Service Act, 42 U.S.C. 246(a)).
21. Grants to States for establishing and maintaining adequate public health services (sec. 314(d), Public Health Service Act, 42 U.S.C. 246(d)).
22. Grants, loans, and loan guarantees with interest subsidies for hospital and medical facilities (title VI, Public Health Service Act, 42 U.S.C. 291 et seq.).
23. Grants to States for community mental health centers construction (Community Mental Health Centers Act, part A, 42 U.S.C. 2681–2687).
24. Cost of rehabilitation services (title II, Social Security Act, sec. 222(d); 42 U.S.C. 422(d)).
25. Surplus personal property disposal donations for health and educational purposes through State agencies (42 U.S.C. 484(j)).
26. Grants for State and community programs on aging (title III, Older Americans Act, 42 U.S.C. 3021–3025).
27. Grants to States for construction of mental retardation facilities (42 U.S.C. 2671–2677).
28. Grants to States for vocational rehabilitation services (29 U.S.C. 32); for innovation of vocational rehabilitation services (29 U.S.C. 33); and for rehabilitation facilities planning (29 U.S.C. 41a(g)(1)).
29. Designation of State licensing agency for blind operators of vending stands (20 U.S.C. 107–107f).
30. Grants to States for old-age assistance (42 U.S.C. 301 et seq.); aid to families with dependent children (42 U.S.C. 601 et seq.); child-welfare services (42 U.S.C. 620 et seq.); aid to the blind (42 U.S.C. 1201 et seq.); aid to the permanent and totally disabled (42 U.S.C. 1351 et seq.); aid to the aged, blind, or disabled (42 U.S.C. 1381 et seq.); medical assistance (42 U.S.C. 1396 et seq.).
31. Grants to States for maternal and child health and crippled children's services (42 U.S.C. 701–7077); for special projects for maternal and infant care (42 U.S.C. 708).
32. Grants to States for juvenile delinquency preventive and rehabilitative services (42 U.S.C. 3841).
33. Grants to States for evaluation and work adjustment services (42 U.S.C. 42–1).

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NATIONAL SCIENCE FOUNDATION

[45 CFR Part 611]

NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Notice of Proposed Rule Making

In order to reflect the uniform revisions being jointly adopted by all agencies with title VI responsibilities, the following amendments are proposed to the National Science Foundation regulations implementing title VI of the Civil Rights Act of 1964:

1. Section 611.3 is amended as follows:

a. A new subparagraph (3) is added to paragraph (b), and existing subparagraphs (3) and (4) are to be renumbered (4) and (5).

b. A new subparagraph (6) is added to paragraph (b).

c. Paragraph (c)(3) is revised to read as follows.

d. New paragraph (c)(4) is added.

As amended, § 611.3 reads as follows:

§ 611.3 Discrimination prohibited.

* * * * *

(b) * * *

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

* * * * *

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

(c) * * *

(3) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any Executive order which supersedes it.

(4) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of the foregoing subparagraph of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

* * * * *

2. Section 611.4 is amended as follows:

a. Paragraph (a) (1) is amended to delete the existing second and third sentences and insert in lieu thereof the following:

b. Paragraph (a) (2) is revised to read as follows:

c. Paragraph (b) is amended to delete the term "Commissioner of Education" and insert in lieu thereof "the responsible Official of the Department of Health, Education, and Welfare".

As amended, § 611.4 reads as follows:

§ 611.4 Assurances required.

(a) *General.* (1) * * * In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. * * *

(2) In the case where Federal financial assistance is provided in the form of a transfer of real property, structures, or improvements thereon, or interest therein, from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property or interest therein from the Federal Government is involved, but property is acquired or improved under a program of Federal financial assistance, the recipient shall agree to include such covenant in any subsequent transfer of such property. When the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Foundation to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Foundation official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the responsible Foundation official may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to subordinate such right of reversion to the lien of such mortgage or other encumbrance.

* * * * *

3. Section 611.5 is amended to add subparagraphs 6 and 7 as follows:

§ 611.5 Illustrative applications.

