

FEDERAL REGISTER

VOLUME 29
1934
NUMBER 236

Washington, Friday, December 4, 1964

Contents

THE PRESIDENT

PROCLAMATION

Bill of Rights Day; Human Rights Day..... 16243

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Proposed Rule Making

Limes and avocados; recommended decision..... 16258
 Milk in Tri-State marketing area; decision on proposed amendments..... 16259

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Extra long staple cotton; State reserve and county allotment... 16248

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service.

Rules and Regulations

Nondiscrimination in Federally-assisted programs of the Department of Agriculture; effectuation of Title VI of the Civil Rights Act of 1964..... 16274

ALIEN PROPERTY OFFICE

Notices

Geyer, Anna Maria; vested property; intention to return..... 16261

ARMY DEPARTMENT

See also Engineers Corps.

Rules and Regulations

Medical and dental attendance; purpose and scope..... 16251

ATOMIC ENERGY COMMISSION

Notices

Niagara Mohawk Power Corp.; postponement of hearing and notice of prehearing conference. 16266

COAST GUARD

Rules and Regulations

Procurement regulations;

Formal advertisement; inspection and acceptance..... 16255
 Labor surplus areas..... 16255
 Miscellaneous amendments..... 16252

Notices

New London Harbor closed to navigation during launching of "USS Benjamin Franklin"..... 16261

DEFENSE DEPARTMENT

See Army Department; Engineers Corps.

EMERGENCY PLANNING OFFICE

Rules and Regulations

Agency responsibilities in completing and maintaining the mobilization base..... 16251

ENGINEERS CORPS

Rules and Regulations

Detroit River, Michigan; bridge regulations..... 16251

FEDERAL AVIATION AGENCY

Rules and Regulations

Control zones and transition areas; alteration and designation..... 16245
 Federal airway; alteration..... 16245

Proposed Rule Making

Control zone and transition area; proposed alteration, correction. 16260

FEDERAL COMMUNICATIONS COMMISSION

Notices

Hearings, etc.:

American Telephone and Telegraph Co..... 16266
 Commercially operable space communications systems..... 16266
 Tree Broadcasting Co..... 16266
 Trinity Broadcasting Co., and Warner Bros. Pictures, Inc.... 16267

FEDERAL MARITIME COMMISSION

Notices

American Mail Line Ltd. and Nedlloyd & Hoegh Lines; agreement filed for approval..... 16269

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Drugs; lincomycin; correction... 16251
 Food additives; semirigid and rigid acrylic and modified acrylic plastics..... 16249

GENERAL SERVICES ADMINISTRATION

Rules and Regulations

Nondiscrimination in Federally-assisted programs of the General Services Administration; effectuation of Title VI of the Civil Rights Act of 1964..... 16287

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Food and Drug Administration.

Rules and Regulations

Nondiscrimination in Federally-assisted programs of the Department of Health, Education, and Welfare; effectuation of Title VI of the Civil Rights Act of 1964..... 16298

HOUSING AND HOME FINANCE AGENCY

Rules and Regulations

Nondiscrimination in Federally-assisted programs of the Housing and Home Finance Agency; effectuation of Title VI of the Civil Rights Act of 1964..... 16280

(Continued on next page)

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

Notices

Cotton textiles; restraint levels.... 16269

INTERIOR DEPARTMENT

See also Land Management
Bureau; Reclamation Bureau.

Rules and Regulations

Nondiscrimination in Federally-
assisted programs of the De-
partment of the Interior; effec-
tuation of Title VI of the Civil
Rights Act of 1964..... 16293

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Driving of motor vehicles; railroad
grade crossings..... 16256

Notices

Fourth section applications for
relief..... 16270
Motor carrier transfer proceed-
ings (2 documents)..... 16270, 16271

JUSTICE DEPARTMENT

See Alien Property Office.

LABOR DEPARTMENT

Rules and Regulations

Nondiscrimination in Federally-
assisted programs of the De-
partment of Labor; effectuation
of Title VI of the Civil Rights
Act of 1964..... 16284

LAND MANAGEMENT BUREAU

Rules and Regulations

California; public land order..... 16256

Notices

Alabama; filing of plat of survey.. 16261
Oregon; filing of plat of survey
and opening of public lands..... 16261
Utah; proposed withdrawal and
reservation of lands..... 16262
Washington; amendment of pro-
posed withdrawal and reserva-
tion of lands..... 16262

NATIONAL SCIENCE FOUNDATION

Rules and Regulations

Nondiscrimination in Federally-
assisted programs of the Na-
tional Science Foundation; ef-
fectuation of Title VI of the
Civil Rights Act of 1964..... 16305

POST OFFICE DEPARTMENT

Rules and Regulations

First, second and fourth class
mail; miscellaneous amend-
ments..... 16252

RECLAMATION BUREAU

Notices

Columbia Basin Project, Washing-
ton; sale of farm units..... 16262

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Reports and forms..... 16245

Notices

Baldwin Securities Corp.; filing of
application for exemption..... 16269

TREASURY DEPARTMENT

See Coast Guard.

VETERANS ADMINISTRATION

Rules and Regulations

Disability or death due to hos-
pitalization, etc..... 16252

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

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, 1964, and specifies how they are affected.

3 CFR

Proclamation
3631..... 16243

7 CFR

15..... 16274
722..... 16248

PROPOSED RULES:

911..... 16258
915..... 16258
1005..... 16259

14 CFR

71 [New] (2 documents)..... 16245

PROPOSED RULES:

71 [New]..... 16260

17 CFR

240..... 16245

21 CFR

121..... 16249
148x..... 16251

24 CFR

1..... 16280

29 CFR

31..... 16284

32 CFR

577..... 16251

32A CFR

OEP (Chapter I):
DMO-I-4..... 16251

33 CFR

203..... 16251

38 CFR

3..... 16252

39 CFR

21..... 16252
22..... 16252
25..... 16252

41 CFR

11-1 (2 documents)..... 16252, 16255
11-2 (2 documents)..... 16253, 16255
11-4..... 16253
11-14..... 16255
101-6..... 16287

43 CFR

17..... 16293

PUBLIC LAND ORDERS:

3474..... 16256

45 CFR

80..... 16298
611..... 16305

49 CFR

192..... 16256

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National Archives and Records Service,
General Services Administration

Order from Superintendent of Documents,
Government Printing Office, Washington
D.C. 20402

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3631

BILL OF RIGHTS DAY

HUMAN RIGHTS DAY

By the President of the United States of America

A Proclamation

WHEREAS December 10, 1964, is the sixteenth anniversary of the adoption by the United Nations of the Universal Declaration of Human Rights as a common standard of achievement, and December 15, 1964, is the one hundred and seventy-third anniversary of the first ten amendments to the Constitution of the United States, which are known as the Bill of Rights; and

WHEREAS the Universal Declaration proclaims for the inhabitants of all the world the great rights to freedom, justice, and equality already guaranteed by our Constitution to the people of the United States; and

WHEREAS the worth of our Nation is measured not by the material abundance of our society but by the freedom which gives it purpose; and

WHEREAS the strength of our liberty is measured by the respect each person accords the rights of others and by the vigor of our government in defending these rights; and

WHEREAS the Civil Rights Act of 1964 has renewed and enlarged our commitment to honor the principles of our Constitution, without distinction as to race, color or creed:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby proclaim December 10, 1964, as Human Rights Day and December 15, 1964, as Bill of Rights Day, and call upon the people of the United States to observe the week of December 10-17 as Human Rights Week.

This country has survived and prospered mightily in the belief that all men are created equal, that all political power is inherent in the people, and that no man or group of men should be entitled to exclusive privilege or preferment over others. We have worked hard and long, at home and abroad, that every man may enjoy his right to security of person and of property, to freedom of conscience and of press, and to equal justice under law.

In this week especially, let us give thanks for that love of liberty which made human justice and human dignity the foundation stones of our Republic. Let us be quick to speak when a man is threatened because he has exercised his rights, and sturdy to resist when freedom is denied or abridged through ignorance, prejudice, or abuse of power. Let us be worthy of the trust placed in our generation for the integrity of the individual and the full and faithful protection of his inalienable rights.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this first day of December in the year of our Lord nineteen hundred and sixty-four and of [SEAL] the Independence of the United States of America the one hundred and eighty-ninth.

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 64-12474; Filed, Dec. 2, 1964; 4:03 p.m.]

Rules and Regulations

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 64-WA-86]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Federal Airway

On September 23, 1964, Airspace Docket No. 64-WA-63 was published in the FEDERAL REGISTER (29 F.R. 13164) which stated, in part, that the Canadian Department of Transport would commission a VOR near Quebec at latitude 46°42'20" N., longitude 71°37'36" W., and requested that the United States portion of Victor 318 be realigned from the Houlton, Maine, VOR direct to the new Quebec VOR.

Subsequently, the Department of Transport advised this Agency that because of technical difficulties, the Quebec VOR would not be commissioned in the near future. Therefore, 64-WA-63 was amended (29 F.R. 14357) by withdrawing the action on Victor 318.

The Department of Transport has now advised this Agency that the Quebec VOR will be commissioned and relevant Canadian airways will be realigned on this new facility, on December 24, 1964. Consequently, the realignment of Victor 318, as set forth above, again has been requested. In order to maintain compatibility with the revised Canadian airway, it has been determined that compliance with the notice and public procedure requirements of the Administrative Procedure Act is impracticable, and for this reason good cause exists for making this amendment effective within less than 30 days from the date of publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t., December 24, 1964, as hereinafter set forth.

In § 71.123 (29 F.R. 1009) V-318 is amended to read:

V-318 From Quebec, Province of Quebec, Canada, to Houlton, Maine. The airspace within Canada is excluded.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on November 27, 1964.

H. B. HELSTROM,
Acting Chief, Airspace
Regulations and Procedures Division.

[F.R. Doc. 64-12386; Filed, Dec. 3, 1964; 8:45 a.m.]

[Airspace Docket No. 63-SO-39]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Control Zones and Designation of Transition Areas

On October 23, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 14547) stating that the Federal Aviation Agency proposed to alter the control zones and designate transition areas at Greensboro and Winston-Salem, North Carolina.

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

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t., February 4, 1965, as hereinafter set forth.

1. In § 71.171 (29 F.R. 1101) the Greensboro, N.C., control zone is amended to read:

GREENSBORO, N.C.

Within a 5-mile radius of Greensboro-High Point Airport (latitude 36°05'36" N., longitude 79°56'34" W.); within 2 miles each side of the Greensboro ILS localizer NW course, extending from the 5-mile radius zone to the LOM.

2. In § 71.171 (29 F.R. 1101) the Winston-Salem, N.C., control zone is amended to read:

WINSTON-SALEM, N.C.

Within a 5-mile radius of Smith-Reynolds Airport (latitude 36°08'00" N., longitude 80°13'20" W.).

3. Section 71.181 (29 F.R. 1160) is amended by adding the following:

GREENSBORO, N.C.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Greensboro ILS SE course extending from the 5-mile radius control zone to 8 miles SE of the Rebel Intersection; within 2 miles each side of the Greensboro VOR 207° radial extending from the 5-mile radius control zone to 8 miles SW of the VOR; including that airspace extending upward from 1200 feet above the surface within the area bounded by a line beginning at the point of intersection of the W boundary of V-103 and the arc of a 35-mile circle centered at latitude 36°06'00" N., longitude 80°01'30" W.; thence clockwise along this arc to the point of intersection with the arc of a 55-mile radius circle centered at the Douglas Airport, Charlotte, North Carolina (latitude 35°12'58" N., longitude 80°56'22" W.); thence counterclockwise along this arc to the point of intersection with the E boundary of V-37; thence N along the E boundary of V-37 to the point of intersection of the E boundary of V-37 and a line 7 miles NW of and parallel to the centerline of V-222; thence NE along a line 7 miles NW of and parallel to the centerline of V-222 to the W boundary of V-103; thence

S along the W boundary of V-103 to the point of beginning.

4. Section 71.181 (29 F.R. 1160) is amended by adding the following:

WINSTON-SALEM, N.C.

That airspace extending upward from 700 feet above the surface within 2 miles each side of the Winston-Salem ILS localizer SE course extending from the 5-mile radius control zone to 8 miles SE of the LOM.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348(a))

Issued in East Point, Georgia, on November 25, 1964.

PAUL H. BOATMAN,
Acting Director, Southern Region.

[F.R. Doc. 64-12385; Filed, Dec. 3, 1964; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34-7474]

PART 240—GENERAL RULES AND REGULATIONS

PART 249—FORMS

SECURITIES EXCHANGE ACT OF 1934

Reports of Market Makers and Other Registered Broker-Dealers in Securities Traded on National Security Exchanges and Related Reporting Forms

On July 8, 1964, in Securities Exchange Act Release No. 7360, and in the FEDERAL REGISTER of July 16, 1964, 29 F.R. 9621, the Securities and Exchange Commission published its proposal to adopt Rule 17a-9 (17 CFR § 240.17a-9) and related reporting forms under the Securities Exchange Act of 1934 requiring broker-dealers to report certain information concerning over-the-counter trading in common stocks traded on national securities exchanges. The Commission has considered the comments and suggestions received and has adopted the rule and related reporting forms in the form stated below, effective January 4, 1965.

Rule 17a-9 (17 CFR § 240.17a-9) and its related reporting forms provide a system for the identification of broker-dealers making off-board markets in common stocks traded on national securities exchanges and for the reporting of summaries of over-the-counter trading in common stocks traded on national securities exchanges whose sales of securities exceed \$20,000,000. Blank copies of the forms to be used in reporting

required information to the Commission may be obtained from the Commission's headquarters office, or from its regional offices, on or about December 23, 1964.

The Report of the Special Study of Securities Markets describes a sharp increase in the volume of off-board trading in common stocks traded on the New York Stock Exchange and other national securities exchanges in recent years. To correct the deficiency of information concerning this growing market, which it described as the "third market," the Study recommended establishment of a system for identification of market makers and for reporting of trading activity. Rule 17a-9 (17 CFR § 240.17a-9) and its related reporting forms implement this recommendation. It is expected that the Commission will regularly publish summaries of third market trading, as compiled from the reports filed under the rule. However, as noted below, the reports of transactions filed by individual broker-dealers will not be made public.

In addition to the data to be obtained under the rule, the Commission plans periodically to conduct detailed transaction studies for the purpose of analyzing particular aspects of activity in the off-board market. The data to be obtained from the reports under Rule 17a-9 (17 CFR § 240.17a-9) and from the transaction studies will enable the Commission to evaluate the need for more detailed reporting and further regulation of this market.

I. *Identification of market makers in common stocks traded on a National Securities Exchange.* Paragraphs (a) and (b) of the rule and Form X-17A-9 (1) (17 CFR 249.917(1)) provide a system for the identification of market makers in common stocks traded on a national securities exchange. The term "market maker" is defined as "a dealer who, with respect to a particular security, holds himself out (by entering indications of interest in purchasing and selling in an inter-dealer quotations system or otherwise) as being willing to buy and sell for his own account on a continuous basis otherwise than on a national securities exchange."

Every broker-dealer who is a market maker in any common stock traded on a national securities exchange on January 4, 1965 is required, not later than 10 days thereafter, to file a report showing the name of each exchange common stock in which he is a market maker and the principal exchange on which each such stock is traded.¹ It should be noted that the 10 day filing period represents a change from the 30 day period stipulated in the original proposal.

Every broker-dealer who commences or ceases to make a market in any exchange common stock after January 4, 1965 is required to file, within 10 days of such commencement or cessation,

Form X-17A-9(1) (17 CFR 249.917(1)).² This form requires report of the name of the stock, the principal exchange on which traded, and the date on which market making commenced or ceased.

II. *Summaries of over-the-counter transactions in common stocks traded on "subject" National Securities Exchanges.* Paragraphs (c) and (d) of the Rule and Forms X-17A-9(2) (17 CFR 249.917(2)) and X-17A-9(3) (17 CFR 249.917(3)) provide a system for the periodic reporting of summaries of over-the-counter transactions in common stocks traded on certain national securities exchanges referred to as "subject exchanges." These include all national securities exchanges whose sales of securities in the most recent calendar year exceeded \$20,000,000.³

This represents a modification of the original proposal in two respects. As originally proposed, the rule would have required reports of trading only in common stocks traded on the NYSE. The broader coverage of the reporting requirements to include stock traded on subject exchanges will permit a fuller understanding of the scope and character of the off-board market.

The second modification concerns the frequency of the initial reports. The reports are to be filed monthly for six months after the rule's effective date and quarterly thereafter. The original proposal called only for quarterly reports. While it is anticipated that quarterly reports may serve the Commission's long-range needs, the filing of monthly reports for a limited period will afford the Commission an opportunity to assess the possible usefulness of more frequent filings.

Since the reports are designed to supply information on the volume of over-the-counter purchases by the public, an effort has been made to avoid, insofar as practicable, duplicate reports of transactions leading to the same underlying public purchase. The rule provides for two types of reports: One by market makers and the other by other broker-dealers who effect off-board transactions in exchange stocks involving \$25,000 or more without the participation of another registered broker-dealer.

Since most broker-dealers generally do not effect such transactions and are not market makers, they are not likely

¹In addition to the general provision described above, the rule makes reference to two special situations:

(1) A cessation report is not required of a broker-dealer who temporarily ceases making a market for a period of three or fewer consecutive business days.

(2) A broker-dealer who is a market maker in a common stock before its listing on a national securities exchange is required to file a report as of the date of such listing if he continues to make a market in the stock after listing.

²For 1963 this sales figure was exceeded by all national securities exchanges except the National, Salt Lake, San Francisco Mining and Spokane exchanges.

to be required to file a report under this rule.

A. *Reports by market makers.* The Study found that the great bulk of third market trading is handled by market makers. Reports of their trading are covered by paragraph (c) of the rule and are to be filed on Form X-17A-9(2) (17 CFR 249.917(2)). For calendar months ending before July 1, 1965, the reports must be filed not later than 15 days after the end of the month and, for calendar quarters beginning on or after July 1, 1965, they must be filed not later than the end of the month immediately following the quarter.⁴

Form X-17A-9(2) (17 CFR 249.917(2)) is in two parts. Part I covers trading in common stocks traded on subject exchanges in which the reporting broker-dealer was a market maker during any part of the period. It calls for separate totals of over-the-counter dollar and share volume in stocks according to the principal exchange on which they are traded and for share volume only by individual stocks.⁵ The form also calls for reporting of all principal purchases and sales by market makers on an exchange in stocks in which they make a market. Thus, the information submitted will show (a) the aggregate dollar and share volume of over-the-counter transactions according to the principal exchange on which the stocks are traded; (b) the share volume for individual stocks; and (c) the extent to which market makers effect purchases and sales on exchanges in stocks in which they make a market.

Market makers are also required to report their off-board trading in common stocks traded on subject exchanges in which they do not make a market. This would be done on Part II of Form X-17A-9(2) (17 CFR 249.917(2)).⁶ This part of the form does not call for exchange trading data and excludes over-the-counter transactions in which the reporting broker-dealer acted as agent for, or acquired stock from or sold stock to, another broker-dealer who is a market maker in one or more common stocks traded on a subject exchange. This exclusion is necessary in order to avoid a

⁴Since the rule's effective date is January 4, 1965, the first monthly reports due thereunder are to be filed not later than February 15, 1965.

⁵This data is required for over-the-counter sales as principal, purchases as agent and sales as agent. In such transactions, the ultimate purchaser of the security, whether directly or indirectly through another broker-dealer or a bank, is, in the large majority of cases, a public customer. Accordingly, these figures will tend to reflect purchases by public customers in transactions effected in the third market. In order to avoid duplication, transactions in which the broker-dealer acted as agent for both buyer and seller are to be included only once.

⁶Even if a broker-dealer were a market maker in a particular common stock for only one week during the period, he would be required to report his transactions in that stock on Part I. For common stocks in which he was not a market maker during any part of the period, he would be required to report his transactions on Part II.

¹Broker-dealers subject to this provision are required to send in a list containing the required information. A specific reporting form has not been provided for this initial identification.

serious duplication in the reporting of data.⁷

B. *Reports by broker-dealers who are not market makers.* The Study also found a considerable number of third market transactions involving blocks of stock effected by broker-dealers who are not market makers. Paragraph (d) of the rule requires such broker-dealers to file reports on Form X-17A-9(3) (17 CFR 249.917(3)) for transactions of \$25,000 or more where (a) the broker-dealer is an intermediary between two public customers; (b) no other broker-dealer is involved; and (c) the stock is traded on a subject exchange. It is to be noted that the monetary standard represents a change from the standard of the original proposal which called for such reports of transactions involving 500 shares or more.