* * * * *

6. In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 611.6(d) to provide information as to the availability of the program or activity, and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals which will insure that groups previously subjected to discrimination are adequately served but not the establishment of discriminatory qualifications for participation in any program.

7. Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

4. Section 611.8(d) is amended by deleting the phrase following number 2 and renumbering 3 to 2.

5. Section 611.9 is amended as follows:

a. Paragraph (b) is amended to delete citation of the Administrative Procedure Act and insert in lieu thereof "5 U.S.C. 3105 and 3344".

b. Paragraph (d) is amended to delete the citation of the Administrative Procedure Act and insert in lieu thereof "5 U.S.C. 554–557".

6. Section 611.10 is amended by adding a new paragraph (g) as follows:

§ 611.10 Decisions and notices.

* * * * *

(g) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Foundation official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Foundation official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Foundation official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Foundation official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

6. Section 611.12 is amended as follows:

a. Paragraph (a) is amended to delete the existing last sentence and insert in lieu thereof the following:

b. Paragraph (c) is amended to add thereto the following:

§ 611.12 Effect on other regulations; forms and instructions.

(a) * * * Nothing in this part, however, supersedes any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) any other orders, regulations, or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

* * * * *

(c) * * * Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this agency.

7. Appendix A is deleted and the following substituted therefor:

APPENDIX A

Statutory Provisions under which the National Science Foundation provides Federal financial assistance:

The National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875).
Title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876–1879).
The National Sea Grant College and Program Act of 1966 (80 Stat. 998).[1]

W. D. MCELROY,
Director,
National Science Foundation.

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[1] Functions to be transferred to the National Oceanic and Atmospheric Administration, Department of Commerce, under Reorganization Plan No. 4 of 1970.

OFFICE OF ECONOMIC OPPORTUNITY

[45 CFR Part 1010]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

It is proposed to revise Part 1010 of Title 45 of the Code of Federal Regulations in accordance with uniform revisions jointly adopted by the Federal agencies to effect clarifications to the regulations enacted pursuant to title VI of the Civil Rights Act of 1964.

Part 1010 now reads as follows:

AUTHORITY: The provisions of this Part 1010 are issued under sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1; and sec. 602, 78 Stat. 528; 42 U.S.C. 2942.

§ 1010.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Office of Economic Opportunity.

§ 1010.2 Definitions.

As used in this part—

(a) The term "Office" means the Office of Economic Opportunity, and includes all of its organizational units.

(b) The term "Director" means the Director of the Office of Economic Opportunity.

(c) The term "responsible Office official" with respect to any program receiving Federal financial assistance means the Director or other official of the Office who by law or by delegation has the principal responsibility within the Office for the administration of the law extending such assistance.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration, or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(g) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(j) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible Office official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means any such application, request, or plan.

§ 1010.3 Application of this part.

(a) This part applies to any program for which Federal financial assistance is authorized under a provision of law administered by the Office, including the federally assisted programs and activities listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the part pursuant to an application approved prior to such effective date. This part does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (3) any assistance to any individual who is the ultimate beneficiary under any such program, (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 1010.4. Any action or inaction on the part of a recipient which is a direct violation of the Economic Opportunity Act of 1964, will be dealt with under regulations enacted pursuant to such Act. The fact that a program or activity is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be covered by this part after notice is published in the FEDERAL REGISTER.

(b) The regulations issued by the Department of Agriculture pursuant to title VI of the Act (7 CFR Part 15) shall be applicable to the program of grants and loans authorized under title III, part A of the Economic Opportunity Act of 1964, as amended.

(c) The regulations issued by the Department of Labor pursuant to Title VI of the Act (29 CFR Part 31) shall be applicable to the work-training programs authorized under Title I, Part B of the Economic Opportunity Act of 1964, as amended, and to the Special Work and Career Development Programs authorized under Title I, Part E of the Economic Opportunity Act of 1964, as amended, and to the extent determined by that Department, to the Job Corps Program under Title I, Part A.