For calendar months ending before July 1, 1965, the reports must be filed not later than 15 days after the end of the month and, for calendar quarters beginning on or after July 1, 1965, they must be filed not later than the end of the month immediately following the quarter.⁸

The following over-the-counter transactions involving \$25,000 or more are subject to the reporting requirements:

(1) A transaction in which the broker-dealer acted as agent for a public customer in either purchasing from or selling to another public customer.

(2) A transaction in which a broker-dealer acted as a principal in purchasing from one public customer and reselling to another public customer. Where a broker-dealer resells stock purchased from a public customer to two or more persons, he is required to report any such sales transaction to a public customer which involves \$25,000 or more. Transactions in which a broker-dealer acted as agent for, or bought from or sold to, another registered broker-dealer would not be reported.

Paragraph (e) of the rule provides that reports of transactions filed pursuant to paragraphs (c) and (d) "shall be deemed confidential."

Statutory basis. The Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, as amended, and particularly sections 17(a) and 23(a) thereof, deeming it necessary for the exercise of the functions vested in it, and necessary and appropriate in the public interest and for the protection of investors, hereby adopts Rule 17a-9 (17 CFR 240.17a-9) and Forms X-17A-9(1), X-17A-9(2) and X-17A-9(3) (17 CFR 249.917(1), 249.917(2) and 249.917(3)) as set forth below, effective January 4, 1965.

⁷ In order to facilitate administration of this program by the market makers, the Commission plans to distribute periodically to them a list of market makers in common stocks traded on a subject exchange. This list will be taken from the Commission's files of broker-dealers who have identified themselves as such market makers under paragraphs (a) and (b) of the rule.

⁸ Since the rule's effective date is January 4, 1965, the first monthly reports due thereunder are to be filed not later than February 15, 1965.

The action of the Commission follows:
1. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new § 240.17a-9 to read as follows:

§ 240.17a-9 Reports of market makers and other registered broker-dealers in securities traded on National Securities Exchanges.

(a) Every broker or dealer registered pursuant to section 15 of the Act ("registered broker-dealer") who is a market maker in any common stock traded on a national securities exchange shall, not later than 10 days after the effective date of this section, file a report showing the name of each common stock traded on a national securities exchange in which he is a market maker on the effective date of this section and the principal exchange on which each such stock is traded.

(b) Every registered broker-dealer who commences or ceases making a market in any common stock traded on a national securities exchange shall file a report containing the information required by Form X-17A-9(1) (§ 249.917(1) of this chapter) not later than 10 days after such commencement or cessation; provided, however, that no Form X-17A-9(1) (§ 249.917(1) of this chapter) report need be filed because of a temporary cessation of market making in a particular security for a period of 3 or fewer consecutive business days. For purposes of this paragraph, a broker-dealer who is a market maker in a common stock before it becomes listed on a national securities exchange shall be deemed to have commenced making a market on the date of such listing if he continues to make a market in the stock after listing.

(c) Every registered broker-dealer who is a market maker in any common stock traded on a subject exchange (as defined in paragraph (f) of this section) shall file a report of transactions containing the information required by Form X-17A-9(2) (§ 249.917(2) of this chapter). Such report shall be filed—

(1) With respect to any calendar month ending before July 1, 1965 during any part of which he is such a market maker, not later than 15 days after the end of the calendar month, and

(2) With respect to any calendar quarter beginning on or after July 1, 1965 during any part of which he is such a market maker, not later than the end of the month immediately following the calendar quarter.

(d) Every registered broker-dealer who, at a time when he is not subject to paragraph (c) of this section, acts (other than as an underwriter or a member of a selling syndicate or group) as a sole broker or dealer intermediary between two public customers to effect, otherwise than on a national securities exchange, a transaction involving \$25,000 or more in a common stock traded on a subject exchange, shall file a report containing the information required by Form X-17A-9(3) (§ 249.917(3) of this chapter). Such report shall be filed—

(1) With respect to transactions effected before July 1, 1965, not later than

15 days after the end of the calendar month in which the transaction is effected, and

(2) With respect to transactions effected on or after July 1, 1965, not later than the end of the month immediately following the calendar quarter in which the transaction is effected.

(e) All reports filed pursuant to paragraphs (c) and (d) of this section shall be deemed confidential, except that they shall be available for official use by any official or employee of the United States or any State and shall also be available to any other person to whom the Commission authorizes disclosure of such information as being in the public interest.

(f) For purposes of this section:

(1) The term "market maker" shall mean a dealer who, with respect to a particular security, holds himself out (by entering indications of interest in purchasing and selling in an inter-dealer quotations system or otherwise) as being willing to buy and sell for his own account on a continuous basis otherwise than on a national securities exchange.

(2) The term "common stock" shall not include rights or warrants to purchase common stock or securities which are convertible into common stock.

(3) The term "subject exchange" shall mean any national securities exchange whose sales of securities during the preceding calendar year exceeded \$20,000,000.

(4) The term "public customer" shall include any person other than a registered broker-dealer.

(Secs. 17(a) and 23(a), 48 Stat. 897, 901, as amended, 15 U.S.C. 78q, 78w)

2. Part 249 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding a new Subpart J, as follows:

Subpart J—Forms for Reports To Be Made by Market Makers and Certain Other Registered Broker-Dealers in Securities Traded on National Securities Exchanges

Sec.

249.917(1) Form X-17A-9(1) notification by market makers in common stocks traded on National Securities Exchanges.

249.917(2) Form X-17A-9(2) report of transactions by market makers in common stocks traded on National Securities Exchanges.

249.917(3) Form X-17A-9(3) report of transactions by broker-dealers who acted as intermediary between public and public sellers.

AUTHORITY: The provisions of this Subpart J issued under secs. 17(a), 23(a), 48 Stat. 897, 901, as amended, 15 U.S.C. 78q, 78w.

Subpart J—Forms for Reports To Be Made by Market Makers and Certain Other Registered Broker-Dealers in Securities Traded on National Securities Exchanges

§ 249.917(1) Form X-17A-9(1) notification by market makers in common stocks traded on National Securities Exchanges.

NOTE: Form filed as part of the original document. Copies may be obtained from the

Commission's headquarters office or from its regional offices.

§ 249.917(2) Form X-17A-9(2) report of transactions market makers in common stocks traded on National Securities Exchanges.

NOTE: Form filed as part of the original document. Copies may be obtained from the Commission's headquarters office or from its regional offices.

§ 249.917(3) Form X-17AX9(3) report of transactions by broker-dealers who acted as intermediary between public buyers and public sellers.

NOTE: Form filed as part of the original document. Copies may be obtained from the Commission's headquarters office or from its regional offices.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

NOVEMBER 30, 1964.

[F.R. Doc. 64-12230; Filed, Dec. 3, 1964;
8:45 a.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), U.S. Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

Subpart—1965 Crop of Extra Long Staple Cotton—National Marketing Quota; National Allotment and Apportionment to the States and Counties; Referendum Date

STATE RESERVE AND COUNTY ALLOTMENT

(a) Section 722.353 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section establishes the State reserve and its allocation among uses for the 1965 crop of extra long staple cotton. It also establishes the county allotment. Such determinations were made initially by the respective State committees and are hereby approved and made effective by the Administrator pursuant to delegated authority (19 F.R. 74, 21 F.R. 1665, 25 F.R. 3925, 28 F.R. 4368).

(b) Notice that the Secretary was preparing to establish State and county allotments was published in the FEDERAL REGISTER on September 12, 1964 (29 F.R. 12878) in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). No written submissions were received in response to such notice.

(c) Since the allocations under this section require immediate action by the Agricultural Stabilization and Conservation State and county committees, it is essential that § 722.353 be made effective as soon as possible. Accordingly, it

is hereby determined and found that compliance with the 30-day effective date requirement of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and § 722.353 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 722.353 State reserve and county allotment for the 1965 crop of Extra Long Staple cotton.

(a) *State reserve.* The State reserve for each State shall be established and allocated among uses as shown in the following table for the 1965 crop of extra long staple cotton pursuant to § 722.308 of the Acreage Allotment Regulations for the 1964 and Succeeding Crops of Extra Long Staple Cotton (28 F.R. 11034, as amended). It is hereby determined that no State reserve for trends, abnormal conditions, small farms or new farms is required. The allocation of State reserve for inequity and hardship cases to counties in New Mexico is required primarily to adjust allotments for farms which were new ELS cotton farms for 1963.

State	Total State reserve	Allocations from State reserve for—	
		Inequity and hardship cases	Set-aside for errors
Arizona.....	25		25
California.....			
Florida.....	30		30
Georgia.....			
New Mexico.....	250	241	9
Texas.....			
Puerto Rico.....	6	3	3

(b) *County allotment.* The county allotment is established for the 1965 crop of extra long staple cotton in accordance with § 722.309 of the Acreage Allotment Regulations for the 1964 and Succeeding Crops of Extra Long Staple Cotton (28 F.R. 11034, as amended). The following table sets forth the county allotment and allocations from the State reserve:

ARIZONA			
County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
	(Acres)	(Acres)	
Cochise.....	189		0
Gila.....	12		0
Graham.....	9,368		0
Maricopa.....	14,004		0
Pima.....	2,629		0
Pinal.....	7,025		0
Santa Cruz.....	21		0
Yuma.....	322		0
State.....	33,570		0

CALIFORNIA			
County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
Imperial.....	101		0
Riverside.....	408		0
State.....	509		0

FLORIDA

County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
	(Acres)	(Acres)	
Alachua.....	49		0
Bradford.....	3		0
Hamilton.....	4		0
Jefferson.....	1		0
Lake.....	29		0
Madison.....	23		0
Marion.....	75		0
Putnam.....	4		0
Sumter.....	39		0
Suwannee.....	2		0
Union.....	37		0
Volusia.....	1		0
State.....	267		0

GEORGIA

County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
Berrien.....	89		0
Cook.....	23		0
Lanier.....	1		0
State.....	113		0

NEW MEXICO

County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
Chaves.....	7		36
Dona Ana.....	14,994		75
Eddy.....	113		15
Hidalgo.....	4		20
Luna.....	57		62
Otero.....	25		10
Sierra.....	176		23
State.....	15,376		241

TEXAS

County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
Brewster.....	10		0
Culberson.....	237		0
El Paso.....	19,085		0
Hudspeth.....	2,395		0
Loving.....	9		0
Pecos.....	503		0
Presidio.....	96		0
Reeves.....	4,837		0
Ward.....	132		0
State.....	27,304		0

PUERTO RICO

County	County allotment	Allocations from State reserve for inequity and hardship cases	
		(1)	(2)
North.....	264		3
South.....	43		0
State.....	307		3

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 63 Stat. 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Effective date. Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on November 27, 1964.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 64-12362; Filed, Dec. 3, 1964;
8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SEMI-RIGID AND RIGID ACRYLIC AND MODIFIED ACRYLIC PLASTICS

The Commissioner of Food and Drugs, having evaluated the data submitted in petitions filed by:

FAP 1219, 1220, American Cyanamid Co., Berdan Avenue, Wayne, N.J., 07470;
FAP 948, J. T. Baker Chemical Co., Phillipsburg, N.J.; and
FAP 901, Rohm and Haas Co., 222 West Washington Square, Philadelphia 5, Pa.,

and other relevant material, has concluded that the food additive regulations should be amended to provide for the use of semirigid and rigid acrylic and modified acrylic plastics as articles intended for use in contact with food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90; 29 F.R. 471), Part 121 is amended by adding to Subpart F the following new section:

§ 121.2591 Semirigid and rigid acrylic and modified acrylic plastics.

Semirigid and rigid acrylic and modified acrylic plastics may be safely used as articles intended for use in contact with food, in accordance with the following prescribed conditions:

(a) The optional substances used in the formulation of the semirigid and rigid acrylic and modified acrylic plastics include substances generally recognized as safe in food, substance used in accordance with a prior sanction or approval, substances permitted for use in such plastics by regulations in this Part 121, and substances identified in this paragraph. At least 50 weight-percent of the polymer content of the finished plastics shall consist of polymer units derived from one or more of the acrylic or methacrylic monomers listed in subparagraph (1) of this paragraph.

(1) Homopolymers and copolymers of the following monomers:

n-Butyl acrylate.
n-Butyl methacrylate.
Ethyl acrylate.
2-Ethylhexyl acrylate.
Ethyl methacrylate.
Methyl acrylate.
Methyl methacrylate.

(2) Copolymers produced by copolymerizing one or more of the monomers listed in subparagraph (1) of this paragraph with one or more of the following monomers:

Acrylonitrile.
Methacrylonitrile.
 α -Methylstyrene.
Styrene.
Vinyl chloride.
Vinylidene chloride.

(3) Polymers identified in subparagraphs (1) and (2) of this paragraph containing no more than 5 weight-percent of total polymer units derived by copolymerization with one or more of the monomers listed in subdivisions (i) and (ii) of this subparagraph. Monomers listed in subdivision (ii) of this subparagraph are limited to use only in plastic articles intended for repeated use in contact with food.

(i) List of minor monomers:

Acrylamide.
Acrylic acid.
1,3-Butylene glycol dimethacrylate.
1,4-Butylene glycol dimethacrylate.
Diethylene glycol dimethacrylate.
Dipropylene glycol dimethacrylate.
Divinylbenzene.
Ethylene glycol dimethacrylate.
Itaconic acid.
Methacrylic acid.
N-Methylolacrylamide.
N-Methylolmethacrylamide.
4-Methyl-1,4-pentanediol dimethacrylate.
Propylene glycol dimethacrylate.
Trivinylbenzene.

(ii) List of minor monomers limited to use only in plastic articles intended for repeated use in contact with food:

tert-Butyl acrylate.
tert-Butylaminoethyl methacrylate.
sec-Butyl methacrylate.
tert-Butyl methacrylate.
Cyclohexyl methacrylate.
Dimethylaminoethyl methacrylate.
2-Ethylhexyl methacrylate.
Hydroxyethyl methacrylate.
Hydroxyethyl vinyl sulfide.
Hydroxypropyl methacrylate.
Isobornyl methacrylate.
Isobutyl methacrylate.
Isopropyl acrylate.
Isopropyl methacrylate.
Methacrylamide.
Methacrylamidoethylene urea.
Methacryloxyacetamidoethylene urea.
Methacryloxyacetic acid.
n-Propyl methacrylate.
3,5,5-Trimethylcyclohexyl methacrylate.

(4) Polymers identified in subparagraphs (1), (2), and (3) of this paragraph mixed together and/or with the following polymers, provided that no chemical reactions, other than addition reactions, occur when they are mixed:

Butadiene-acrylonitrile copolymers.
Butadiene-acrylonitrile-styrene copolymers.
Butadiene - acrylonitrile - styrene - methyl methacrylate copolymers.
Butadiene-styrene copolymers.
Butyl rubber.
Natural rubber.
Polybutadiene.
Poly(3-chloro-1,3-butadiene).
Polyesters identified in § 121.2514(b)(3)(vii).
Polyvinyl chloride.
Vinyl chloride-vinyl acetate copolymers.

(5) Antioxidants and stabilizers identified in § 121.2514(b)(3)(xxx) and the following:

Di-*tert*-butyl-*p*-cresol.
2-Hydroxy-4-methoxybenzophenone.
2 - Hydroxy - 4 - methoxy - 2 - carboxybenzophenone.
2(2' - Hydroxy - 5' - methylphenyl)benzo triazole.

3-Hydroxyphenyl benzoate.
p-Methoxyphenol.
Methyl salicylate.
Phenyl salicylate.

(6) Release agents: Fatty acids derived from animal and vegetable fats and oils, and fatty alcohols derived from such acids.

(7) Surface active agent: Sodium dodecylbenzenesulfonate.

(8) Miscellaneous materials:

Dimethyl phthalate.
Oxalic acid, for use only as a polymerization catalyst acid.
Tetraethylenepentamine, for use only as a catalyst activator at a level not to exceed 0.5 weight-percent based on the monomers.
Toluene.
Xylene.

(b) The semirigid and rigid acrylic and modified acrylic plastics, in the finished form in which they are to contact food, when extracted with the solvent or solvents characterizing the type of food and under the conditions of time and temperature as determined from tables 1 and 2 of § 121.2526(c), shall yield extractives not to exceed the following, when tested by the methods prescribed in paragraph (c) of this paragraph:

(1) Total nonvolatile extractives not to exceed 0.3 milligram per square inch of surface tested.

(2) Potassium permanganate oxidizable distilled water and 8 and 50 percent alcohol extractives not to exceed an absorbance of 0.15.

(3) Ultraviolet-absorbing distilled water and 8 and 50 percent alcohol extractives not to exceed an absorbance of 0.30.

(4) Ultraviolet-absorbing *n*-heptane extractives not to exceed an absorbance of 0.10.

(c) *Analytical methods*—(1) *Selection of extractability conditions*. These are to be chosen as provided in § 121.2526(c).

(2) *Preparation of samples*. Sufficient samples to allow duplicates of all applicable tests shall be cut from the articles or formed from the plastic composition under tests, as strips about 2.5 inches by about 0.85-inch wide by about 0.125-inch thick. The total exposed surface should be 5 square inches ± 0.5 -square inch. The samples, after preparation, shall be washed with a clean brush under hot tapwater, rinsed under running hot tapwater (140° F. minimum), rinsed with distilled water, and air-dried in a dust-free area or in a desiccator.

(3) *Preparation of solvents*. The water used shall be double-distilled water, prepared in a still using a block tin condenser. The 8 and 50 percent (by volume) alcohol solvents shall be prepared from ethyl alcohol meeting the specifications of U.S.P. XVI and diluted with double-distilled water that has been prepared in a still using a tin block condenser. The *n*-heptane shall be spectrophotometric grade. Adequate precautions must be taken to keep all solvents dust-free.

(4) *Blank values on solvents*. (i) Duplicate determinations of residual solids shall be run on samples of each solvent that have been exposed to the

temperature-time conditions of the extraction test without the plastic sample. Sixty milliliters of exposed solvent is pipetted into a clean, weighed platinum dish, evaporated to 2-5 milliliters on a nonsparking, low-temperature hot plate and dried in 212° F. oven for 30 minutes. The residue for each solvent shall be determined by weight and the average residue weight used as the blank value in the total solids determination set out in subparagraph (6) of this paragraph. The residue for an acceptable solvent sample shall not exceed 0.5 milligram per 60 milliliters.

(ii) For acceptability in the ultraviolet absorbers test, a sample of each solvent shall be scanned in an ultraviolet spectrophotometer in 5-centimeter silica spectrophotometric absorption cells. The absorbance of the distilled water when measured versus air in the reference cell shall not exceed 0.03 at any point in the wavelength region of 245 to 310 $m\mu$. The absorbance of the 8 percent alcohol when measured versus distilled water in the reference cell shall not exceed 0.05 at any point in the wavelength region of 245 to 310 $m\mu$. The absorbance of the 50 percent alcohol when measured versus distilled water in the reference cell shall not exceed 0.02 at any point in the wavelength region of 245 to 310 $m\mu$. The absorbance of the heptane when measured versus distilled water in the reference cell shall not exceed 0.15 at 245, 0.09 at 260, 0.04 at 270, and 0.02 at any point in the wavelength region of 280 to 310 $m\mu$.

(iii) Duplicate ultraviolet blank determinations shall be run on samples of each solvent that have been exposed to the temperature-time conditions of the extraction test without the plastic sample. An aliquot of the exposed solvent shall be measured versus the unexposed solvent in the reference cell. The average difference in the absorbances at any wavelength in the region of 245 to 310 $m\mu$ shall be used as a blank correction for the ultraviolet absorbers measured at the same wavelength according to subparagraph (8) (ii) of this paragraph.

(iv) The acceptability of the solvents for use in the permanganate test shall be determined by preparing duplicate permanganate test blanks according to subparagraph (7) (iv) of this paragraph. For this test, the directions referring to the sample extract shall be disregarded. The blanks shall be scanned in 5-centimeter silica spectrophotometric cells in the spectrophotometer versus the appropriate solvent as reference. The absorbance in distilled water in the wavelength region of 544 to 552 $m\mu$ should be 1.16 but must not be less than 1.05 nor more than 1.25. The absorbance in the 8 and 50 percent alcohol must not be less than 0.85 nor more than 1.15.