(d) The regulations issued by the Department of Health, Education, and Welfare pursuant to Title VI of the Act (45 CFR Part 80) shall be applicable to the work experience programs authorized under Title V, Part A of the Economic Opportunity Act of 1964, as amended, and shall be applicable to the "Project Head Start" authorized under Title II, and to the "Follow Through" Program authorized under Title II, of the Economic Opportunity Act of 1964, as amended.

(e) The regulations issued by the Small Business Administration pursuant to Title VI of the Act (13 CFR Part 112) shall be applicable to the program of

employment and investment incentives authorized under Title IV of the Economic Opportunity Act of 1964, as amended.

§ 1010.4 Discrimination prohibited.

(a) *General.* No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any services, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program, including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section.

(2) A recipient in determining the type of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part.

(4) As used in this section, the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program or part thereof to which this part applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the grounds of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is (1) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (2) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, or (3) to provide work experience which contributes to the education or training of such individuals. The following programs administered by the Office have one of the above objectives as a primary objective:

(i) Community Action Programs or parts thereof which have as a primary objective the provision of employment.

(ii) Programs of assistance for migrant, and other seasonally employed, agricultural employees and their families which have as a primary objective the provision of employment.

The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or any executive order which supersedes it. Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this part applies, the provisions of the foregoing subparagraph of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

(d) *Indian programs.* An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

(e) *Medical emergencies.* Notwithstanding the foregoing provisions of this section, a recipient of Federal financial assistance shall not be deemed to have failed to comply with paragraph (a) of this section if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with paragraph (a) of this section.

§ 1010.5 Assurances required.

(a) *General.* (1) (i) Every application for Federal financial assistance to a program to which this part applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part, and that the applicant will in all phases and levels of programs and activities, install an affirmative action program to achieve equal opportunities for participation, with provisions for effective periodic self-evaluation.

(ii) In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar

services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. The responsible Office official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Where no transfer of property is involved, but property is acquired or improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Office to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Office official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Director may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of General Services (41 CFR 101–6.2).

(b) *Elementary and secondary schools.* In the case of any program for the benefit of elementary or secondary school students which, as a necessary part of such program, utilizes to a substantial extent the facilities of an elementary or secondary school or school system, the requirements of paragraph (a) of this section shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plan. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order including any future modification of such order. The provisions of this paragraph do not apply to programs for preschool children.

(c) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for a special training project, for a student loan program, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the institution establishes, to the satisfaction of the responsible Office official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

§ 1010.6 Illustrative applications.

The following examples illustrate some applications of the foregoing provisions to programs receiving Federal financial assistance administered by the Office of Economic Opportunity. In all cases, the "discrimination" prohibited is discrimination on the grounds of race, color, or national origin prohibited by title VI of the Act and this part, as a condition of the receipt of Federal financial assistance.

(a) *Community action programs.* Community action programs generally consist of a number of related antipoverty programs coordinated by a central community agency, either public or private nonprofit. There can be no discrimination in the formulation of groups to conduct any program funded under title II of the Economic Opportunity Act of 1964, as amended. Nor can any such program be operated in a discriminatory manner. Such a program must be open to all regardless of race, color, or national origin, and must distribute its benefits in a nondiscriminatory manner. It may not restrict service to members of a group or groups if membership in the group depends on race, color, or national origin.

(b) *Programs in elementary or secondary schools.* In the case of a program covered by this part which benefits elementary or secondary school students and which is necessarily conducted in a school regularly attended by the participating students, the program must be run on a nondiscriminatory basis, or else the school system must give assurance that it is complying with a Federal court order or a plan approved by the responsible official of the Department of Health, Education, and Welfare leading to the desegregation of the school system. If, however, students do not participate in such a program in the schools they regularly attend, or if the use of school facilities is incidental to the program or not necessary to its conduct, the program must be run on a nondiscriminatory basis and the assurance specified in § 1010.5(a) must be given, whether or not there is a court order or approved plan with respect to the school system. This is the case in any program for preschool children.