(v) Duplicate permanganate test determinations shall be run on samples of distilled water and 8 and 50 percent alcohol solvents that have been exposed to the temperature-time conditions of the extraction test without the plastic sample. The procedure shall be as described in subparagraph (7) (iv) of this paragraph, except that the appropriate

exposed solvent shall be substituted where the directions call for sample extract. The average difference in the absorbances in the region of 544 to 552 $m\mu$ shall be used as a blank correction for the determination of permanganate oxidizable extractives according to subparagraph (7) (iv) of this paragraph.

(5) *Extraction procedure.* For each extraction, place a plastic sample in a clean 25 millimeters x 200 millimeters hard-glass test tube and add solvent equal to 10 milliliters of solvent per square inch of plastic surface. This amount will be between 45 milliliters and 55 milliliters. The solvent must be pre-equilibrated to the temperature of the extraction test. Close the test tube with a ground-glass stopper and expose to the specified temperature for the specified

time. Cool the tube and contents to room temperature if necessary.

(6) *Determination of total nonvolatile extractives.* Remove the plastic strip from the solvent with a pair of clean forceps and wash the strip with 5 milliliters of the appropriate solvent, adding the washings to the contents of the test tube. Pour the contents of the test tube into a clean, weighed platinum dish. Wash the tube with 5 milliliters of the appropriate solvent and add the solvent to the platinum dish. Evaporate the solvent to 2-5 milliliters on a nonsparking, low-temperature hotplate. Complete the evaporation in a 212° F. oven for 30 minutes. Cool the dish in a desiccator for 30 minutes and weigh to the nearest 0.1 milligram. Calculate the total nonvolatile extractives as follows:

$$\text{Milligrams extractives per square inch} = \frac{e-b}{s};$$

$$\text{Extractives in parts per million} = \left(\frac{e-b}{s} \right) (100),$$

where:

e = Total increase in weight of the dish, in milligrams.

b = Blank value of the solvent in milligrams, as determined in subparagraph (4) (i) of this paragraph.

s = Total surface of the plastic sample in square inches.

(7) *Determination of potassium permanganate oxidizable extractives.* (i)

Pipette 25 milliliters of distilled water into a clean 125-milliliter Erlenmeyer flask that has been rinsed several times with aliquots of distilled water. This is the blank. Prepare a distilled water solution containing 1.0 part per million of *p*-methoxyphenol (melting point 54-56° C., Eastman grade or equivalent). Pipette 25 milliliters of this *p*-methoxyphenol solution into a rinsed Erlenmeyer flask. Pipette exactly 3.0 milliliters of 154 parts per million aqueous potassium permanganate solution into the *p*-methoxyphenol and exactly 3.0 milliliters into the blank, in that order. Swirl both flasks to mix the contents and then transfer aliquots from each flask into

matched 5-centimeter spectrophotometric absorption cells. The cells are placed in the spectrophotometer cell compartment with the *p*-methoxyphenol solution in the reference beam. Spectrophotometric measurement is conducted as in subdivision (iv) of this subparagraph. The absorbance reading in the region 544-552 $m\mu$ should be 0.24 but must be not less than 0.12 nor more than 0.36. This test shall be run in duplicate. For the purpose of ascertaining compliance with the limitations in paragraph (b) (2) of this section, the absorbance measurements obtained on the distilled water extracts according to subdivision (iv) of this subparagraph shall be multiplied by a correction factor, calculated as follows:

$$0.24$$

Average of duplicate *p*-methoxyphenol absorbance determinations according to this subdivision (i) of this subparagraph. = Correction factor for water extracts.

(ii) The procedure in subdivision (i) of this subparagraph is repeated except that, in this instance, the solvent shall be 8 percent alcohol. The absorbance in the region 544-552 $m\mu$ should be 0.26 but must be not less than 0.13 nor more than 0.39. This test shall be run in duplicate. For the purpose of ascertaining

compliance with the limitations prescribed in paragraph (b) (2) of this section, the absorbance measurements obtained on the 8 percent alcohol extracts according to subdivision (iv) of this subparagraph shall be multiplied by a correction factor, calculated as follows:

$$0.26$$

Average of duplicate *p*-methoxyphenol absorbance determination according to this subdivision (ii) of this subparagraph. = Correction factor for aqueous 8 percent alcohol extracts.

(iii) The procedure in subdivision (i) of this subparagraph is repeated except that, in this instance, the solvent shall be 50 percent alcohol. The absorbance in the region 544-552 $m\mu$ should be 0.25 but must be not less than 0.12 nor more than 0.38. This test shall be run in duplicate. For the purpose of ascer-

taining compliance with the limitations prescribed in paragraph (b) (2) of this section, the absorbance measurements obtained on the 50 percent alcohol extracts according to subdivision (iv) of this subparagraph shall be multiplied by a correction factor, calculated as follows:

0.25
Average of duplicate *p*-methoxyphenol absorbance determinations according to subdivision (ii) of this subparagraph. —Correction factor for 50 percent aqueous alcohol extracts.

(iv) *Water and 8 and 50 percent alcohol extracts.* Pipette 25 milliliters of the appropriate solvent into a clean, 125-milliliter Erlenmeyer flask that has been rinsed several times with aliquots of the same solvent. This is the blank. Into another similarly rinsed flask, pipette 25 milliliters of the sample extract that has been exposed under the conditions specified in subparagraph (5) of this paragraph. Pipette exactly 3.0 milliliters of 154 parts per million aqueous potassium permanganate solution into the sample and exactly 3.0 milliliters into the blank, in that order. Before use, the potassium permanganate solution shall be checked as in subdivision (i) of this subparagraph. Both flasks are swirled to mix the contents, and then aliquots from each flask are transferred to matched 5-centimeter spectrophotometric absorption cells. Both cells are placed in the spectrophotometer cell compartment with the sample solution in the reference beam. The spectrophotometer is adjusted for 0 and 100 percent transmittance at 700 $m\mu$. The spectrum is scanned on the absorbance scale from 700 $m\mu$ to 500 $m\mu$ in such a way that the region 544 $m\mu$ to 552 $m\mu$ is scanned within 5 minutes to 10 minutes of the time

that permanganate was added to the solutions. The height of the absorbance peak shall be measured, corrected for the blank as determined in subparagraph (4)(v) of this paragraph, and multiplied by the appropriate correction factor determined according to subdivisions (i), (ii), and (iii) of this subparagraph. This test shall be run in duplicate and the two results averaged.

(8) *Determination of ultraviolet-absorbing extractives.* (i) A distilled water solution containing 1.0 part per million of *p*-methoxyphenol (melting point 54° C.-56° C. Eastman grade or equivalent) shall be scanned in the region 360 to 220 $m\mu$ in 5-centimeter silica spectrophotometric absorption cells versus a distilled water reference. The absorbance at the wavelength of maximum absorbance (should be about 285 $m\mu$) is about 0.11 but must be not less than 0.08 nor more than 0.14. This test shall be run in duplicate. For the purpose of ascertaining compliance with the limitations prescribed in paragraph (b) (3) and (4) of this section, the absorbance obtained on the extracts according to subdivision (ii) of this subparagraph shall be multiplied by a correction factor, calculated as follows:

0.11
Average of duplicate *p*-methoxyphenol absorbance determinations according to this subdivision (i) of this subparagraph. —Correction factor for ultraviolet absorbers test.

(ii) An aliquot of the extract that has been exposed under the conditions specified in subparagraph (5) of this paragraph is scanned in the wavelength region 360 to 220 $m\mu$ versus the appropriate solvent reference in matched 5-centimeter silica spectrophotometric absorption cells. The height of any absorption peak shall be measured, corrected for the blank as determined in subparagraph (4)(iii) of this paragraph, and multiplied by the correction factor determined according to subdivision (i) of this subparagraph.

(d) In accordance with good manufacturing practice, finished semirigid and rigid acrylic and modified acrylic plastics intended for repeated use in contact with food shall be thoroughly cleansed prior to their first use in contact with food.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C., 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed

objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c) (1), 72 Stat. 1786; 21 U.S.C. 348 (c) (1))

Dated: November 25, 1964.

GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 64-12416; Filed, Dec. 3, 1964; 8:48 a.m.]

SUBCHAPTER C—DRUGS PART 148x—LINCOMYCIN Miscellaneous Amendments

Correction

In F.R. Doc. 64-12035, appearing at page 15816 of the issue for Wednesday, November 25, 1964, the following changes should be made:

1. In § 148x.1(a) (4), the reference to "\$12.000" in the fourth line should read "\$12.00".

2. In § 148x.1(b) (1) (iii), the third line reading "quantity of the working standard and dis-" should be deleted.

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER F—PERSONNEL

PART 577—MEDICAL AND DENTAL ATTENDANCE

Purpose and Scope; Correction

F.R. Document 64-11793, appearing at 29 F.R. 15483, November 19, 1964, is corrected to show paragraph (a) (3) of § 577.60 reading as follows:

§ 577.60 Purpose and scope.

(a) * * *

(3) Persons who at the time of their death were active duty members of the uniformed services.

* * * * *
J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 64-12388; Filed, Dec. 3, 1964; 8:45 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Planning

[Defense Mobilization Order 23]

DMO-I-4—AGENCY RESPONSIBILITIES IN COMPLETING AND MAINTAINING THE MOBILIZATION BASE

Revocation

Defense Mobilization Order 23 dated November 27, 1952 (17 F.R. 10720) redesignated DMO-I-4 at 18 F.R. 6737 is hereby revoked.

The responsibilities previously assigned under this order have been reassigned to the appropriate departments and agencies by Executive orders which prescribe the emergency preparedness responsibilities of the Federal government.

Dated: November 27, 1964.

EDWARD A. McDERMOTT,
Director,
Office of Emergency Planning.

[F.R. Doc. 64-12389; Filed, Dec. 3, 1964; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Detroit River, Mich.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499),

§ 203.641 is hereby amended with respect to paragraph (f) by prescribing a new subparagraph (5-a) to govern the operation of the Wayne County highway bridge across Detroit River (Trenton Channel) between Trenton and Grosse Ile, Mich., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.641 Great Lakes tributaries; bridges where constant attendance of draw tenders is not required.

(f) The bridges to which this section applies, and the special regulations applicable in each case, are as follows:

(5-a) Detroit River (Trenton Channel), Mich.; The Wayne County highway bridge between Trenton and Grosse Ile. During the winter months from December 15 to March 15, at least 5 hours' advance notice required.

[Regs., Nov. 16, 1964, 1507-32 (Detroit River (Trenton Channel), Mich.)—ENGOW-ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
Major General, U.S. Army,
The Adjutant General.

[F.R. Doc. 64-12390; Filed, Dec. 3, 1964; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

DISABILITY OR DEATH DUE TO HOSPITALIZATION, ETC.

In § 3.800(a), subparagraph (3) is added to read as follows:

§ 3.800 Disability or death due to hospitalization, etc.

(a) * * *

(3) If an administrative award was made or a settlement or compromise became final before December 1, 1962, compensation or dependency and indemnity compensation may not be authorized for any period after such award, settlement, or compromise whether before or after December 1, 1962. There is no bar to payment of compensation or dependency and indemnity compensation and no set-off because of a judgment which became final before December 1, 1962, unless specified in the terms of the judgment.

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective December 1, 1962.

Approved: November 30, 1964.

By direction of the Administrator.

[SEAL]

W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 64-12405; Filed, Dec. 3, 1964; 8:47 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 21—FIRST CLASS

PART 22—SECOND CLASS

PART 25—FOURTH CLASS

Miscellaneous Amendments

In § 21.2 *Classification*, make the following changes in paragraph (a) (8): Amend subdivisions (ii) and (viii) to read as follows:

§ 21.2 *Classification*.

(a) * * *

(8) * * *

(ii) Imitations or reproductions of handwritten or typewritten matter, unless mailed at a point designated by the postmaster in a minimum quantity of 20 identical copies.

(viii) Bills or statements of account produced by any photographic or mechanical process, unless presented in a minimum quantity of 20 identical copies. See § 24.2(a) (2) of this chapter.

NOTE: The corresponding Postal Manual sections are 131.218 b and h.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 4251)

In § 22.4 *What may be mailed at the second-class rates*, paragraph (d) is amended to clarify what is meant by an independent publication. As so amended paragraph (d) reads as follows:

§ 22.4 *What may be mailed at the second-class rates*.

(d) *Supplements*. Issues may include supplements subject to the following conditions:

(1) The supplement must be germane to the issue, and prepared in order to complete it, having been omitted for want of space, time, or greater convenience.

(2) Publications, including catalogs, circulars, handbills, posters, and other special advertisements, which are distinct from and independent of the regular issue, may not be inserted in publications as supplements.

(3) A supplement must bear the title of the publication preceded by the words "Supplement to".

(4) Supplements must be folded and mailed with the regular issue.

(5) Bound periodicals must observe the provisions of paragraph (h) of this section.

NOTE: The corresponding Postal Manual section is 132.44.

(R.S. 161, as amended; 5 U.S.C. 29, 39 U.S.C. 501, 4351-4370)

§ 25.1 [Amended]

a. In § 25.1 *Rates*, 29 F.R. 474, make the following changes:

1. Amend paragraph (a) by adding the following cross-reference to Exception a: "See § 25.3 of this chapter for size and weight restrictions".

2. In paragraph (b) (1) amend subdivision (i) to read as follows:

(i) *Postage*. Postage must be paid by permit imprints. Each imprint must show name of the post office, permit number, and the words "U.S. Postage Paid". The words "Bulk Catalog Rate" shall be printed within the permit imprint. The position of the imprint may be varied so that automatic data processing equipment may be utilized to simultaneously print the address, imprint and any other information.

NOTE: The corresponding Postal Manual sections are 135.11 and 135.121a.

b. In § 25.2 *Classification*, 29 F.R. 8007, amend subdivision (v) of paragraph (a) (4) to read as follows:

§ 25.2 *Classification*.

(a) * * *

(4) * * *

(v) Sound recordings, including incidental announcements of recordings and guides or scripts prepared solely for use with such recordings. Miscellaneous advertisements, including trademarks, of persons or concerns other than the record manufacturer, are not permissible on title labels, protective sleeves, jackets, cartons, and wrappers, and such advertisements may not be mailed as enclosures. The identification statement "Special Fourth-Class Rate—Sound Recordings" must be placed conspicuously on the address side of each package.

NOTE: The corresponding Postal Manual section is 135.214e.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 501, 4551-4555)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 64-12391; Filed, Dec. 3, 1964; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 11—Coast Guard, Department of the Treasury

[CGFR 64-76]

MISCELLANEOUS AMENDMENTS TO PROCUREMENT REGULATIONS

Pursuant to authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order 167-17 (20 F.R. 4976) and Treasury Department Order 167-50 (28 F.R. 530), Chapter 11 of Title 41 is amended by renumbering § 11-2.201(a) (54) and (55) as § 11-2.201(a) (53) and (54) respectively and by adding Subpart 11-4.51, §§ 11-1.305-6, 11-1.305-50, 11-1.350, 11-1.1150, 11-1.1151 and subparagraphs 11-2.201(a) (55); 11-201(b) (54), (55) and (56) as follows:

PART 11-1—GENERAL

Subpart 11-1.3—General Policies

§ 11-1.305-6 Military and departmental specifications.

Military specifications are mandatory for Coast Guard use in the procurement of the items, materials, or services so

covered, except that the exemptions for Federal Specifications in § 1-1.305-2 are equally applicable to the mandatory use by the Coast Guard of Military Specifications.

§ 11-1.305-50 Procurement of specifications, qualified products lists and standards.

Procurement of indexes, specifications, standards and handbooks will be effected in accordance with instructions contained in the Department of Defense Index of Specifications and Standards and the Index of Federal Specifications, Standards and Handbooks. Initial distribution of new or revised indexes to authorized Coast Guard units will be effected by Coast Guard Headquarters.

§ 11-1.350 Patents.

This section authorizes and prescribes the use of contract clauses and procedures set forth in Part 9 of 32 CFR (ASPR) pertaining to patents, data and copyrights in connection with the procurement of supplies and services. In cases where it is necessary to use prescribed procedures which require departmental action, the matter will be referred to the Commandant (FS) for appropriate action.

Subpart 11-1.11—Qualified Products

§ 11-1.1150 General.

Federal and Military Qualified Products Lists (FQPL or MQPL) are developed for items procured for Government and military use when one or more of the following conditions exist:

- (a) The time required for testing after award would normally delay delivery of the supplies being purchased.
- (b) The cost of repetitive testing would be excessive.
- (c) The tests would require expensive or complicated testing apparatus not commonly available.
- (d) The interest of the Government requires assurance, prior to award, that the product is satisfactory for its intended use.
- (e) The determination of acceptability would require performance data to supplement technical requirements contained in the specification.

§ 11-1.1151 Procurement of qualified products when inadequate competition exists.

(a) *General.* It is not intended that the use of a qualified products list will impose unnecessary restrictions on a full and free competition in the procurement of such products. Therefore, appropriate requirements provide that (1) publicity be given to the intention to establish such lists; (2) lists always be open for inclusion of products of additional manufacturers; and (3) manufacturers be given the opportunity and be urged to submit their products for qualification. However, it will not always be possible to qualify products of sufficient suppliers in time to assure automatically that adequate competition

will exist in any given procurement of their items. When these circumstances exist, procurements must be handled carefully to avoid restrictions which may later appear arbitrary or unnecessary or which may not be sustainable as in the best interests of the Government.

(b) *Action by contracting officers.* If the contracting officer considers that the number of suppliers on a qualified products list is inadequate either (1) in view of the number of sources normally available for such items or (2) because of the current procurement volume for such items, he will notify the cognizant qualifying activity and request additional sources be developed. A copy of the correspondence will be forwarded to Commandant (FS). When specific procurements of qualified products are contemplated, the applicable qualified products list will be reviewed for adequacy prior to inviting bids or soliciting proposals. If, in the opinion of the contracting officer, the number of sources is inadequate, one of the following courses may be appropriate.

(1) *Status of tests.* The contracting officer may obtain from the cognizant qualifying activity the status of tests on additional products, either contemplated or in process at that time, and the date such tests will be completed. With this information, it may be possible to schedule the opening of bids or receipt of proposals to follow completion of the tests.

(2) *Substitution for qualification approval.* The contracting officer may request instructions from the cognizant qualifying activity regarding the possibility of substituting in any particular procurement, some means other than qualification approval to assure the requisite quality. As an example, it may be practicable to substitute a requirement for preproduction samples and thereby permit consideration of bids or proposals offering products which have not been tested to date. In no event, however, will the qualification requirement be waived without permission of the cognizant qualifying activity or custodian.

(3) *Negotiation of contract.* If there is only one supplier on the list and it is impossible to develop additional sources, the contracting officer will consider the use of negotiation under Subpart 11-3.2 of this title in lieu of formal advertising.

(c) *Action by qualifying activities.* Qualifying activities have been instructed to assist contracting officers in their endeavors to assure adequate competition by responding promptly and completely to requests for information or instructions pursuant to paragraph (b) above. Also, qualifying activities will seek qualification of products of additional sources whenever the number of such sources is considered insufficient to assure adequate competition. If such efforts are unsuccessful, other means of assuring the requisite quality (such as preproduction model testing, revised inspection and acceptance testing, etc.) will be sought in order that the qualification require-

ment of the specification may be cancelled.

PART 11-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 11-2.2—Solicitation of Bids

§ 11-2.201 Preparation of invitations for bids.

(a) * * *

(55) A provision for any required temporary services to be provided for or by the contractor, such as light and power, water, steam, heat, garbage disposal, telephone service, etc.

(b) * * *

(54) When the invitation involves the use of containers (drums, carboys, cylinders, reels, tanks, etc.) incident to the delivery terms, a provision substantially as follows:

(i) Cost of containers is to be included in the price quoted and containers are to remain property of the Government; or

(ii) Cost of containers is to be included in the price quoted and the contractor will allow a credit of \$ (to be completed by the contractor) for each container returned to point of delivery within (to be completed by the Government) days.

(55) In invitations for preparation of household goods for shipment and storage, a provision that: The provisions of MIL-STD-212 as in effect on the date of this contract are applicable for supplies and services furnished under this contract.