(c) *Institutions of higher education.* In any research, training, demonstration, or other grant from the Office to a university for a program to be conducted in a college or university, discrimination in the admission and treatment of students in the program is prohibited, and the prohibition extends to the entire university unless it satisfies the responsible Office official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the program.

§ 1010.7 Compliance information.

(a) *Cooperation and assistance.* Each responsible Office official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part, and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Office official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Office official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance

reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Office official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner as the responsible Office official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 1010.8 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Office official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Office official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Office official or his designee.

(c) *Investigations.* The responsible Office official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Office official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1010.9.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the responsible Office official or his designee will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1010.9 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 1010.5.* If an applicant fails or refuses to furnish an assurance under § 1010.5 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Office shall not be required to provide assistance in such a case during pendency of the administrative proceedings under such paragraph.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Office official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Director pursuant to § 1010.11(e), and (4) the expiration of 30 days after the Director has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance with title VI of the Act by any other means authorized by law shall be taken until (1) the responsible Office official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 1010.10 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1010.9(c), reasonable notice of such hearing shall be given by registered or certified mail, return receipt requested to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Office official that the matter be scheduled for hearing, or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this subsection or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1010.9(c) and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held in Washington, D.C., at a time and place fixed by the responsible Office official unless he determines that the convenience of the applicant or recipient or of the Office requires that another place be selected. Hearings shall be held before the responsible Office official, or at his discretion, before a hearing examiner designated in accordance with

5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Office shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Office and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence unless dispensed with by stipulation. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Director may, by agreement with such other departments or agencies, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 1010.11.

§ 1010.11 Decisions and notices.

(a) *Decision by person other than the responsible Office official.* If the hearing is held by a hearing examiner, such hearing examiner shall either make any initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Office official for a final decision and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner, the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible Office official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Office official may, on his own motion, within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review, the responsible Office official shall review the initial decision and issue his own decision thereon, including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Office official.

(b) *Decisions on record or review by the responsible Office official.* Whenever a record is certified to the responsible Office official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Office official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the finl decision of the responsible Office official shall be given in writing to the applicant or recipient, and the complainant, if any.

(c) *Decisions on record where hearing is waived.* Whenever a hearing is waived pursuant to § 1010.10(a), a decision shall be made by the responsible Office official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Office official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Director.* Any final decision of a responsible Office official (other than the Director) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part of the Act, shall promptly be transmitted to the Director, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Office official that it will fully comply with this part.

(g) *Posttermination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Office official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Office official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Office official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Office official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under the paragraph (f) of this section shall remain in effect.

§ 1010.12 Judicial review.

Any action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1010.13 Effect on other regulations; forms and instructions.

(a) Nothing in this part shall be deemed to supersede (1) Executive Orders 10925, 11114, and 11246 and regulations issued thereunder, or (2) any other regulations or instructions insofar as they prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) Forms and instructions: Each responsible Office official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) Supervision and coordination: The Director may, from time to time, assign to officials of other departments or agencies of the Government (with the consent of such department or agency) responsibilities in connection with the effectuation of the purposes of title VI of

the Act and this part (other than responsibility for final decision as provided in § 1010.11), including the achievement of effective coordination and maximum uniformity within the Office and within the executive branch of the Government in the application of title VI and this part to similar programs in similar situations. Any action taken, determination made, or requirements imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this agency.

Dated: December 30, 1970.

FRANK CARLUCCI,
Acting Director,
Office of Economic Opportunity.

APPENDIX A

FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

Federal financial assistance provided under the following provisions of the Economic Opportunity Act of 1964, as amended, are now administered by the Office and covered by this part:

Sections 113(b) and 113(c) (Experimental and Developmental Projects Relating to Job Corps).

Title I, Part D (Special Impact Programs).

Title II—except Head Start and Follow Through.

Title III, Part D (Assistance for Migrant, and Other Seasonally Employed, Farmworkers and Their Families).

Title VIII (Federal Financial Assistance to Domestic Volunteer Service Programs).

[FR Doc.71-17888 Filed 12-8-71;8:46 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

[45 CFR Part 1110]

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Notice of Proposed Rule Making

Part 1110 reads as follows:

Sec.

AUTHORITY: The provisions of this Part 1110 issued under sec. 602, 78 Stat. 252 and sec. 10(a)(1), 79 Stat. 852.

§ 1110.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the National Endowment for the Arts or the National Endowment for the Humanities.

§ 1110.2 Application of part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the National Endowment for the Arts or the National Endowment for the Humanities including the federally assisted programs and activities listed in Appendix A of this part. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the part pursuant to an application approved prior to such effective date. This part does not apply to (a) any Federal financial assistance by way of insurance or guaranty contract, (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this part, (c) any assistance to any individual who is the ultimate beneficiary under any such program, or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 1110.3. The fact that a program or activity is not listed in Appendix A shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs under statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 1110.3 Discrimination prohibited.

(a) *General.* No person in the United States shall, on grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this part applies may not directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (c) of this section).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(4) As used in this section, the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in,

to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

(c) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient may not directly or through contractual or other arrangements subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation and use of facilities), including programs where a primary objective of the Federal financial assistance is (i) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training or (ii) to provide work experience which contributes to the education or training of such individuals or (iii) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs.

(2) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11246 or any executive order which supersedes it.

(3) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of the foregoing subparagraph of this paragraph (c) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

(d) *Medical emergencies.* Notwithstanding the foregoing provisions of this section, a recipient of Federal financial asistance shall not be deemed to have failed to comply with paragraph (a) of this section if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with paragraph (a) of this section.

§ 1110.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer; and any other type or form of assistance, the assurances shall be in effect for the duration of the period during which Federal financial assistance is extended to the program. The responsible Endowment official shall specify the form of the foregoing assurances for each program and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Endowment to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Endowment official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In the event a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Chairman of the Endowment concerned may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(3) Transfers of surplus property are subject to regulations issued by the Administrator of the General Services Administration. (41 CFR 101–6.2)

(b) *Continuing State programs.* Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this part applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (1) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this part, and (2) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible Endowment official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this part.

(c) *Elementary and secondary schools.* The requirements of paragraph (a) of this section with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time and provides reasonable assurance that it will carry out such plan. In any case of continuing Federal financial assistance, the responsible official of the Department of Health, Education, and Welfare may reserve the right of redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

(d) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education (including assistance for construction, for research, for a special training project, or for any other purpose), the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(2) The assurance required with respect to an institution of higher education or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible Endowment official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in, such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

§ 1110.5 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions to some of the activities for which Federal financial assistance is provided by the Endowments. (In all cases the discrimination prohibited is discrimination on the ground of race, color, or national origin prohibited by title VI of the Act and this part, as a condition of the receipt of Federal financial assistance.)

(a) In a research, training, or other grant to a university for activities to be conducted in a graduate school, discrimination in the admission and treatment of students in the graduate school is prohibited, and the prohibition extends to the entire university, unless it satisfies the responsible Endowment official that practices with respect to other parts or programs of the university will not interfere, directly or indirectly, with fulfillment of the assurance required with respect to the graduate school.

(b) In cases of Federal financial assistance to elementary or secondary schools, discrimination by the recipient school district in any of its elementary or secondary schools, or by the recipient private institution, in the admission of students, or in the treatment of its students in any aspect of the educational process, is prohibited. In this and the following illustration the prohibition of discrimination in the treatment of students or other trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the grantee or other recipient.

(c) In a training grant to a nonacademic institution, discrimination is prohibited in the selection of individuals to be trained and in their treatment by the grantee during their training. In a research or demonstration grant to such an institution, discrimination is prohibited with respect to any educational activity, any provision of medical or other services and any financial aid to individuals incident to the program.

(d) Where Federal financial assistance is provided to assist in the presentation of artistic and cultural productions to the public, assurances will be required that such productions will not be presented before any audience which has been selected on a discriminatory basis.