(56) Invitations covering dry docking, or hauling out of vessels incident to repair work shall include an item for the cost of lay days.

PART 11-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 11-4.51—Contracts for Care of Remains

Sec.	
11-4.5100	Scope of subpart.
11-4.5101	General.
11-4.5102	Schedule.
11-4.5103	General provisions.
11-4.5103-1	Definitions.
11-4.5103-2	Changes.
11-4.5103-3	Inspection.
11-4.5103-4	Payment.
11-4.5103-5	Assignment of claims.
11-4.5103-6	Federal, State and local taxes.
11-4.5103-7	Termination for convenience of the Government.
11-4.5103-8	Default.
11-4.5103-9	Disputes.
11-4.5103-10	Convict labor.
11-4.5103-11	Contract Work Hours Standards Act—Overtime Compensation.
11-4.5103-12	Walsh-Healey Public Contracts Act.
11-4.5103-13	Nondiscrimination in employment.
11-4.5103-14	Officials not to benefit.
11-4.5103-15	Covenant against contingent fees.
11-4.5103-16	Estimated requirements.
11-4.5103-17	Transportation.
11-4.5103-18	Inconsistent provisions.

RULES AND REGULATIONS

Sec.

- 11-4.5103-19 Advertising prohibited.
 11-4.5103-20 Professional requirements.
 11-4.5103-21 Facility requirements.
 11-4.5103-22 Coordination.
 11-4.5103-23 Time of delivery.
 11-4.5103-24 Preparation of remains at other than contractor's establishment.
 11-4.5103-25 Oversized casket.
 11-4.5103-26 Major restorative art.
 11-4.5103-27 Passenger car.

AUTHORITY: The provisions of this Subpart 11-4.51 issued under 14 U.S.C. 633, 10 U.S.C. Ch. 137.

§ 11-4.5100 Scope of subpart.

This subpart sets forth procedures and other requirements to be followed for the care of remains.

§ 11-4.5101 General.

(a) Where contracts of other Government agencies for the care of remains are not available for Coast Guard use, procurement of such services will be made by formal advertising except where time does not permit or anticipated requirements do not justify a formally advertised contract, contracts may be negotiated when authorized (See Part 11-3.2), consistent with limitations and requirements set forth in Chapter 11 of the Coast Guard Personnel Manual.

(b) The contract format, terms and conditions set forth in this Subpart 11-4.51, supplemented or modified as deemed necessary and appropriate by the contracting officer, will be used in effecting contracts for the care of remains.

§ 11-4.5102 Schedule.

The following will be used as the schedule:

(Contract for Care of Remains)

PART I

SUPPLIES, SERVICES AND TRANSPORTATION TO BE FURNISHED

The contractor shall furnish to the Government such supplies, services and transportation described in this schedule as may be called for by the contracting officer during the contract period.

(a) *Contract period.* The contract period shall extend from _____ through _____.

(b) *Area of performance.* This contract is established to provide for care of remains in the area within a radius of 30 miles of the contractor's establishment. The contractor will from time to time be required to go beyond the 30-mile radius in performance of this contract. When required to go beyond the 30-mile radius, the contractor will be paid on a per loaded mile basis for the distance traveled outside of the 30-mile radius.

(c) *Using activities.* Using activities, in addition to the installation making this contract, are as follows: _____

(d) *Invoices for payment* shall be submitted to: _____

(e) *Supplies, services and transportation.*

Item No.	Supplies, services, and transportation	Quantity estimated	Unit	Price per unit
1	For a Type I Casket, supplies, services, and all transportation within a 30-mile radius of the contractor's establishment, in accordance with Specification MIL-C-9876 Care of Remains of Deceased Personnel.		Ea.	
2	For a Type II Casket, supplies, services, and all transportation within a 30-mile radius of the contractor's establishment, in accordance with Specification MIL-C-9876 Care of Remains of Deceased Personnel.		Ea.	
3	For transportation in a suitable funeral coach, ambulance, and/or service car when required to go beyond the 30-mile radius of the contractor's establishment, in accordance with Specification MIL-C-9876 Care of Remains of Deceased Personnel.		Ea. (loaded mile).	

§ 11-4.5103 General provisions.

The following general provisions will be included in contracts for care of remains and will be entitled "Part II".

§ 11-4.5103-1 Definitions.

Insert the clause set forth in § 1-7.101-1 under the conditions and in the manner prescribed therein.

§ 11-4.5103-2 Changes.

Insert the clause set forth in § 1-7.101-2 under the conditions and in the manner prescribed therein.

§ 11-4.5103-3 Inspection.

INSPECTION

All services, material and workmanship shall be subject to inspection and test by the representatives of the Government. For this purpose, the contractor will allow at all reasonable times inspectors and other Government personnel free access to the plant and operations and shall furnish such facilities, supplies and services as may be required for this work.

§ 11-4.5103-4 Payment.

Insert the clause set forth in § 1-7.101-7 under the conditions and in the manner prescribed therein.

§ 11-4.5103-5 Assignment of claims.

Insert the clause set forth in § 1-30.703 under the conditions and in the manner prescribed therein.

§ 11-4.5103-6 Federal, State and local taxes.

Insert the clause set forth in § 1-11.401 under the conditions and in the manner prescribed therein.

§ 11-4.5103-7 Termination for convenience of the Government.

Insert the clause set forth in § 1-8.705-1 under the conditions and in the manner prescribed therein.

§ 11-4.5103-8 Default.

Insert the clause set forth in § 1-8.707 under the conditions and in the manner prescribed therein.

§ 11-4.5103-9 Disputes.

Insert the clause set forth in § 1-7.101-12 under the conditions and in the manner prescribed therein.

§ 11-4.5103-10 Convict labor.

Insert the clause set forth in § 1-12.203 under the conditions and in the manner prescribed therein.

§ 11-4.5103-11 Contract Work Hours Standards Act—Overtime Compensation.

Insert the clause set forth in § 1-12.303 under the conditions and in the manner prescribed therein.

§ 11-4.5103-12 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 1-12.605 under the conditions and in the manner prescribed therein.

§ 11-4.5103-13 Nondiscrimination in employment.

Insert the clause set forth in § 1-12.803-2 under the conditions and in the manner prescribed therein.

§ 11-4.5103-14 Officials not to benefit.

Insert the clause set forth in § 1-7.101-19 under the conditions and in the manner prescribed therein.

§ 11-4.5103-15 Covenant against contingent fees.

Insert the clause set forth in § 1-1.503 under the conditions and in the manner prescribed therein.

§ 11-4.5103-16 Estimated requirements.

ESTIMATED REQUIREMENTS

(a) The quantities of supplies and services which the Government estimates that the Government activity named in the Schedule will require during the period covered by this contract are set forth in the Schedule. These quantities are estimated only and are not purchased hereby.

(b) The Government agrees to call on the contractor for all the requirements for such supplies and services of the Government activity named in the Schedule. The contractor agrees to furnish such supplies and services when called for by the Government.

(c) In the event that the requirements of the Government activity named in the Schedule for the supplies and services described herein do not materialize in the quantities specified as either "estimated" or "maximum" in the Schedule, such failure shall not constitute grounds for equitable adjustment under this contract, except as may be specifically provided in the Schedule.

§ 11-4.5103-17 Transportation.**TRANSPORTATION**

The contractor shall transport remains to the place where the preparation of remains is to be performed, to a common carrier, and to any other place specified by the contracting officer.

§ 11-4.5103-18 Inconsistent provisions.**INCONSISTENT PROVISIONS**

In the event of any inconsistency in the provisions of any of the parts of this contract, the following order shall control: Schedule (Part I); General Provisions (Part II); and Military Specifications MIL-C-9876 as in effect on the date of this contract.

§ 11-4.5103-19 Advertising prohibited.**ADVERTISING PROHIBITED**

The contractor shall not advertise in any way that he has a contractual relationship with the Government as a result of the award of this contract.

§ 11-4.5103-20 Professional requirements.**PROFESSIONAL REQUIREMENTS**

(a) Preparation and transportation of remains shall be performed in accordance with all applicable Federal, State and local health laws, statutes and regulations. The contractor is responsible for insuring that all necessary health department permits are in order for disposition of remains.

(b) The funeral home shall be licensed by the State health department where required, and shall have a qualified manager and a competent staff to furnish the highest quality of professional services.

§ 11-4.5103-21 Facility requirements.**FACILITY REQUIREMENTS**

(a) The funeral home shall have complete facilities for maintaining the highest standard of solemnity, reverence, assistance to the family and arrangements for prescribed ceremonial services.

(b) Preparation room shall be clean and sanitary with adequate equipment.

(c) Chapel and repose room shall present an appearance of careful upkeep. The funeral home shall have, or be able to obtain catafalques, church trucks, and equipment for Protestant, Catholic and Jewish services.

(d) The general appearance of the funeral home, furnishings, grounds and surrounding area shall give the impression of a clean and well-kept establishment.

§ 11-4.5103-22 Coordination.**COORDINATION**

Necessary coordination shall be effected with the contractor's funeral director on all funeral arrangements, which shall include the time remains will be ready for inspection, viewing and shipment, time and place of religious services, time and place of interment and shipping schedules or final disposition of remains.

§ 11-4.5103-23 Time of delivery.**TIME OF DELIVERY**

The contractor shall furnish the supplies and services called for as soon as practicable after receipt of a call issued hereunder. In no case will shipment be made until the contractor certifies that the remains will be in an acceptable state of preservation upon final delivery. The contractor shall not be responsible for notifying the consignee of time of arrival of shipped remains.

§ 11-4.5103-24 Preparation of remains at other than contractor's establishment.**PREPARATION OF REMAINS AT OTHER THAN CONTRACTOR'S ESTABLISHMENT**

Preparation of remains at a place other than the contractor's establishment shall require the concurrence of the contracting officer.

§ 11-4.5103-25 Oversized casket.**OVERSIZED CASSET**

When an oversized casket is required for any remains prepared under this contract, and no price therefor has been established in the Schedule, the additional cost shall be allowed as approved by the contracting officer. Caskets exceeding either an inside length of 78 inches or an inside width of 23 inches shall be considered oversized.

§ 11-4.5103-26 Major restorative art.**MAJOR RESTORATIVE ART**

The contractor shall advise the contracting officer promptly of any need for Major Restorative Art Technique (restoration of facial contours, such as nose, ears, mouth, chin, etc.) required for any remains prepared under this contract to permit the viewing of remains at final destination, and upon the direction of the contracting officer, shall perform such restoration. The cost of such restoration shall be allowed as approved by the contracting officer.

§ 11-4.5103-27 Passenger car.**PASSENGER CAR**

When a passenger car is required to transport members of the immediate family to the funeral service and, if necessary, to the selected terminal and return, the cost shall be allowed as approved by the contracting officer.

Dated: November 27, 1964.

[SEAL] W. D. SHIELDS,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 64-12410; Filed, Dec. 3, 1964;
8:48 a.m.]

[CGFR 64-73]

PART 11-1—GENERAL**Subpart 11-1.8—Labor Surplus Area Concerns****REPORT ON PREFERENCE PROCUREMENT IN LABOR SURPLUS AREAS**

Pursuant to authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order 167-17 (20 F.R. 4976) and Treasury Department Order 167-50 (28 F.R. 530), Chapter 11 of Title 41 is amended by adding Subpart 11-1.8, Labor Surplus Area Concerns, as follows:

§ 11-1.807 Report on preference procurement in labor surplus areas.

Reports required by § 1-1.807 will be forwarded to the Commandant (FS) within 15 days following the close of each quarter identified by Reports Control Symbol FS-6131. The Commandant (FS) will submit a consolidated report for the Coast Guard, to the Office of Administrative Services, Treasury Depart-

ment, by the 30th day of the month following the close of each reporting period. (14 U.S.C. 633, 10 U.S.C. Ch. 137)

Dated: November 25, 1964.

[SEAL] E. J. ROLAND,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 64-12408; Filed, Dec. 3, 1964;
8:47 a.m.]

[CGFR 64-75]

PART 11-2—PROCUREMENT BY FORMAL ADVERTISING**PART 11-14—INSPECTION AND ACCEPTANCE****Miscellaneous Amendments**

Pursuant to authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order 167-17 (20 F.R. 4976) and Treasury Department Order 167-50 (28 F.R. 530), Chapter 11 of Title 41 is amended by deleting § 11-2.407-3 and adding the implementing sections in Part 11-14 as follows:

SUBPART 11-14.1—INSPECTION

Sec.
11-14.101 General.
11-14.103 Use of Government inspection facilities.
11-14.103-1 General.
11-14.103-5 Reimbursement for services.

SUBPART 11-14.2—ACCEPTANCE

AUTHORITY: The provisions of Part 11-14 issued under 14 U.S.C. 633, 10 U.S.C. Ch. 137.

Subpart 11-14.1—Inspection**§ 11-14.101 General.**

Inspection requirements for classified contracts shall be handled in accordance with Chapter 16, Navy Security Manual, as amended for Coast Guard use.

§ 11-14.103 Use of Government inspection facilities.**§ 11-14.103-1 General.**

When inspection is to be made by or for the Coast Guard, such inspection will be on a mutually acceptable basis at the operating level.

§ 11-14.103-5 Reimbursement for services.

Cost for inspection services will be charged to the appropriation and subhead defraying the cost of material.

Subpart 11-14.2—Acceptance**§ 11-14.201 General.**

DD Form 250, Material Inspection and Receiving Report and DD Form 250a, Material Inspection and Receiving Report (continuation sheet) may be utilized where desirable and appropriate.

Dated: November 27, 1964.

[SEAL] W. D. SHIELDS,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 64-12409; Filed, Dec. 3, 1964;
8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte MC-40]

PART 192—DRIVING OF MOTOR VEHICLES

Qualifications and Maximum Hours of Service of Employees of Motor Carriers and Safety of Operation and Equipment

At a session of the Interstate Commerce Commission, Motor Carrier Board No. 2, held at its office in Washington, D.C., on the 27th day of November A.D. 1964.

The matter of driving of motor vehicles under the Motor Carrier Safety Regulations prescribed by order of April 14, 1952, being under consideration; and

It appearing, that on March 27, 1964, a notice of proposed rule making was issued followed by an amending order issued May 7, 1964, in the above-entitled proceeding, with respect to proposals to amend §§ 192.10 and 192.11 of Part 192 of the Motor Carrier Safety Regulations in their entirety;

It further appearing, that pursuant to such notice and the invitation contained therein, certain persons desiring to participate in the proceeding have submitted written statements containing data, views, and arguments concerning the proposed amendments, and that no useful purpose would be served by assignment of the matter for oral hearing and;

Upon consideration of the record in the above-entitled proceeding and good cause appearing therefor;

It is ordered, That §§ 192.10 and 192.11 of the Code of Federal Regulations (49 CFR 192.10 and 192.11) be, and they are hereby amended to read as follows:

§ 192.10 Railroad grade crossings; stopping required.

(a) Except as provided in paragraph (c) of this section, the driver of any motor vehicle described in subparagraphs (1) through (8) of this paragraph, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until such precautions have been taken and until he has ascertained that the course is clear.

(1) Every bus transporting passengers,

(2) Every motor vehicle transporting any quantity of explosives, Class A or Class B,

(3) Every motor vehicle transporting any quantity of poison gas, Class A,

(4) Every motor vehicle transporting any quantity of chlorine,

(5) Every motor vehicle which in accordance with the Commission's regulations is required to be marked or placarded with one of the following markings:

(i) Dangerous,

(ii) Compressed gas,

(iii) Dangerous—Radioactive Materials,

(iv) Chlorine.

(6) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any dangerous article as defined in the regulations of the Commission or for the transportation of any liquid having a flash point below 200° F, as determined by the Standard Method of Test for Flash Point of the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania, 19103, as set forth in ASTM D-56-61, ASTM D-92-57, or ASTM D-93-62, and referenced by the National Fire Protection Association, 60 Batterymarch Street, Boston 10, Massachusetts, in Pamphlet No. 385, 1964 edition.

(7) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flash point as determined by the same standard method of testing as prescribed in subparagraph (6) of this paragraph.

(8) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under special permit in accordance with the provision of § 73.22 of this chapter.

(b) On and after July 1, 1965, every motor vehicle described in subparagraph (1) through (8) of paragraph (a) of this section shall be equipped with a sign on the rear, in retroreflective letters at least 3 inches high on a background of contrasting color, clearly indicating that the motor vehicle stops at railroad crossings.

(c) A stop need not be made at:

(1) A street car crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district as defined in § 190.12 of this chapter,

(2) A railroad grade crossing when a police officer or crossing flagman directs traffic to proceed,

(3) A railroad grade crossing where a stop and go traffic light controls movement of traffic,

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned,

(5) An industrial or spur line railroad grade crossing marked with a sign reading "Exempt Crossing." Such "Exempt Crossing" signs shall be erected only by or with the consent of the appropriate state or local authority.

§ 192.11 Railroad grade crossings; slowing down required.

The driver of any motor vehicle other than those listed in § 192.10, upon approaching a railroad grade crossing, not including those crossings listed in paragraph (c) (1) through (5) of § 192.10 shall drive at a speed not greater than 25 miles per hour at all distances between 200 feet and the nearest rail of such railroad and shall listen and look in both directions along such track for

any approaching train, and for signals indicating the approach of a train, and shall not drive upon or over such crossing until such precautions have been taken and until he has ascertained that the course is clear.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304)

It is further ordered, That this order shall become effective December 31, 1964, and shall remain in effect until the further order of the Commission.

And it is further ordered, That copies of this order shall be given to motor carriers, other persons of interest and to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Motor Carrier Board No. 2.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 64-12401; Filed, Dec. 3, 1964; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3474]

[Sacramento 076620]

CALIFORNIA

Order Opening Reclamation Lands to Location, Entry, and Patenting Under General Mining Laws

By virtue of the authority contained in the Act of April 23, 1932 (47 Stat. 136; 43 U.S.C. 154), it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the following described national forest lands in the Shasta National Forest shall at 10 a.m. on January 5, 1965, be open to location, entry and patenting under the United States Mining Laws, subject to the stipulations quoted below, to be executed and acknowledged in favor of the United States by the locators, for themselves, for their heirs, successors, and assigns, and recorded in the county records, and in the United States Land Office at Sacramento, California, before any rights attach by virtue of this Order:

MOUNT DIABLO MERIDIAN

T. 35 N., R. 4 W.,
Sec. 12, W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains approximately 20 acres.

The following stipulations are made a part of this Order:

1. The locator shall take such steps as are necessary to prevent silt, toxicants, or other pollutants from entering Shasta Lake. The Bureau of Reclama-

tion will determine the steps that may be necessary.

2. All mining operations will be clean, neat, and orderly.

3. All debris as it is created will be removed from the subject land.

4. No milling or grinding operations will be allowed on the land.

5. Any road construction must be in accordance with established standards of the Forest Service, United States Department of Agriculture.

JOHN A. CARVER, Jr.,

Assistant Secretary of the Interior.

NOVEMBER 30, 1964.

[F.R. Doc. 64-12392; Filed, Dec. 3, 1964;
8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 911, 915]

[Docket Nos. AO-267-A2 and AO-254-A3]

LIMES AND AVOCADOS

Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Further Amendments of the Marketing Agreements and Orders

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendments of the respective marketing agreements and orders (7 CFR Parts 911 and 915) regulating the handling of Florida limes and avocados. Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C., 20250, not later than the 10th day after its publication in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed amendments hereinafter set forth are formulated, was held at Modesto, Florida, on October 22, 1964, pursuant to notice thereof which was published in the FEDERAL REGISTER (29 F.R. 14121).

Material issues. The material issue presented on the record of the hearing was concerned with further amending the aforesaid marketing agreements and orders so as to provide that each grower member of the respective administrative committees, established under the marketing agreements and orders, may be a handler of his own fruit.

Findings and conclusions. The following findings and conclusions on the material issue are based upon the evidence adduced at the hearing and the record thereof:

The provisions of each of the said marketing agreements and orders require that the grower members of the respective administrative committees shall be growers of limes or avocados, as applicable, who are not handlers or employees of handlers. Such requirements have tended to restrict adversely the nomination and selection of the grower members of the committees as some of the more progressive and better informed growers handle all or a portion of the fruit that they produce.