(e) A recipient may not take action that is calculated to bring about indirectly what this part forbids it to accomplish directly. Thus, a State, in selecting projects to be supported through a State agency, may not base its selections on criteria which have the effect of defeating or substantially impairing accomplishment of the objectives of the Federal financial assistance as respects individuals of a particular race, color, or national origin.

(f) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under section 1110.6(d) to provide information as to the availability of the program or activity, and the rights of beneficiaries under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will insure that groups previously subjected to discrimination are adequately served.

(g) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

§ 1110.6 Compliance information.

(a) *Cooperation and assistance.* The responsible Endowment official shall, to the fullest extent practicable, seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Endowment official timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Endowment official may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Endowment official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Endowment official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 1110.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Endowment official shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Endowment official a written complaint. A complaint must be filed not later than ninety days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Endowment official.

(c) *Investigations.* The responsible Endowment official will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Endowment official will so inform the recipient and the matter will be resolved

by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 1110.8.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph, the responsible Endowment official will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 1110.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

(b) *Noncompliance with § 1110.4.* If an applicant fails or refuses to furnish an assurance required under § 1110.4 or otherwise fails to comply with that section, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Endowment concerned shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that such Endowment shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefore approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Endowment official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearings, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Chairman of the Endowment concerned, and (4) the expiration of 30 days after the Chairman has filed with the Committee of the House and the Committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Endowment official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 1110.9 Hearing.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 1110.8(c), reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible Endowment official that the matter be scheduled for hearing or

(2) Advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 1110.8(c) of this part and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of the Endowment concerned in Washington, D.C., at a time fixed by the responsible Endowment official unless he determines that the convenience of the applicant or recipient or of the Endowment requires that another place be selected. Hearings shall be held before the responsible Endowment official or, at his discretion, before a hearing examiner designated in accordance with section 11 of the Administrative Procedure Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the Endowment shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Endowment and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence entered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this Regulation with respect to two or more programs to which this part applies, or noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Chairman of the Endowment concerned may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules or procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with § 1110.10.

§ 1110.10 Decisions and notices.

(a) *Decision by person other than the responsible Endowment official.* If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible Endowment official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible Endowment official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Endowment official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible Endowment official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible Endowment official.

(b) *Decisions on record or review by the responsible Endowment official.* Whenever a record is certified to the responsible Endowment official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Endowment official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible Endowment official shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 1110.9(a) a decision shall be made by the responsible Endowment official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing officer or responsible Endowment official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Chairman.* Any final decision of a responsible Endowment official (other than the Chairman) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this part or the Act, shall promptly be transmitted to the Chairman, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this part, or to have otherwise failed to comply with this part, unless and until it corrects its noncompliance and satisfies the responsible Endowment official that it will fully comply with this part.

(g) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation. (An elementary or secondary school or school system which is unable to file an assurance of compliance with § 1110.3 shall be restored to full eligibility to receive Federal financial assistance, if it files a court order or a plan for desegregation which meets the requirements of § 1110.4(c), and provides reasonable assurance that it will comply with this court order or plan.)

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Endowment official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Endowment official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Endowment official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Endowment official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 1110.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 1110.12 Effect on other regulations; forms and instructions.

(a) *Effect on other regulations.* Nothing in this part shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925, 11114, and 11246, and regulations issued thereunder, or (2) Executive Order 11063 and regulations issued thereunder or any other regulations or instructions insofar as such order, regulations, or instructions prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Endowment official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Chairman of an Endowment may from time to time assign to other officials of the Endowment or to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part, including the achievement of effective coordination and maximum uniformity within the Endowment and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this agency.

§ 1110.13 Definitions.

As used in this part:

(a) The term "Foundation" means the National Foundation for the Arts and the Humanities, and includes the National Endowment for the Arts, the National Endowment for the Humanities, and each of their organizational units.

(b) The term "Endowment" means the National Endowment for the Arts or the National Endowment for the Humanities.