The records of the administrative committees show that, for the 1963-64 season, there were 41 registered avocado handlers and 27 registered lime handlers. Thirty-one of these 41 avocado handlers handled less than 3,000 bushels of avocados, with 17 handling less than 500 bushels. Nineteen of the 27 lime handlers handled less than 3,000 bushels of limes, with 16 handling less than 500 bushels. The records of the committees do not indicate the source of the fruit handled by these handlers but it was the consensus of the hearing that few of such handlers handle any fruit produced by others. These growers-handlers, because of their handling activities, have been excluded from serving as grower members of the administrative committees. Such exclusions are not in the best interests of the program. Growers who handle only fruit they have produced have little interest in handler functions except to the extent that they may improve their own positions as growers by handling fruit of their own production. As indicated, these growers generally are the more progressive and better informed growers, and their selection for service on the committee should contribute to more effective program operations.

There was some discussion at the hearing concerning placing a limitation on the quantity of a grower's limes or avocados, as applicable, of which he could be the handler, with any handling in excess of such quantity making such a grower ineligible to serve as a grower member of the particular committee. It was advanced that, at some indefinite volume of fruit handled, a grower-handler might become "handler oriented" and no longer primarily represent grower interests. On the other hand, it was contended that such a limitation was not necessary since any grower handling only fruit of his own production would, regardless of the quantity, be primarily interested in the returns he receives as a grower for his fruit. The evidence of record supports the latter views.

It is concluded, therefore, that the marketing agreements and orders should be further amended as hereinafter set forth.

Rulings on proposed findings and conclusions. Proposed findings and conclusions were filed within the prescribed time by W. Wipprecht, Jr., Chairman, Avocado Administrative Committee and Florida Lime Administrative Committee, and by L. E. Derryberry, President, Association of Avocado and Lime Growers. These proposed findings and conclusions, along with the evidence of record, were considered in making the findings and conclusion herein set forth. To the extent that the suggested findings and conclusions are inconsistent with the findings and conclusions contained herein, they are denied for the reasons found

and stated in connection with this decision.

General findings. (a) The said marketing agreements and orders, as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The said marketing agreements and orders, as hereby proposed to be further amended, regulate the handling of limes and avocados, respectively, grown in the designated production areas in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, proposed marketing agreements upon which hearings have been held;

(c) The said marketing agreements and orders, as hereby proposed to be further amended, are limited in their applications to the smallest regional production areas that are practicable, consistently with carrying out the declared policy of the act, and the issuance of several marketing agreements and orders applicable to subdivisions of such production areas would not effectively carry out the declared policy of the act;

(d) There are no differences in the production and marketing of limes grown in the production area covered by the marketing agreement and order, as hereby proposed to be further amended, that make necessary different terms and provisions applicable to different parts of such area;

(e) The marketing agreement and order, as hereby proposed to be further amended, prescribes, so far as practicable, such different terms applicable to different parts of the production area covered thereby as are necessary to give due recognition to the differences in production and marketing of the avocados covered thereby; and

(f) All handling of limes and avocados, grown in the production areas covered thereby, are in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended further amendments of the marketing agreements and orders. The following amendments of the amended marketing agreements and orders are recommended as the detailed means by which the aforesaid conclusions may be carried out:

1. In Part 911—Limes Grown in Florida, § 911.20, the second and fourth sentences are revised to read as follows: "Five of the members and their respective alternates shall be growers who shall not be handlers of limes produced by others or employees of such handlers. * * * The five members of the committee who shall be growers who shall not be handlers of limes produced by others or employees of such handlers are referred to as 'grower' members of the committee; and the four members who shall be handlers or employees of han-

dlers are referred to as 'handler' members of the committee."

1. In Part 915—Avocados Grown in South Florida, § 915.20, the second and fourth sentences are revised to read as follows: "Five of the members and their respective alternates shall be growers who shall not be handlers of avocados produced by others or employees of such handlers. * * * The five members of the committee who shall be growers who shall not be handlers of avocados produced by others or employees of such handlers are referred to as 'grower' members of the committee; and the four members who shall be handlers or employees of handlers are referred to as 'handler' members of the committee."

Dated: December 1, 1964.

CLARENCE H. GIRARD,
Deputy Administrator.

[F.R. Doc. 64-12421; Filed, Dec. 3, 1964;
8:49 a.m.]

[7 CFR Part 1005]

[Docket No. AO-177-A23]

MILK IN TRI-STATE MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Charleston, West Virginia, on November 13, 1964, pursuant to notice thereof issued on October 29, 1964 (29 F.R. 14933).

The material issues on the record of the hearing relate to:

- (1) An increase in the Class I price; and
- (2) Whether an emergency exists to warrant omission of a recommended decision.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

(1) **Increase in the Class I price.** The Class I price differential should be increased by 20 cents from the date the order issued pursuant to this decision is effective through December 1964 and by 10 cents for January and February 1965.

Three cooperative associations jointly requested a 25-cent increase in the Class I price for December 1964 through March 1965. They maintain that drought conditions reduced the supply of feed grains and hay available in the area and that pasture conditions have been subnormal for a considerable time. Producers have been feeding supplies normally used during the winter during the recent summer and fall months. Substantial purchases of hay and grain will be necessary until pastures are available next spring.

Drought conditions exist generally throughout the milkshed. Rainfall during the 180-day growing season (the last

week in April to the first of October) of this year was 35 percent below normal in the West Virginia portion of the production area. Comparably dry conditions also prevail in the Ohio and Kentucky portions of the milkshed. The counties wherein the major proportion of milk supplies for the market is produced have been approved for assistance under Federal drought disaster programs. Because the water supplies on their farms have dried up, a number of dairy farmers must haul water for their farm animals. The cost of water thus obtained is seven to nine dollars per load delivered to the farm.

Below normal rainfall reduced substantially the availability of pastures and the production of hay and feed grains. The poor pasture condition in July and August, a dry September and early frost will increase the winter feeding period to about 210 days this year from the 180 days that is normal for the area.

Drought relief as such cannot be granted to producers through amendments to orders issued under the Agricultural Marketing Agreement Act of 1937, as amended. The Secretary, under the Act, is required to establish prices at levels which will reflect factors affecting the supply and demand for milk in a marketing area, insure a sufficient quantity of pure and wholesome milk and be in the public interest. The adequacy of milk supplies is a most important factor in fixing prices under an order.

In April through October 1964, 86 percent of producer milk under the Tri-State order was Class I compared to 87 percent in the same period last year. In October 1964, however, the Class I use was 91.8 percent of producer receipts, the highest Class I utilization percentage since inception of the order. Normally, Class I utilization is between 87 and 90 percent during the fall and winter months in this market.

Substantial quantities of milk have been imported from other areas. The 1.2 million pounds of other source milk classified in Class I imported in October 1964, compares to 1.6 million pounds imported in October last year. In addition, one cooperative that supplies several handlers has obtained (from a cooperative subject to the Columbus order) the production of a group of producers to help supplement the milk supply in the market. Producers claim that larger quantities of milk would have been needed from outside sources this year if the cooperatives had not worked together to bring about a better allocation of supplies among handlers.

Under these supply-sales conditions, the Class I price would normally be increased by its supply-demand adjutor to encourage an adequate supply of milk for the market. However, the Class I price is expected to be somewhat below the November level through February 1965 due to the action of the supply-demand adjutor in the order. The present supply-demand formula contains a table of "standard utilization percentages" based on conditions that existed a number of years ago. It is claimed that these percentages do not reflect a changed seasonality of production for the market and its relationship to the mar-

ket's Class I needs. Producers, therefore, urge that action be taken to offset the immediate reduction in the Class I price which will occur because of the current supply-demand adjutor. Producers contemplate requesting a hearing in the near future to update the supply-demand formula.

Handlers oppose increasing the Class I price, contending that milk supplies currently and prospectively are adequate for Class I sales. They claim that any Class I price increase would create a misalignment with the prices in neighboring Federal order markets. The Class I price increase herein provided through February 1965, will yield prices under the Tri-State order comparable to a year ago and maintain the same comparability that has prevailed with Class I prices in nearby order markets. In effect, the Class I price increase provided in the Tri-State order through February 1965, will result in maintaining in a reasonable manner the historical relationship of Class I prices between order markets in this area.

A Class I price increase greater than here provided would be inappropriate. In this regard, the 25-cent Class I price increase requested by producers could result in placing Tri-State handlers at a disadvantage in competing with handlers regulated by other orders. The increase provided (20 cents through December and 10 cents in January and February) will maintain the Tri-State Class I price differential during this period at approximately the same level as a year ago. For December 1963, the Class I price, through suspension action was increased 19 cents and was raised 10 cents by an amendment for January and February 1964. The prospective production in relation to the Class I needs of the market through February 1965, is comparable to that for the same period a year ago.

Extending the emergency Class I price increase to include March 1965, is not warranted at this time. It was not established that the supply-demand adjutor aberrations or other factors applicable for the months of December through February will prevail similarly in March. Accordingly, the request to increase the Class I price for March must be denied.

The price increase should be made effective at the earliest possible date, even if such date is other than the first day of a month. There will be little difference in returns to producers between applying a weighted Class I price to the month's Class I utilization based on the number of days an applicable price is effective or establishing two accounting periods in the month. Each handler should, therefore, be afforded these alternatives.

(2) **Emergency action.** The due and timely execution of the function of the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision and opportunity for exceptions thereto on Issue No. 1. The conditions in the market are such that it is urgent that remedial action be taken as soon as possible. Any delay in informing interested parties of the conclusions reached will tend to make inef-

fective the relief sought. The time necessarily involved in the preparation, filing and publication of a recommended decision and the filing of exceptions thereto would in this instance contribute to the threat of an insufficient supply of milk for the market.

The notice of hearing stated that consideration would be given to the economic and emergency marketing conditions relating to the proposed amendments. Action under the procedure described above was requested by proponents at the hearing.

It is therefore found that good cause exists for omission of the recommended decision and the opportunity for filing exceptions thereto.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Tri-State Marketing Area" and "Order Amending the Order, Regulating the Handling of Milk in the Tri-State Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered. That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of September 1964, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Tri-State marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on December 1, 1964.

GEORGE L. MEHREN,
Assistant Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Tri-State Marketing Area

§ 1005.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) **Findings upon the basis of the hearing record.** Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

tentative marketing agreement and to the order regulating the handling of milk in the Tri-State marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. *It is therefore ordered.* That on and after the effective date hereof the handling of milk in the Tri-State marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, as follows:

In § 1005.51(a), the introductory text preceding the table therein is revised to read as follows:

§ 1005.51 Class I milk prices.

(a) Add the following amounts for the months indicated, plus 20 cents from the effective date of this provision through December 1964, and plus 10 cents for January and February 1965.

[F.R. Doc. 64-12422; Filed, Dec. 3, 1964; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71 [New]]

[Airspace Docket No. 64-CE-62]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

Correction

In F.R. Doc. 64-11650, appearing in the issue of Tuesday, November 17, 1964, at page 15376, the following changes should be made:

1. The reference "16 miles" appearing in the 16th line of paragraph (2) in the first column, should read "18 miles".

2. The reference "V-3S" appearing in the last line of paragraph (2) in the second column should read "V-8S".

Notices

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 64-79]

"USS BENJAMIN FRANKLIN" (SSBN640)

New London Harbor Closed to Navigation During Launching

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order 120 dated July 31, 1950 (15 F.R. 6521) and Executive Order 10173, as amended, by Executive Orders 10277 and 10352, I hereby affirm for publication in the FEDERAL REGISTER the order of F. V. Helmer, Captain, United States Coast Guard, Acting Commander, Third Coast Guard District, who has exercised authority as District Commander, such order reading as follows:

SPECIAL NOTICE NEW LONDON HARBOR

Pursuant to the request of the Commander, Submarine Force, U.S. Atlantic Fleet, U.S. Navy, and acting under the authority of the Act of June 15, 1917 (40 Stat. 220), as amended, and the regulations in Part 6, Chapter 1, Title 33, Code of Federal Regulations, I hereby order that the waters of New London Harbor, New London, Conn., between the latitudes of 41 degrees 20 min. 32 sec. North and 41 degrees 21 min. 03 sec. North, be closed to all persons and vessels on Saturday, 5 December 1964, from 10:00 a.m. e.s.t., until the "USS Benjamin Franklin" is made fast to the wetdock at the Electric Boat Division of the General Dynamics Corp., Groton, Conn. The launching of the "USS Benjamin Franklin" is scheduled for 10:30 a.m. e.s.t., on Saturday, 5 December 1964. The northern and southern limits of this area will be marked by ranges located on the eastern shore. Coast Guard vessels will be anchored off these ranges between the shore line and the main ship channel.

All persons and vessels are directed to remain outside of the closed area. This order will be enforced by the Captain of the Port, New London, Conn., and by U.S. Coast Guard vessels under his command. The aid of other Federal, State and Municipal agencies may be enlisted to assist in the enforcement of this order.

Penalties for violation of the above order: Section 2, Title II of the Act of June 15, 1917, as amended, 50 U.S.C. 192, provides as follows: If any owner, agent, master, officer or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this title, or obstructs or interferes with the exercise of any power conferred by this title * * * Or if any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this title, or knowingly obstructs or interferes with the exercise of any power conferred by this title, he shall be punished by imprisonment for not more than ten years and may, at the discretion of the court, be fined not more than \$10,000.

Dated: November 30, 1964.

[SEAL] W. D. SHIELDS,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 64-12411; Filed, Dec. 3, 1964;
8:48 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

ANNA MARIA GEYER

Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Anna Maria Geyer, 115 Triererstrasse, Koblenz-Metternich, Germany; Claim No. 61079; Vesting Order No. 17491; \$1,651.00 in the Treasury of the United States.

Executed at Washington, D.C., on November 25, 1964.

For the Attorney General.

[SEAL] ANTHONY L. MONDELLO,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 64-12379; Filed, Dec. 3, 1964;
8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM 080133, Survey Group 32]

ALABAMA

Notice of Filing of Plat of Survey

NOVEMBER 27, 1964.

The plat of survey for two islands in the Tallapoosa River, approved and accepted on October 28, 1964, will be officially filed in this office effective at 10:00 a.m., on December 10, 1964.

ST. STEPHENS MERIDIAN, ELMORE COUNTY,
ALABAMA

T. 19 N., R. 21 E.,
Sec. 1, lot 1—0.30 acre; lot 2—9.11 acres.

The areas described aggregate 9.41 acres.

The character of the islands and the timber growth thereon indicate their existence in 1819 when Alabama was granted statehood and at the time of the original survey. They are, therefore, determined to be public lands.

The islands are more than 50 percent upland in character within the meaning of the swamp land acts.

Except for valid existing rights, the islands will not be subject to use and disposition under the public land laws, including the mining and mineral leasing laws, until a further order is issued.

All inquiries relating to the islands should be sent to the Manager, Eastern

States Land Office, Bureau of Land Management, Washington, D.C., 20240.

DORIS A. KOIVULA,
Manager, Land Office.

[F.R. Doc. 64-12393; Filed, Dec. 3, 1964;
8:46 a.m.]

[Oregon 015848]

OREGON

Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

NOVEMBER 27, 1964.

1. Plat of survey of the lands described below will be officially filed in the Land Office, Portland, Oreg., effective at 10:00 a.m. on December 29, 1964.

OREGON

WILLAMETTE MERIDIAN

T. 8 S., R. 4 E.,
Sec. 31, lots 7 and 8;
Sec. 32, lot 1.

The area described aggregates 16.73 acres of public lands.

2. The land lies about one-half mile south of the Little North Santiam River at a point about 33 miles southeast of Salem, Oregon. The area supports a growth of Douglas fir, white fir, and associated minor species. The land is primarily valuable for the production of commercial timber. Elevation is about 1500 feet above sea level. Access is by foot from a public road which parallels the Little North Santiam River about one-half mile north.

3. The land in sec. 31, T. 8 S., R. 4 E., is revested Oregon and California grant land and by this order is hereby opened to such forms of disposition as may by law be made of such land.

4. The land in sec. 32, T. 8 S., R. 4 E., affected by this order is public domain land and is hereby opened to the operation of the public land laws, subject to any valid existing withdrawals, and the requirements of applicable laws, rules, and regulations. No application for this land will be allowed under the nonmineral public land laws, unless or until the land has been classified. Any application that is filed will be considered on its merits. The land will not be subject to occupancy or disposition until it has been classified.

5. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims.

6. Inquiries concerning these lands shall be addressed to the Manager, Oregon Land Office, 710 Northeast Holladay Street, Portland, Oreg., 97232.

DOUGLAS E. HENRIQUES,
Land Office Manager.

[F.R. Doc. 64-12394; Filed, Dec. 3, 1964;
8:46 a.m.]

WASHINGTON

Amended Notice of Proposed Withdrawal and Reservation of Lands

The U.S. Army, Corps of Engineers, has filed an amendment to their application, Washington 05056, for the withdrawal of lands described below, from all forms of location, prospecting, or entry under the general mining laws. The applicant desires the land for the construction of the Lower Monumental Lock and Dam Project on the Snake River, Washington.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 680 Bon Marche Building, Spokane, Washington.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Corps of Engineers.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The applicant agency desires to amend their application to include the following lands:

WILLAMETTE MERIDIAN

T. 13 N., R. 35 E.
Sec. 30: Part Lot 4.

The area described aggregates approximately 4.77 acres.

JOHN E. BURT, Jr.,
Officer in Charge.

[F.R. Doc. 64-12395; Filed, Dec. 3, 1964;
8:46 a.m.]

[Utah 0142586]

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

NOVEMBER 18, 1964.

The United States Army through the U.S. Army Engineer District, Corps of Engineers, has filed the above applica-

tion for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the mining and mineral leasing laws.

The applicant desires the land to complete acquisition of lands required to accomplish the military mission of the Deseret Chemical Depot. The lands are landlocked by the Deseret Chemical Depot lands which were previously acquired by Public Land Order and by purchase. The subject lands were recently reconveyed to the United States by provisions of section 8 of the Taylor Grazing Act.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Utah State Director, Post Office Box 11505, Salt Lake City, Utah, 84111.

The Department's regulations (43 CFR 2311.1-3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the

FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SALT LAKE MERIDIAN, UTAH

T. 6 S., R. 5 W.

Sec. 23: S½ SE¼;

Sec. 25: N½ S½;

Sec. 26: NE¼.

Aggregating 400 acres more or less.

R. D. NIELSON,
State Director.

[F.R. Doc. 64-12423; Filed, Dec. 3, 1964;
8:49 a.m.]

Bureau of Reclamation

[Public Announcement 36]

**COLUMBIA BASIN PROJECT,
WASHINGTON****Sale of Farm Units Suitable for
Settlement Purposes**

LANDS COVERED

NOVEMBER 19, 1964.

SECTION 1. Offer of farm units for sale. It is hereby announced that certain farm units in the Columbia Basin Project, Washington, will be sold to qualified applicants in accordance with the provisions of this announcement. Applications for certificates of qualification to purchase farm units may be submitted beginning at 2:00 p.m., December 7, 1964.

In order to permit the continued orderly development and settlement of project lands, this public announcement is issued irrespective of there being pending applications for exchange pursuant to the Act of August 13, 1953 (67 Stat. 566).

a. Farm units presently owned in entirety by the United States. The farm units which are presently owned in entirety by the United States and hereby offered for sale are described as follows:

Irrigation block	Farm unit	Gross acres	Tentative irrigable acreage				Non-irrigable	Price
			Total	CI 1	CI 2	CI 3		
17-----	8	207.3	156.4	-----	124.3	32.1	50.9	\$4,114.20
17-----	12	227.0	138.0	-----	65.6	72.4	89.0	3,237.60
17-----	27	199.9	144.7	75.9	46.4	22.4	55.2	3,698.50
17-----	29	172.1	116.2	9.8	51.3	55.1	55.9	2,639.80
17-----	30	191.3	136.3	10.3	51.8	74.2	55.0	2,871.50

b. Farm units presently owned by the United States and the Northern Pacific Railway Company. There are several farm units hereby offered for sale, the major portions of which are owned by the United States and the minor portions are owned by the Northern Pacific Railway Company. Such units are described as follows:

Irrigation block	Farm unit	Gross acres		Tentative irrigable acreage				Non-irrigable	Price	
		U.S.	N.P.	Total	CI 1	CI 2	CI 3		U.S.	N.P.
17-----	14	149.4	90.4	141.5	-----	52.2	89.3	98.3	\$1,958.50	\$3,332.30
17-----	17	170.8	12.3	155.4	-----	153.0	2.4	27.7	3,107.30	421.70
17-----	20	108.3	75.7	146.5	-----	140.1	6.4	37.5	1,844.95	2,543.40
17-----	28	240.1	1.9	147.7	57.3	51.1	39.3	94.3	3,943.25	43.70
17-----	44	142.3	50.5	133.1	-----	105.6	27.5	59.7	2,224.25	876.60
17-----	52	138.0	24.5	142.0	-----	39.6	102.4	20.5	2,167.55	318.80
17-----	59	144.4	81.0	132.2	-----	55.8	76.4	93.2	2,073.70	1,032.45

c. *Additional farm units.* If, through the operation of its land acquisition program, the United States should, following the date of this announcement and prior to the date on which the first farm unit is offered for selection to an applicant under the provisions hereof, own additional farm units in the Columbia Basin Project which are suitable for settlement purposes and which are scheduled to receive water before the close of the 1965 irrigation season, such farm units may be offered for sale under the provisions of this announcement.

The official plat of Irrigation Block 17 is on file in the offices of the Bureau of Reclamation at Ephrata, Washington, and Boise, Idaho. The prices of the farm units are subject to minor changes which may result from adjustments in the irrigable acreages due to changes in rights-of-way or other causes.

PREFERENCE OF APPLICANTS

SEC. 2. *Nature of preference.* Except for a prior preference given applicants for exchange under the provisions of the Act of August 13, 1953 (67 Stat. 566), who are hereinafter called "exchange applicants", preference right to purchase the farm units described above will be given to persons who submit applications during a 45-day period beginning at 2:00 p.m., December 7, 1964, and ending at 2:00 p.m., January 21, 1965.

QUALIFICATIONS REQUIRED OF PURCHASERS

SEC. 3. *Examining board.* An examining board of three members has been appointed by the Regional Director to determine the qualifications and fitness of applicants to undertake the purchase, development, and operation of a farm on the Columbia Basin Project. The board will make careful investigations to verify the statements and representations made by applicants. Any false statements may constitute grounds for rejection of an application and cancellation of the applicant's right to purchase a farm unit.

SEC. 4. *Minimum qualifications.* Certain minimum qualifications have been established which are considered necessary for the successful development of farm units. Applicants, unless qualified exchange applicants, must, in the judgment of the examining board, meet these qualifications in order to be eligible for the purchase of farm units. Failure to meet them in any single respect will be sufficient cause for rejection of an application. No credit will be given for qualifications in excess of the required minimum. The minimum qualifications are as follows:

a. *Character and industry.* An applicant must be possessed of honesty, temperate habits, thrift, industry, seriousness of purpose, record of good moral conduct, and a bona fide intent to engage in farming as an occupation.

b. *Farm experience.* Except as otherwise provided in this subsection, an applicant must have had a minimum of two years (24 months) of full-time farm experience, which shall consist of participation in actual farming operations after reaching the age of 17 years. At least one year of such experience must have been obtained after a date five years prior to the date of this announcement.

Except for the above-mentioned one year of recent farm experience, time spent in agricultural courses in an accredited agricultural college or time spent in work closely associated with farming, such as teaching vocational agriculture, agricultural extension work, or field work in the production or marketing of farm products, which in the opinion of the Board will be of value to an applicant in operating a farm, may be substituted for full-time experience. Such substitution shall be on the basis of one year (academic year of at least nine months) of agricultural college courses or one year (twelve months) of work closely associated with farming for six months of full-time farm experience. Not more than one year of full-time experience of this type will be allowed.

Applicants who have acquired their experience on an irrigated farm will not be given preference over those whose experience was acquired on a nonirrigated farm, but all applicants must have had farm experience of such nature as in the judgment of the examining board will qualify the applicant to undertake the development and operation of an irrigated farm by modern methods.

c. *Health.* An applicant must be in such physical condition as will enable him to engage in normal farm labor.

d. *Capital.* To be eligible for a certificate of qualification for farms listed in Section 1, applicants must possess in excess of liabilities either (1) at least \$7,500 in cash or (2) various assets amounting to at least \$8,500. No value will be allowed for a passenger car or household goods. At the time he moves to the Project to take possession of the farm unit selected, the applicant must re-establish to the satisfaction of the Project Manager that he possesses in excess of liabilities either (1) at least \$7,500 in cash or (2) at least \$5,000 in cash plus \$3,500 in property such as livestock, farm machinery, or equipment which, in the opinion of the Board and the Project Manager, will be useful in the development and operation of a new, irrigated farm on the Columbia Basin Project. Before executing a land sale contract and acquiring the right of possession of the farm unit, the purchaser must establish, to the satisfaction of the Project Manager, that he has moved to the Project to take possession of the farm unit selected and re-establish his net worth as required above, except that the amount paid as an earnest money deposit can be credited as part of the assets making up the applicant's net worth.

SEC. 5. *Other qualifications required.* Each applicant must meet the following requirements:

a. Be a citizen of the United States or have declared an intention to become a citizen of the United States.

b. Not own outright, or be acquiring under a contract to purchase, more than 10 acres of crop land or a total of 160 acres of land at the time of execution of a purchase contract for a farm unit.

c. Not previously have purchased a farm unit from the United States under provisions of the Reclamation Law, excepting therefrom actions under the Act of August 13, 1953.

d. Not have outstanding a certificate of qualification for the purchase of a

farm unit suitable for settlement purposes on the Columbia Basin Project.

e. Not own outright, or be acquiring under a contract to purchase, a farm unit or water delivery unit on the Columbia Basin Project.

f. If a married woman or a person under 21 years of age who is not a veteran with acceptable service, be the head of a family. The head of a family is ordinarily the husband, but a wife or a minor child who is obliged to assume major responsibility for the support of a family may be the head of a family.

WHERE AND HOW TO SUBMIT AN APPLICATION

SEC. 6. *Filing application blanks.* Any person desiring to apply for a certificate of qualification to purchase a farm unit offered for sale by this announcement must fill out the attached application blank and file it with the Bureau of Reclamation, Ephrata, Washington, in person or by mail. Additional application blanks may be obtained from the office of the Bureau of Reclamation at Ephrata, Washington; Boise, Idaho; or Washington, D.C. No advantage will accrue to an applicant who presents an application in person. Each application submitted, including the evidence of qualification to be submitted following the public drawing, will become a part of the records of the Bureau of Reclamation and cannot be returned to the applicant.

SELECTION OF QUALIFIED APPLICANTS

SEC. 7. *Priority of applications.* All applications, except those received from qualified exchange applicants prior to 2:00 p.m., Jan. 21, 1965, which shall be given prior preference, will be classified for priority purposes as follows:

a. *First group.* All complete applications filed prior to 2:00 p.m., Jan. 21, 1965. Such applications will be treated as simultaneously filed.

b. *Second group.* All complete applications filed after 2:00 p.m., Jan. 21, 1965. Such applications will be considered in the order in which they are filed if within two years following the date of this announcement any farm units offered hereunder are available for sale after all timely applications have been processed.

SEC. 8. *Public drawing.* After the close of the simultaneous filing period, the Board will conduct a public drawing of the names of the applicants in the First Group as defined in Subsection 7.a. of this announcement. Applicants need not be present at the drawing to participate therein. The names of a sufficient number of applicants (not less than four times the number of farm units offered for sale) shall be drawn and numbered in the order drawn for the purpose of establishing the order in which the applications drawn will be examined by the Board to determine whether the applicants meet the minimum qualifications prescribed in this announcement and to establish the priority of qualified applicants for the selection of farm units. After such drawing, the Board will notify each applicant of his respective standing as a result of the drawing.

SEC. 9. Submission of evidence of qualification. After the drawing, a sufficient number of applicants, in the order of their priority as established by the drawing, will be supplied with forms on which to submit evidence of qualification showing that they meet the qualifications set forth in sections 4 and 5 of this announcement. Full and accurate answers must be made to all questions. The completed form, together with any attachments required, must be mailed or delivered to the Bureau of Reclamation, Ephrata, Washington, within 20 days of the date the form is mailed to the last address furnished by the applicant. Failure of an applicant to furnish all of the information requested or to see that information is furnished by his references within the time period specified will subject his application to rejection.

SEC. 10. Examination and interview. After the information outlined in Section 9 of this announcement has been received or the time for submitting such statements has expired, the Board shall examine in the order drawn a sufficient number of applications, together with the evidence of qualification submitted, to determine the applicants who will be permitted to purchase farm units. This examination will determine the sufficiency, authenticity, and reliability of the information and evidence submitted by the applicants. If the applicant fails to supply any of the information required or the Board finds that the applicant's qualifications do not meet the requirements prescribed in this announcement, the applicant shall be disqualified and shall be notified by the Board, by certified mail, of such disqualification and the reasons therefor and of the right to appeal to the Regional Director, Region 1, Bureau of Reclamation. All appeals must be received in the office of the Project Manager, Bureau of Reclamation, Ephrata, Washington, within 15 days of the applicant's receipt of such notice or, in any event, within 30 days from the date when the notice is mailed to the last address furnished by the applicant. The Project Manager will promptly forward the appeal to the Regional Director. If the examination indicates that an applicant is qualified, the applicant may be required to appear for a personal interview with the Board for the purposes of: (1) affording the Board any additional information it may desire relative to his qualifications, (2) affording the applicant any information desired relative to conditions in the area and the problems and obligations relative to development of a farm unit; and (3) affording the applicant an opportunity to examine the farm units.

If an applicant fails to appear before the Board for a personal interview on the date requested, he will thereby forfeit his priority position as determined by the drawing. If the Board finds that an applicant's qualifications fulfill the requirements prescribed in this announcement, such applicant shall be notified, in person or by certified mail, that he is a qualified applicant and shall be given an opportunity to select one of the farm units available then for purchase. Such

notice will require the applicant to make a field examination of the farm units available to him and in which he is interested, to select a farm unit, and to notify the Board of such selection within the time specified in the notice.

SELECTION OF FARM UNITS

SEC. 11. Order of selection. The applicants who have been notified of their qualification for the purchase of a farm unit will successively exercise the right to select a farm unit in accordance with the priority established by the drawing. If a farm unit becomes available through failure of a qualified applicant to exercise his right of selection or failure to complete his purchase, it will be offered to the next qualified applicant who has not made a selection at the time the unit is again available. An applicant who is considered to be disqualified as a result of the personal interview will be permitted to exercise his right to select, notwithstanding his disqualification, unless he voluntarily surrenders this right in writing. If, on appeal, the action of the Board in disqualifying an applicant as a result of the personal interview is reversed by the Regional Director, the applicant's selection shall be effective, but if such action of the Board is upheld by the Regional Director, the farm unit selected by this applicant will become available for selection by qualified applicants who have not exercised their right to select.

If any of the farm units listed in this announcement remain unselected after all qualified applicants whose names were selected in the drawing have had an opportunity to select a farm unit and if additional applicants remain in the First Group, all said remaining applicants will be advised by the Board as to the number and nature of the unsold units. If any of the applicants so advised wish to be considered for the possible purchase of one of the remaining units, they must so advise the Board in writing within 20 days of the date of the notice. The Board will consider, in the order of their selection priority as established by drawing, only those applicants who make affirmative reply within the period stipulated.

If any farm units remain unselected after all qualified applicants in the First Group have had an opportunity to select a farm unit and if not more than two years have elapsed since the date of this announcement, such farm units will be offered to applicants in the Second Group in the order in which their applications are filed, subject to the determination of the Board, made in accordance with the procedure prescribed herein, that such applicants meet the minimum qualifications prescribed in this announcement.

If any farm units offered by or under this announcement remain unsold for a period of two years following the date of this announcement, the Project Manager may designate them as supplemental units and sell them in accordance with established policies and procedures, including preference to resident Project landowners.

SEC. 12. Failure to select. If any applicant, except a qualified exchange ap-

plicant, refuses to select a farm unit or fails to do so within the time specified by the Board, such applicant shall forfeit his priority to select.

PURCHASE OF SELECTED UNIT

SEC. 13. Execution of earnest money agreement and land sale contract—*a*. Units owned in entirety by the United States. When a United States-owned farm unit is selected by an applicant as provided in Section 11 of this announcement, the Project Manager will promptly give the applicant a written notice confirming the availability to him of the unit selected and will furnish an earnest money agreement together with instructions concerning its execution and return. In that notice, the Project Manager will inform the applicant of the amount of his down payment and an estimate of the amount of the charges for the first year of the development period, to be deposited with the irrigation district.

The earnest money agreement will require the applicant to deposit \$200 or 5 percent of the purchase price of the United States-owned land, whichever amount is greater, with the Project Manager. The amount deposited with the earnest money agreement will be applied to the down payment if the applicant (1) submits proof that he has moved to the Columbia Basin Project before March 1 of the year water is first declared available to the irrigation block in which the farm unit is located or within six months of the earnest money agreement, whichever is later, and possesses the minimum capital assets required under Subsection 4.d., (2) pays the real or estimated amount of the irrigation charges which will be required by the irrigation district for the first year of the development period following the date of contract, (3) pays the remainder of the required down payment on the purchase price of the farm unit, and (4) executes a land sale contract in accordance with the Project Manager's instructions. If the applicant fails to comply with any of the four requirements described in this paragraph, he will forfeit his right to purchase the farm unit and the amount he has deposited as earnest money will be retained by the United States as liquidated damages. When the applicant submits proof to the Project Manager or his representative that he has moved to the Project to take possession of the farm unit and that he possesses the minimum capital assets required under Subsection 4.d., the Project Manager will promptly furnish the applicant the necessary land sale contract, together with instructions concerning its execution and return. Such proof shall be in the form of an affidavit that he has actually moved to the Project area, a current financial statement, and where appropriate, a personal inspection of farm equipment by a representative of the Project Manager.

If the purchase is made subsequent to July 1 of any year during the development period, a deposit may be required to cover payment of water charges for the balance of that year as well as for the year following the purchase.

b. *Units owned by the United States and the Northern Pacific Railway Company.* A successful applicant who selects a farm unit described in Subsection 1.b., owned by the United States and the Northern Pacific Railway Company, will be able to acquire, at the Government appraised value, the Company-owned portion. This is in accordance with a written agreement between the Company and the United States. When such unit is selected by an applicant, as provided in Section 11 of this announcement, the Project Manager will (1) promptly notify the Company of this action; (2) give the applicant written notice confirming the availability to him of the unit selected and will furnish, for the United States-owned portion, an earnest money agreement and land sale contract together with instructions concerning their execution and return, all in the manner and sequence described in the foregoing Subsection 13.a. The applicant shall thereafter, as promptly as possible, acquire or contract to acquire the Company-owned portion. To avoid forfeiture of the right to purchase the United States-owned portion, the applicant shall, within 60 days following receipt of the purchase contract from the Project Manager, provide the Project Manager with evidence of the acquisition of or contract to acquire the Company-owned portion.

SEC. 14. *Terms of sale.* Contracts for the sale of the United States-owned lands offered pursuant to this announcement will contain, among others, the following principal provisions:

a. *Down payment.* An initial or down payment of \$400 or 10 percent of the purchase price of the lands being purchased from the United States, whichever is larger, will be required. Larger proportions or the entire amount of the price may be paid initially at the purchaser's option.

b. *Schedule for payment of balance: Interest rate.* If only a portion of the purchase price is paid initially, the remainder will be payable within a period of 20 years following the date of the contract. No payments on the principal, except the down payment, will be required during the first three years, and the Project Manager may postpone such payments for as long as the first five years of the contract. Interest on the unpaid balance at the rate of $4\frac{1}{2}$ percent per annum, however, will be payable annually. When payments on the principal are resumed, they will be payable each year. The schedule of principal payments, which will be established by the Project Manager, will provide for relatively small payments during the first years and larger payments during the later years of the contract period. Payment of any or all installments, or any portion thereof, may be made before their due dates at the purchaser's option.

c. *Development requirements.* In order that the irrigable area of the entire farm unit shall be developed with reasonable dispatch, each purchaser will be required, as a minimum, to clear, level, irrigate, and plant to crops by the end of each of the calendar years indicated below and to maintain in crops there-

after the following percentages of irrigable land as tentatively or finally classified:

[Percentage of land classified tentatively or finally as irrigable to be developed by end of each year. (Period will begin with year of purchase if contract is executed and water is available on or before May 1 of that year; otherwise period will begin with the next calendar year)]

2d year	3d year	4th year	5th year
35%	50%	65%	75%

d. *Residence requirements.* A major objective of the settlement program for the Columbia Basin Project is to assist and encourage the permanent settlement of farm families. In keeping with this objective, each purchaser will be required to do the following with respect to residence: (1) within one year from the date of his contract or by March 1 of the year water is first declared available to the irrigation block in which the farm unit is located, whichever is later, he must initiate residence by actually moving onto the unit, such residence to be maintained by living thereon for not less than 12 months within an 18-month period following the initial date of residence, and (2) before receiving title to the unit under the land sale contract, to establish a permanent and habitable dwelling on the unit. The time for compliance with the initiation of residence may be extended by the Project Manager for periods of as long as six months, upon his determination that an extension is necessary to avoid undue hardship to the purchaser and that it will not be detrimental to the orderly development of the irrigation block. The latest permissible date for initiating residence, however, will not be extended for more than one year in addition to the one-year period specified above.

e. *Possession.* The purchaser may take possession of the United States-owned lands being purchased when he has complied with the requirements described in section 13 and the land sale contract has been executed by the Project Manager for the United States, except that if a farm unit is under lease when sold possession may not be taken until the end of the period for which the unit is leased. Such leases occur infrequently and are of not more than one year's duration.

f. *Copies of contract form.* The terms listed above and all other standard contract provisions are contained in the land sale contract form, copies of which may be obtained by writing to the Bureau of Reclamation, Ephrata, Washington.

IRRIGATION CHARGES

SEC. 15. *Development period charges.* Pursuant to the provisions of the repayment contracts of October 9, 1945, as amended, between the United States and the three irrigation districts of the Columbia Basin Project, the Secretary of the Interior will establish a development period, normally ten years, for each irrigation block, during which time payment of construction charge installments will not be required. The Secretary has announced that the development period for Irrigation Block 17 will commence

January 1, 1965, and terminate December 31, 1974.

During the development period, water rental charges, except as pointed out later in this section, will average an estimated \$6.90 per year for each irrigable acre as tentatively or finally classified. This figure is an estimate and is subject to adjustment when the actual costs are determined. In any event, there will be a minimum charge per farm unit each year whether or not water is used. A notice establishing the details of the plan to be followed and announcing charges and governing provisions for the first year of the development period will be issued prior to January 1 of that year by the Project Manager.

The present plans are: (1) to vary the minimum charge according to the anticipated relative repayment ability of the various land classes; (2) to increase the minimum charge from 70 percent of the estimated cost for the first year to about 115 percent for the later years of the development period; and (3) to charge for water in excess of the amount furnished for the minimum charge on an acre-foot basis. The minimum charge will entitle each user to a quantity of water, to be specified by the Project Manager, varying with the water requirement classification of the land and the size of the farm unit. In addition to the water rental charges, the irrigation district will levy a charge to cover administrative costs and probable delinquencies in collections and to accumulate reserve funds.

SEC. 16. *Construction period repayment charges—*a. *Operation and maintenance charges.* After the development period has ended, water users will pay a charge for operation and maintenance of the Project irrigation system which will be uniform for the irrigation blocks throughout the irrigation district. These charges may be graduated among land classes, and there will be an annual minimum charge per acre. In order to encourage careful use of water, present regulations require that this annual minimum charge will entitle the water user to one-half acre-foot of water per acre less than the amount of water normally required. The normal requirements for the various classes of land will be determined and announced as provided in the repayment contracts with the irrigation districts. Water in excess of the quantity covered by the minimum charge will be paid for on an acre-foot basis.

b. *Construction charges.* The amended repayment contracts between the United States and the irrigation districts require the payment of construction charges for the Project irrigation system during the fifty years following the end of the development period. Under the repayment contracts as amended, the total construction repayment obligation averages \$131.60 per irrigable acre, which includes construction of authorized drainage works. The contracts further provide that the construction charges shall be graduated according to the relative repayment ability of the land; consequently, the

charge per irrigable acre will be higher for the better lands than for the poorer lands.

STEWART L. UDALL,
Secretary of the Interior.

NOVEMBER 19, 1964.

[F.R. Doc. 64-12396; Filed, Dec. 3, 1964;
8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-220]

NIAGARA MOHAWK POWER CORP.