(c) The term "Chairman" means the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities.

(d) The term "responsible Endowment official" with respect to any program receiving Federal financial assistance means the Chairman of any Endowment or other Endowment official designated by the Chairman.

(e) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the term "State" means any one of the foregoing.

(f) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or the donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(g) The term "program" includes any program, project, or activity involving the provision of services, financial aid, or other benefits to individuals (including education or training, health, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(h) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(i) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(j) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purposes of carrying out a program.

(k) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible Endowment official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

Dated: October 13, 1970.

NANCY HANKS,
Chairman,
National Endowment for the Arts.

WALLACE B. EDGERTON,
Acting Chairman,
National Endowment for the Humanities.

APPENDIX A

FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

1. Assistance to groups for projects and productions in the arts.
2. Surveys, research and planning in the arts.
3. Assistance to State arts agencies for projects and productions in the arts.
4. Support of research in the humanities.
5. Support of educational programs in the humanities, including the training of students and teachers.
6. Assistance to promote the interchange of information in the humanities.
7. Assistance to foster public understanding and appreciation of the humanities.
8. Support of the publication of scholarly works in the humanities.

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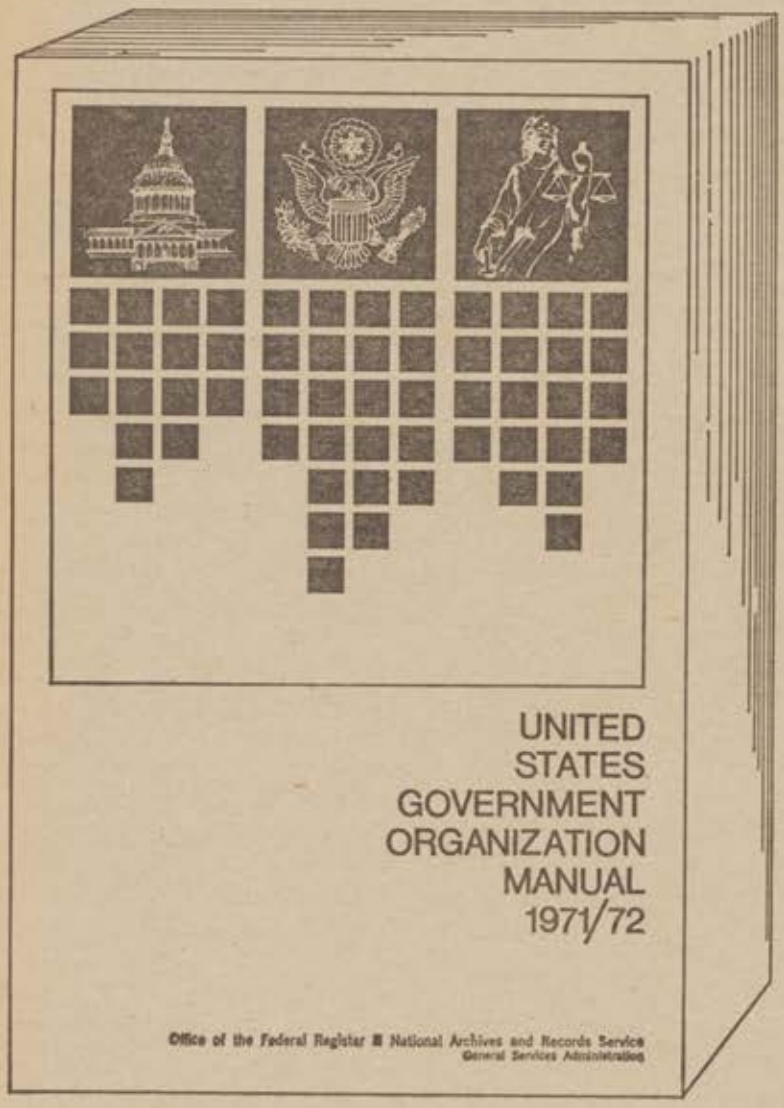

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