Order Postponing Hearing and Notice of Prehearing Conference Regarding Application for Provisional Construction Permit

1. Upon the applicant's motion as amended by its letter dated November 30, 1964, and pursuant to § 2.752 of the Commission's rules of practice, notice is hereby given that a Prehearing Conference will be convened at 10 a.m. local time on December 15, 1964 in the Council Chambers, City Hall, West Second and Oneida Streets, Oswego, N.Y. to consider the procedural matters herein-after set out.

2. Notice is hereby given that the hearing of evidence in this proceeding will not be commenced at the above-stated time and place, which were specified in the Commission's Notice of Hearing dated November 10 and published on November 13, at 29 F.R. 15267. Instead, the time and place for the evidentiary hearing in January of 1965 will be determined at the Prehearing Conference and will be announced then and in an order to be published thereafter.

3. Procedures for intervention and for limited participation in this proceeding by interested persons are set out in the referenced Notice of Hearing and in the Commission's rules of practice there cited. The parties will, and interested members of the public may, participate in the public Prehearing Conference herein notified to the extent required and reasonably allowable under the applicable rules. In view of this postponement of the hearing and in conformity with the Notice of Hearing, it is now specified that the time for filing petitions for leave to intervene is extended to December 18, 1964.

4. The matters to be considered at the Prehearing Conference are those relating to:

(1) Clarifying and simplifying the issues;

(2) Outlining the materials to be presented as part of the decisional record;

(3) The time and methods for the prehearing submission of prepared testimony and exhibits by the parties;

(4) The conduct of the hearing, including

(a) The time and manner of offering the statements and testimonial and documentary evidence on behalf of interested persons and the several parties;

(b) The time and methods for submission by the participants of post-hearing pleadings, such as suggested transcript corrections, proposed find-

ings and conclusions, briefs, etc.; and
(5) Such other matters as may aid in the orderly, fair and expeditious disposition of this proceeding.

It is ordered, This 1st day of December 1964, that this Order Postponing Hearing and Notice of Prehearing Conference be promptly published in the FEDERAL REGISTER.

Issued: December 1, 1964, Germantown, Md.

ATOMIC SAFETY AND
LICENSING BOARD,
J. D. BOND,
Chairman.

[F.R. Doc. 64-12445; Filed, Dec. 3, 1964;
8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14024; FCC 64-1082]

COMMERCIALLY OPERABLE SPACE COMMUNICATIONS SYSTEMS

Order Regarding Authorization

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 25th day of November 1964;

The Commission having before it the record of the above-entitled proceeding; and

It appearing, that with the enactment of the Communications Satellite Act of 1962 the purpose for which said proceeding was instituted has been served.

It is ordered, That said proceeding be and hereby is terminated.

Released: December 1, 1964.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-12417; Filed, Dec. 3, 1964;
8:48 a.m.]

[Docket Nos. 14154, 15011; FCC 64M-1199]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Order Continuing Hearing

In the matter of American Telephone and Telegraph Company, regulations and charges for developmental line switched service, Docket No. 14154; American Telephone and Telegraph Company, charges, practices, classifications, and regulations for and in connection with Teletypewriter Exchange Service, Docket No. 15011.

The Hearing Examiner has for consideration a Motion for Continuance of Hearing filed by the Chief, Common Carrier Bureau on November 27, 1964;

It appearing, that the factors cited by the Bureau supply adequate ground for grant of its requested relief, and that the subject pleading avers that all counsel of record have stated to counsel for the

¹ Commissioners Lee and Loevinger absent.

Bureau that they interpose no objection to a grant thereof;

It is ordered, This 30th day of November 1964, that the subject petition is granted; that the hearing now scheduled to commence on December 14, 1964, is continued pending further order; and that a further prehearing conference herein shall be convened on December 14, 1964, commencing at 10:00 a.m. in the offices of the Commission at Washington, D.C.

Released: December 1, 1964.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-12418; Filed Dec. 3, 1964;
8:49 a.m.]

[Docket No. 15713; FCC 64-1094]

TREE BROADCASTING CO.

Order Designating Application for Hearing on Stated Issues

In re application of Oris Gowen & Howard Edwards d/b as Tree Broadcasting Co., Greensburg, Indiana, Docket No. 15713, File No. BP-15084; Requests: 1330kc, 500w, Day, Class III.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 25th day of November 1964;

The Commission having under consideration the above-captioned and described application and information submitted to the Commission by both the applicant and Clear Tone Broadcasting Corp., licensee of FM Station WTRE, Greensburg, Indiana, in response to the Memorandum Opinion and Order of July 22, 1963 (FCC 63-673), which denied, in part, Clear Tone's petition to deny;

It appearing, that except as indicated by the issues specified below the applicant is legally, technically, financially and otherwise qualified to operate as proposed; and

It further appearing, that the proposal may receive interference from existing operations that would result in a contravention of § 73.28(d) (3) of the Commission's rules; and

It further appearing, that Station WTRE, in its petition to deny, alleged, inter alia, that the applicant was not financially qualified because the estimates of cost of construction and annual operating expenses of \$17,315 and \$29,000, respectively, were unreasonably low; that the applicant was afforded, by the aforementioned Memorandum Opinion and Order, an opportunity to submit a statement justifying the above-specified estimates; that information was submitted justifying the estimated cost of construction (\$17,315), but that applicant submitted no information in support of its estimated annual operating expenses (\$29,000); and that, therefore, an issue will be specified to determine whether the applicant is financially qualified to operate the proposed station and whether its estimate of expected operating expense is reasonable; and

It further appearing, that WTRE has reiterated its request for an economic is-

sue under the doctrine of *Carroll Broadcasting Company v. F.C.C.*, 258 F.2d 440, 17 R.R. 2066 (1958), but has not submitted any information not available to the Commission at the time of the aforementioned Memorandum Opinion and Order was adopted which denied the request for the Carroll issue; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below:

It is ordered, That the grant of the above-captioned application is set aside.

It is further ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the areas and populations which would receive primary service from the proposal of Tree Broadcasting Co., and the availability of other primary service to such areas and populations.
2. To determine whether interference received from all sources would affect more than 10 percent of the population within the normally protected primary service area of the proposed operation of Tree Broadcasting Co., in contravention of § 73.28(d) (3) of the Commission's rules, and, if so, whether circumstances exist which would warrant a waiver of said section.
3. To determine whether the applicant is financially qualified to operate the proposed station and whether its estimate of expected operating expenses is reasonable.
4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience, and necessity.

It is further ordered, That, Clear Tone Broadcasting Corp., licensee of FM broadcast station WTRE, Greensburg, Indiana is made a party to the proceeding.

It is further ordered, That, in the event of a grant of the application, the construction permit shall contain the following conditions:

The transmitter may be operated by remote control from the main studio location which is to be determined.

Pending a final decision in Docket No. 14419 with respect to pre-sunrise operation with daytime facilities, the present provisions of § 73.87 of the Commission's rules are not extended to this authorization, and such operation is prohibited.

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and party respondent herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: December 1, 1964.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-12419; Filed, Dec. 3, 1964;
8:49 a.m.]

[Docket Nos. 15714, 15715; FCC 64-1091]

TRINITY BROADCASTING CO. AND WARNER BROS. PICTURES, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In reapplications of Trinity Broadcasting Company, Fort Worth, Texas, Docket No. 15714, File No. BPCT-3172; Warner Bros. Pictures, Inc., Fort Worth, Texas, Docket No. 15715, File No. BPCT-3272; for construction permit for new television broadcast station.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 25th day of November 1964;

The Commission, having under consideration the above-captioned applications, each requesting a construction permit for a new television broadcast station to operate on Channel 20, Fort Worth, Texas; and

It appearing that the above-captioned applications are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference; and

It further appearing, that the following matters are to be considered in connection with the issues specified below:

(a) Based on information contained in the application of Trinity Broadcasting Company, the cost of construction of the proposed new station will be approximately \$834,000 and, a cash transaction being proposed, cash in the amount of \$913,725 will be required for the construction and initial operation of the proposed station. The applicant proposes to meet the cost of construction and initial operation of the station through a loan of up to \$915,000 from Mr. W. C. Windsor, Jr. The financial statement submitted by Mr. Windsor, however, shows that he has available to him cash of approximately \$200,000 and current liabilities of approximately \$40,000. Mr. Windsor's financial statement, therefore, fails to show current and liquid assets in excess of current liabilities in sufficient amount to meet his commitment to the applicant. It cannot be determined, therefore, that the applicant is financially qualified.

(b) Warner Bros. Pictures, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Delaware. No showing has been made that it is, or can be, authorized to do business in the State of Texas. It must be determined, therefore, whether the applicant is, or can be, authorized to do business in the State of Texas.

(c) Warner Bros. Pictures, Inc., is a publicly owned corporation having approximately 9,600 stockholders representing ownership of 4,835,898 shares of voting stock. Although the applicant states that, based on addresses of record, 99.71 percent of its stockholders are citizens of the United States, the Commission is of the view that the fact that stockholders may have resident addresses does not constitute a showing that such stockholders are citizens of the United States within the intent and meaning of section 310(a)(4) of the Communications Act of 1934, as amended. Moreover, approximately 788,000 shares of voting stock are owned by brokerage houses for and on behalf of persons unknown whose citizenship cannot, therefore, be determined. Accordingly, an issue is necessary to determine whether a grant of the application would be consistent with the provisions of section 310(a)(4) of the Communications Act of 1934, as amended.

(d) It appears that a significant portion of the voting stock of Warner Bros. Pictures, Inc., is owned by brokerage houses or others for and on behalf of persons unknown. Under these circumstances, it is not possible to determine whether, as stockholders, such nominal or beneficial owners have broadcast interests which, considered in connection with the application of Warner Bros. Pictures, Inc., would be inconsistent with the multiple ownership provisions of the Commission's rules. It must be determined, therefore, whether a grant of the application of Warner Bros. Pictures, Inc., would be consistent with the provisions of § 73.636 of the Commission's rules.

(e) Warner Bros. Pictures, Inc., is presently defendant in a civil antitrust matter brought by the State of Washington (State of Washington v. Sterling Theatre Co. et al., filed June 20, 1963, Superior Court of the State of Washington for King County, Case No. 604074) charging acts and practices in restraint of trade in the City of Seattle. The applicant has also been involved in numerous antitrust actions brought by the United States in which the applicant has been adjudged to be in violation of laws of the United States, including involvement in a criminal contempt action brought by the United States for violation of a decree of the United States District Court for the Northern District of Illinois. Pursuant to its policy as expressed in its "Report on Uniform Policy as to Violation by Applicants of Laws of United States" (Docket No. 9572, 1 R.R. [Part Three] Page 91:495-503, April, 1951), the Commission must determine in the light of the past history of Warner Bros. Pictures, Inc., whether the applicant possesses the requisite qualifications to be a broadcast licensee.

¹ Commissioner Cox not participating.

(f) Warner Bros. Pictures, Inc., not having received a clearance from the Federal Aviation Agency with respect to the proposed antenna system and site, it cannot be determined that said antenna system and site would not constitute a hazard to air navigation.

It further appearing, that the proximity of the transmitter site proposed by Warner Bros. Pictures, Inc., to the site of Standard Radio Broadcast Station KPCN is such that, in the event of a grant of the application of Warner Bros. Pictures, Inc., such grant should be made subject to the condition that a skeleton proof (consisting of at least five field intensity measurements made on each of eight equally spaced radials about Station KPCN) shall be made before and after said construction to establish that the television tower has no adverse effect on the AM operation of KPCN, and that the television tower de-tuning devices, if any, shall be checked periodically to maintain a minimum reradiation of the signal of Standard Radio Broadcast Station KPCN.

It further appearing, that, in the event of a grant of the application of Warner Bros. Pictures, Inc., as a result of this proceeding, such grant should be subject to the condition that it is made without prejudice to such further action as the Commission may deem appropriate as a result of the pending civil antitrust proceeding in the State of Washington, aforesaid; and

It further appearing, that Trinity Broadcasting Company proposes to locate its main studio at its transmitter site, approximately 374 yards outside the corporate limits of Fort Worth, Texas; that Warner Bros. Pictures, Inc., proposes to locate its main studio at its transmitter site approximately three miles outside the corporate limits of Fort Worth, Texas; that both applicants have requested a waiver of § 73.613(a) of the Commission's rules; that good cause has been shown and a waiver of said rule appears warranted; and

It further appearing, that the application (BPCT-3271) of Warner Bros. Pictures, Inc., for a construction permit for a new television broadcast station to operate on Channel 38, Chicago, Illinois, has previously been designated for comparative hearing with mutually exclusive applications in Docket Nos. 15667-15669 and 15708; that the question as to its basic qualifications to be a broadcast licensee is in issue in that proceeding as well as in the instant proceeding; that it would be conducive to the efficient dispatch of the Commission's business for this common basic qualifications issue relative to Warner Bros. Pictures, Inc., to be heard at one time with all of the parties to the two proceedings participating; and

It further appearing, that, except as indicated above, Trinity Broadcasting Company is legally, technically, and otherwise qualified to construct, own and operate the proposed television broadcast station; and, except as indicated above, Warner Bros. Pictures, Inc., is financially and technically qualified to construct, own and operate the proposed television broadcast station; and

It further appearing, that, upon due consideration of the above-captioned applications, the Commission finds that, pursuant to section 309(e) of the Communications Act of 1934, as amended, a hearing is necessary and that the said applications must be designated for hearing in a consolidated proceeding on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of Trinity Broadcasting Company and Warner Bros. Pictures, Inc., are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Trinity Broadcasting Company is financially qualified to construct, own and operate the proposed television broadcast station.

2. To determine whether Warner Bros. Pictures, Inc., is, or can be, authorized to do business in the State of Texas.

3. To determine whether a grant of the application of Warner Bros. Pictures, Inc., would be consistent with the provisions of section 310(a) (4) of the Communications Act of 1934, as amended.

4. To determine whether a grant of the application of Warner Bros. Pictures, Inc., would be consistent with the provisions of § 73.636 of the Commission's rules.

5. To determine, in the light of the past conduct of Warner Bros. Pictures, Inc., whether it has the requisite qualifications to be a broadcast licensee.

6. To determine whether there is a reasonable possibility that the tower height and location proposed by Warner Bros. Pictures, Inc., would constitute a hazard to air navigation.

7. To determine, on a comparative basis, which of the operations proposed in the above-captioned applications would best serve the public interest, convenience and necessity, in light of the significant differences between the applicants as to:

(a) The background and experience of each, bearing on its ability to own and operate the proposed television broadcast station.

(b) The proposals of each with respect to the management and operation of the proposed television broadcast station.

(c) The programming service proposed in each of the above-captioned applications.

8. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered, That, on the basis of good cause shown § 73.613(a) of the Commission's rules is hereby waived to permit Trinity Broadcasting Company or Warner Bros. Pictures, Inc., to locate its main studio outside the corporate limits of the City of Fort Worth, Texas; and

It is further ordered, That, in the event of a grant of the application of Warner Bros. Pictures, Inc., such grant shall be subject to the condition that a skeleton proof (consisting of at least five field intensity measurements made on each of eight equally spaced radials about Sta-

tion KPCN) shall be made before and after said construction to establish that the television tower has no adverse effect on the AM operation of KPCN, and that the television tower de-tuning devices, if any, shall be checked periodically to maintain a minimum reradiation of the signal of Standard Radio Broadcast Station KPCN; and

It is further ordered, That, in the event of a grant of the application of Warner Bros. Pictures, Inc., such grant shall be subject to the condition that it is made without prejudice to such further action as the Commission may deem appropriate as a result of the pending civil antitrust suit of State of Washington v. Sterling Theatre Co. et al., Case No. 604074, Superior Court of the State of Washington for King County, filed June 20, 1963; and

It is further ordered, That, with respect to the common basic qualifications issue relative to Warner Bros. Pictures, Inc., this issue is hereby consolidated to the extent that all of the parties to the proceedings in Docket Nos. 15667-15669 and 15708 as well as the parties to the instant proceeding are to participate in the presentation of evidence before the Hearing Examiner and that the evidence adduced pursuant to this consolidated issue is to be considered and evaluated in the Initial Decision to be issued in both proceedings.

It is further ordered, That the issues in the above-captioned proceeding with respect to Warner Bros. Pictures, Inc., may be enlarged by the Examiner, upon his own motion or upon petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: "To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated."

It is further ordered, That, to avail themselves of the opportunity to be heard, Trinity Broadcasting Company and Warner Bros. Pictures, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That the applicants herein shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing either individually or, if feasible, jointly, within the time and in the manner specified in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Released: December 1, 1964.

FEDERAL COMMUNICATIONS
COMMISSION,¹

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 64-12420; Filed, Dec. 3, 1964;
8:49 a.m.]

¹ Commissioner Hyde absent.

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE LTD. AND NEDLLOYD & HOEGH LINES

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement(s) at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 301; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. G. E. Sherwood,
Director of Market Research,
American Mail Line,
1010 Washington Building,
Seattle, Wash., 98101.

Agreement No. 9247-1 between the member lines of the India, Pakistan, Burma & Ceylon/West Coast United States Rate Agreement has been filed with the Commission for approval to modify the Admission, Withdrawal, and Expulsion provisions of the basic agreement, pursuant to General Order 9 (46 CFR Part 523).

Dated: December 1, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 64-12407; Filed, Dec. 3, 1964;
8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS UNDER THE LONG TERM AR- RANGEMENT REGARDING INTER- NATIONAL TRADE IN COTTON TEXTILES

Announcement of ITAC Actions and Restraint Levels

DECEMBER 1, 1964.

The purpose of this notice is to announce certain actions taken by the United States Government in furtherance of the objectives of, and under the

terms of, the Long Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962.

1. *Bilateral agreements.* A bilateral agreement has been concluded with the Government of Spain, effective as of October 1, 1964, which modifies an earlier agreement concluded on July 16, 1963 (TIAS 5427). The terms of this new agreement were reported in Department of State press release No. 474 of October 30, 1964.

Consultations are continuing with the Governments of Korea and Pakistan.

2. *Renewal of restraints.* In view of the continuing disruption of the domestic cotton textile market, the United States Government has renewed restraints for a further twelve-month period with respect to imports from Brazil and Pakistan in the Categories indicated below:

Country	Category	Restraint level	Effective date of restraint renewal
Brazil	9	(syds.) 525,000	Oct. 31, 1964
Pakistan	22	610,000	Do.

3. *Pending restraint.* Discussions are continuing with the Government of Brazil on the outstanding restraint request by the United States Government concerning exports of yarn in Category 1. The Long Term Arrangement provides for consultations on such requests. If no agreement is reached, the importing country, at the end of a 60-day consultation period, may decline to accept imports of the products in question above the requested restraint level.

THOMAS JEFF DAVIS,
Acting Chairman, Interagency
Textile Administrative Com-
mittee, and Acting Deputy to
the Secretary of Commerce
for Textile Programs.

[F.R. Doc. 64-12412; Filed, Dec. 3, 1964;
8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1250]

BALDWIN SECURITIES CORP.

Notice of Filing of Application for Order Amending Order Exempting Relationship

NOVEMBER 30, 1964.

Notice is hereby given that Baldwin Securities Corporation ("Baldwin"), 15 Broad Street, New York, New York, a Delaware corporation registered under the Investment Company Act of 1940 ("Act") as a non-diversified closed-end investment company, has filed an application pursuant to section 6(c) of the Act for an order amending an Order of the Commission dated April 27, 1960 (Investment Company Act Release No. 3023) to extend until April 30, 1965 the period during which Baldwin's owner-

ship of stock of, and relationship with, General Industrial Enterprises, Inc. ("General"), a Delaware corporation registered under the Act as a non-diversified closed-end investment company, shall be exempt from the prohibitions of section 12(d)(1) of the Act. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein which are summarized below.

Baldwin presently owns approximately 93 percent of the issued and outstanding voting stock of General. Baldwin and General presently intend that General will be merged into Baldwin without a vote of stockholders pursuant to section 253 of the Delaware General Corporation Law. It is contemplated that the plan of merger will provide that each stockholder of General (other than Baldwin) will receive Baldwin stock equal in book value to the book value of his General stock, subject to the appraisal rights given by section 253(e) of the Delaware General Corporation Law. The application states that the plan of merger cannot be carried out unless Baldwin receives an exemptive order from the Commission pursuant to section 17(b) of the Act.

In connection with the merger, it is contemplated that the statement of policy of Baldwin will be amended to include various of the policies contained in the statement of policy of General. Such amendment will require action at a stockholders' meeting of Baldwin. The next annual meeting of Baldwin is scheduled for March 17, 1965. The period of exemption granted by the Commission's Order of April 27, 1960 will expire on December 31, 1964. The application states that the calling of a special meeting of stockholders prior to that date would involve Baldwin in substantial expense for printing, mailing and legal costs.

Notice is further given that any interested person may, not later than December 18, 1964, 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 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 (air mail 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 certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O-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 a hearing shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 64-12387; Filed, Dec. 3, 1964;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 1, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 39428: Salt to points in southern territory. Filed by Southwestern Freight Bureau, agent (No. B-8648) for interested rail carriers. Rates on salt, in carloads, from specified points in Louisiana and Texas, to points in southern territory.

Grounds for relief: Market competition.

Tariff: Supplement 36 to Southwestern Freight Bureau, agent, tariff I.C.C. 4562.

FSA No. 39429: Liquefied chlorine gas from Geismar, La. Filed by O. W. South, Jr., agent (No. A4603), for interested rail carriers. Rates on liquefied chlorine gas, in tank carloads, from Geismar, La., to Demopolis and Green Tree, Ala.

Grounds for relief: Market competition.

Tariff: Supplement 36 to Southern Freight Association, agent, tariff I.C.C. S-397.

FSA No. 39430: T.O.F.C. rates from and to Albert Lea, Minn. Filed by Southwestern Freight Bureau, agent (No. B-8641), for interested rail carriers. Rates on property moving on class and commodity rates loaded in trailers and transported on railroad flat cars, between Albert Lea, Minn., on the one hand, and points in southwestern territory, on the other.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 126 to Southwestern Freight Bureau, agent, tariff I.C.C. 4480.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 64-12402; Filed, Dec. 3, 1964;
8:47 a.m.]

[Notice 1086]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 1, 1964.

Synopses of orders entered pursuant to section 212(b) of the Interstate Com-

merce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), 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 67228. By order of November 27, 1964, the Transfer Board approved the transfer to Comonaldo Cicerone, doing business as John Cicerone and Son, Milford, Pa., of a portion of Certificate No. MC 105493 Sub 1, issued January 17, 1958, to Sol Saperstein, doing business as Saperstein Trucking Co., Woodridge, N.Y., authorizing the transportation of general commodities, excluding household goods and commodities in bulk, over irregular routes, between points in the New York, N.Y., Commercial zone, as defined by the Commission in 1 M.C.C. 665, and points in Hudson and Essex Counties, N.J., on the one hand, and, on the other, points in Sullivan County, N.Y., and lumber, between Monticello, N.Y., and New York, N.Y. Martin Werner, 2 West 45th Street, New York, N.Y., 10036, attorney for transferee. Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica 32, N.Y., attorney for transferor.

No. MC-FC 67273. By order of November 25, 1964, the Transfer Board approved the transfer to Ken Clark, doing business as A. M. Harper Trucks, Alice Texas, of the operating rights in the Certificate in No. MC 106676, and those evidenced by a Certificate of Registration in No. MC 106676 Sub 2, issued October 24, 1949 and March 19, 1964, respectively to A. M. Harper, doing business as A. M. Harper Trucks, Alice, Texas, authorizing transportation under the said Certificate of machinery, materials, supplies, and equipment incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between within a specified Texas territory; and under the Certificate of Registration, such transportation as authorized by the Railroad Commission of Texas in SMC Certificate No. 5051. Parker Ellzey, Post Office Box 250, Alice, Texas, 78332, attorney for applicants.

No. MC-FC 67306. By order of November 25, 1964, the Transfer Board approved the transfer to Chambers Moving & Storage Co., a Corporation, Phoenix, Ariz., of certificate in No. MC 60189, issued February 19, 1957, as amended, to E. E. Chambers and Ellis P. Breedlove, doing business as Chambers Moving & Storage Co., Phoenix, Ariz., authorizing the transportation of: Household goods, between points in Maricopa and Pinal Counties, Ariz., on the one hand, and, on the other, points in California as specified. Frank L. Snell, Security

Building, Phoenix, Ariz., 85004, attorney for applicants.

No. MC-FC 67313. By order of November 25, 1964, the Transfer Board approved the transfer to Floyd Hill, doing business as Delta Transfer Lines, Jasper, Ala., of Certificate No. MC 15339, issued January 23, 1952, to Magic City Transfer & Storage Company, Inc., Birmingham, Ala., authorizing the transportation of household goods, over irregular routes, between Birmingham Ala., and points within 75 miles thereof, on the one hand, and, on the other, points in Mississippi, Louisiana, Tennessee, Kentucky, Virginia, North Carolina, South Carolina, Georgia, Florida, Ohio, and the District of Columbia. N. H. Hawkins, Jr., 501 Bank For Savings Building, Birmingham, Ala., attorney for transferor. John D. Petree, Jr., Bankhead-Long Building, Jasper, Ala., attorney for transferee.

No. MC-FC 67314. By order of November 25, 1964, the Transfer Board approved the transfer to Metropolitan Towing Company, a corporation, St. Louis 1, Mo., of Certificate No. MC 96093, issued October 18, 1962, to Cy's Wrecker Service, Inc., St. Louis, Mo., authorizing the transportation of abandoned, disabled, wrecked, or repossessed motor vehicles, by the towaway method, over irregular routes, between points in Missouri in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone. B. W. LaTourette, Jr., 314 North Broadway, St. Louis 2, Mo., attorney for transferee.

No. MC-FC 67316. By order of November 25, 1964, the Transfer Board approved the transfer to A. O. Fenwick, St. Joseph, Mich., of Certificates Nos. MC 109106 Sub 1 and MC 109106 Sub 2, issued February 14, 1949 and October 9, 1950, to A. O. Fenwick and Harry Priebe, a partnership, doing business as Fenwick & Priebe, Benton Harbor, Mich., authorizing the transportation over irregular routes, of bathtubs, lavatories, sinks, closet combinations, and faucets and fittings used in connection therewith, from Kohler, Wis., to Fort Lauderdale, Miami, and West Palm Beach, Fla.; fresh fruits and vegetables, from points in Florida to points in Illinois, Indiana, Missouri, Ohio, Wisconsin, and Michigan, traversing Georgia, Tennessee, Kentucky, Alabama and Arkansas for operating convenience only; and plumbing fixtures and supplies and fittings used in connection therewith, from Kohler, Wis., to points in Florida, except Jacksonville, traversing Alabama, Georgia, Illinois, Indiana, Kentucky, and Tennessee for operating convenience only. James R. Davis, 1400 Michigan National Tower, Lansing, Michigan, 48933, representative for applicants.

No. MC-FC 67348. By order of November 30, 1964, the Transfer Board approved the transfer to Tri-State Moving Company, a corporation, Pittsburgh, Pa., of the operating rights in Certificate No. MC 21123, issued December 12, 1955, to Steven Olexen and Joseph A. Walcer, Jr., a partnership, doing business as Tri-State Moving Company, Pittsburgh, Pa., authorizing the transportation, over irregular routes, of: New and used pianos, between Pittsburgh, Pa., and points in

a specified portion of Ohio and West Virginia, in a radial movement. Edward M. Larkin, 2409 Grant Building, Pittsburgh, Pa., attorney for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 64-12403; Filed, Dec. 3, 1964;
8:47 a.m.]

[Notice 1086-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 1, 1964.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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 66844. By order of November 25, 1964, Division 3, acting as an Appellate Division, approved the transfer to Bowen Express, Inc., Paris, Texas, applicant in No. MC 99172 Sub 1, BOR-99 filed in the name of Bowen Express, Inc., jointly with H. O. Bowen, doing business

as Bowen Express, Paris, Texas, for certificate of registration to operate in interstate or foreign commerce authorizing operations under the former second proviso of section 206(a)(1) of the Act, supported by Texas certificate No. 2745, as consolidated, authorizing the transportation of newspapers, theater films, moving picture films, and supplies, small shipments weighing not in excess of 50 pounds per shipment and cut flowers with no weight restrictions, from and to various specified points within the State of Texas. Ralph W. Pulley, Jr., First National Bank Building, Dallas 2, Texas, attorney for applicants.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 64-12404; Filed, Dec. 3, 1964;
8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—DECEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during December.

3 CFR	Page	14 CFR—Continued	Page	21 CFR—Continued	Page
PROCLAMATIONS:		PROPOSED RULES:		121-----	16078, 16079, 16249
3630-----	15941	71 [New]-----	15958,	148x-----	16251
3631-----	16243	16093, 16202-16204, 16260		24 CFR	
7 CFR		73 [New]-----	15958	1-----	16280
15-----	16274	91 [New]-----	15959	25 CFR	
717-----	16184	15 CFR		43d-----	16080
719-----	16185	365-----	16186	26 CFR	
722-----	16248	16 CFR		1-----	16081
724-----	16077	13-----	16186	45-----	16083
729-----	16185	17 CFR		PROPOSED RULES:	
910-----	16078	200-----	16187	1-----	15957, 16090
929-----	16078	240-----	16245	29 CFR	
1421-----	15943	PROPOSED RULES:		31-----	16284
PROPOSED RULES:		15-----	15957	689-----	15949
911-----	16258	19-----	15957	32 CFR	
915-----	16258	18 CFR		517-----	15949
1005-----	16259	501-----	16188	577-----	16251
1036-----	16197	502-----	16189	701-----	16194
1044-----	16200	503-----	16189	710-----	16055
1126-----	16198	504-----	16190	719-----	16194
9 CFR		505-----	16191	32A CFR	
74-----	15943	506-----	16192	OEP (Ch. I)	
10 CFR		507-----	16193	DMO I-4-----	16251
PROPOSED RULES:		508-----	16194	33 CFR	
Ch. I-----	15957	19 CFR		203-----	16251
12 CFR		4-----	15949	206-----	15949
217-----	15944	21 CFR		38 CFR	
218-----	16065	8-----	15949	3-----	16252
329-----	15944	14-----	16194	39 CFR	
13 CFR		15-----	16194	16-----	16125
121-----	15945	16-----	16194	21-----	16252
PROPOSED RULES:		17-----	16194	22-----	16125, 16252
107-----	16094	18-----	16194	24-----	16125
14 CFR		19-----	16194	25-----	16252
7-----	16149	20-----	16194	61-----	16125
27 [New]-----	16065	22-----	16194	41 CFR	
29 [New]-----	16149	27-----	16194	11-1-----	16252, 16255
39 [New]-----	15945, 16065, 16066	29-----	16194	11-2-----	16253, 16255
71 [New]-----	15945-15948,	37-----	16194	11-4-----	16253
16066, 16183, 16184, 16245		42-----	16194	11-14-----	16255
73 [New]-----	15948, 16184	45-----	16194	101-6-----	15972, 16287
75 [New]-----	16066	46-----	16194		
93 [New]-----	15948	51-----	16194		
97 [New]-----	16067	53-----	16194		

41 CFR—Continued	Page
101-18.....	15973
101-19.....	15978
101-20.....	15984
101-25.....	15990
101-27.....	15997
101-28.....	15998
101-29.....	16002
101-30.....	16004
101-40.....	16008
101-43.....	16012
101-44.....	16027
101-45.....	16035
101-47.....	16126
42 CFR	
57.....	15952
43 CFR	
17.....	16293
PUBLIC LAND ORDERS:	
3464.....	16084
3465.....	16084
3466.....	16084
3467.....	16085
3468.....	16085
3469.....	16085
3470.....	16086
3471.....	16086
3472.....	16087
3473.....	16087
3474.....	16256
44 CFR	
55.....	15954
60.....	15954
100.....	15954
102.....	15954
110.....	16195
45 CFR	
80.....	16298
150.....	15955
611.....	16305
46 CFR	
506.....	16195
47 CFR	
73.....	16196
81.....	16196
PROPOSED RULES:	
21.....	16204
73.....	16205, 16207
49 CFR	
0.....	16087
176.....	16125
192.....	16256
50 CFR	
256.....	16088



Area Code 202

Phone 963-3261

FEDERAL REGISTER Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

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THE NATIONAL ARCHIVES
LITTERA
SCRIPTA
MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 29 NUMBER 236

Washington, Friday, December 4, 1964

Effectuation of Title VI of the Civil Rights Act of 1964

• ————— •

Nondiscrimination in Federally-Assisted Programs of—

Department of the Interior

Department of Agriculture

Department of Labor

Department of Health, Education,
and Welfare

General Services Administration

Housing and Home Finance Agency

National Science Foundation

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

PART 15—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF AGRICULTURE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A, Title 7, CFR, is hereby amended by adding the following new Part 15:

- Sec.
- 15.1 Purpose and application of regulations.
 - 15.2 Definitions.
 - 15.3 Discrimination prohibited.
 - 15.4 Assurances required.
 - 15.5 Compliance.
 - 15.6 Complaints.
 - 15.7 Intimidatory or retaliatory acts prohibited.
 - 15.8 Procedure for effecting compliance.
 - 15.9 Hearings.
 - 15.10 Decisions and notices.
 - 15.11 Judicial review.
 - 15.12 Effect on other regulations; forms and instructions.

AUTHORITY: The provisions of this Part 15 are issued under Sec. 602, 78 Stat. 252, and the laws referred to in the Appendix.

§ 15.1 Purpose and application of part.

(a) The purpose of the regulations in 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 Department of Agriculture or any Agency thereof.

(b) The regulations in this part apply to any program for which Federal financial assistance is authorized under a law administered by the Department, including the federally assisted programs and activities listed in the Appendix to this part. They apply to money paid, property transferred, or other Federal financial assistance extended under any such program after the effective date of the regulations pursuant to an application approved 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 under any such program before the effective date of the regulations in this part, (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 where a primary objective of the Federal financial assistance is to provide employment. The fact that a program or activity is not listed in the Appendix, 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.

§ 15.2 Definitions.

(a) "Department" means the Department of Agriculture, and includes each of its operating agencies and other organizational units.

(b) "Agency" means any service, bureau, agency, office, administration, instrumentality of or corporation within the United States Department of Agriculture extending Federal financial assistance to any program or activity.

(c) "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary has heretofore delegated, or to whom the Secretary may hereafter delegate, the authority to act in his stead under the regulations in this part.

(d) "Hearing Officer" means a hearing examiner appointed pursuant to the Administrative Procedure Act (5 U.S.C. 1000 et seq.) 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.

(e) "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.

(f) "Primary recipient" includes any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(g) "Federal financial assistance" or "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 or the furnishing of services 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, lease or furnishing of services to the recipient, and (5) any Federal agreement, arrange-

ment, or other contract which has as one of its purposes the provision of assistance.

(h) "Grant, loan or contract" includes any grant, loan agreement or commitment to loan, contract or agreement to provide financial assistance or any other arrangement between the Department or any Agency and a recipient of financial assistance.

(i) "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.

(j) "Applicant" means one who submits an application, request, or plan required to be approved by an Agency, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and "application" means such an application, request, or plan.

(k) "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, 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.

(l) "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.

§ 15.3 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 these regulations apply.

These regulations apply, but are not restricted, to unequal treatment in pri-

ority, quality, quantity, methods or charges for service, use, occupancy or benefit, participation in the service or benefit available, or in the use, occupancy or benefit of any structure, facility, or improvement.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which the regulations in this part apply 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) 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) The enumeration of specific forms of prohibited discrimination in these

regulations does not limit the applicability of the provisions of paragraph (a) of this section.

(c) *Employment practices.* Where a primary objective of the Federal financial assistance to a program to which the regulations in this part apply 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 the 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. This paragraph applies to programs where a primary objective of the Federal financial assistance is (1) to reduce unemployment, (2) to assist individuals in meeting expenses incident to the commencement or continuation of their education or training, or (3) to provide work experience which contributes to education or training.

(d) *Examples.* In order that all parties may have a clear understanding of the applicability of the regulations in this part to their activities, there are listed in this section programs and activities together with illustrations, by way of example only, of types of activity covered by the regulations in this part. These illustrations and examples, however, are not intended to be all inclusive. The fact that a particular program is not listed does not, of course, indicate that it is not covered by the regulations in this part. Moreover, the examples set forth with respect to any particular listed program are not limited to that program alone and the prohibited actions described may also be prohibited in other programs or activities whether or not listed below.

(1) *Cooperative agricultural extension program.* (i) Discrimination in making available or in the manner of making available instructions, demonstrations, information, and publications offered by or through the Cooperative Extension Service;

(ii) Discrimination in the use in any program or activity of the Cooperative Extension Service of any facility, including offices, training facilities, lecture halls, or other structures or improvements; or

(iii) Discrimination in training activities, admission to or participation in fairs, competitions, field days, and encampments, conducted or sponsored by, or in which the Cooperative Extension Service participates.

(2) *Rural electrification and rural telephone programs.* (i) Refusal or failure by a borrower to accept applications for membership or applications to purchase shares of stock, or discrimination by a borrower in the terms and conditions of membership or stock ownership, where such membership or stock ownership is a condition pre-requisite to the furnishing of electric or telephone service by the borrower, or to the receipt of any benefits or advantages related to such service;

(ii) Refusal or failure by a borrower to extend, or discrimination by a borrower in the extension of, electric or telephone service to unserved persons;

(iii) Denial by a borrower to any person of the benefits of improvement, expansion or upgrading, or discrimination by a borrower among consumers or subscribers in improving, expanding or upgrading, of electric or telephone service;

(iv) Discrimination by a borrower in respect of rates, or terms or conditions of, service among consumers or subscribers;

(v) Exclusion by a borrower of any member or stockholder, if the borrower is a cooperative or mutual type of corporation, from participation in any meeting of members or stockholders of the borrower, discrimination among its members or stockholders in respect of the exercise of any of their rights as members or stockholders, or in the manner of the exercise of such rights; or

(vi) Exclusion by a borrower of any consumer or subscriber from, denial by a borrower to any consumer or subscriber of the use of, or discrimination by a borrower against any consumer or subscriber in his use of, any of the borrower's facilities.

(3) *Direct distribution program.* (i) Exclusion of an otherwise eligible recipient agency (school, summer camp for children, institution, welfare agency or disaster organization) or person from participation in the direct distribution program.

(ii) Discrimination in the allocation of food to eligible persons.

(iii) Discrimination in the manner in which or the place or times at which foods donated under the program are distributed by recipient agencies to eligible persons.

(iv) Segregation of persons served in different meal periods or by different seating or serving of different food or different size portions by recipient agencies serving prepared meals containing donated foods.

(4) *National school lunch program.* (i) Discrimination by a State agency in the selection of schools to participate in the program or in the assignment to schools of rates of reimbursement.

(ii) Exclusion of any child from participation in the program.

(iii) Discrimination by school officials in the selection of children to receive free or reduced price lunches.

(iv) Segregation of participating children in different lunch periods or different seating, and discrimination by serving different food or different size portions.

(v) Failure to offer free and reduced-price lunches, on an equitable basis in schools of a school district in which children are assigned to schools on the basis of race, color, or national origin.

(5) *Food stamp program.* (i) Discrimination by a State agency in certifying households as eligible for the program.

(ii) Segregation or other discrimination in the manner in which or the times at which eligible households are issued food coupons.

(6) *Special milk program for children.* (i) Discrimination by a State agency in

the selection of schools and child-care institutions to participate in the program.

(ii) Discrimination by a State agency in the selection of needy schools to receive reimbursement for milk served free.

(iii) Discrimination by a State agency in the assignment of reimbursement rates to schools and child-care institutions or in the adjustment of such rates, or in fixing allowable distribution costs.

(iv) Exclusion of any child from participation in the program and segregation of participating children in different serving periods or different places of service.

(v) Discrimination by school officials or child-care institutions in the selection of children to receive free milk.

(7) *Price support programs carried out through producer associations or cooperatives or through persons who are required to provide specified benefits to producers.* (i) Denial of the benefits of price support for a producers commodity.

(ii) Denial of membership or stock ownership to any producer by any association or cooperative.

(iii) Discrimination among producers in the manner of making or paying any price support advances, loans, or payments.

(iv) Discrimination in the fees or charges collected from or in the net gains distributed to producers.

(v) Discrimination in the use of facilities and services generally made available to members or patrons under the price support program.

(8) *Forest service programs.* (i) Refusal or failure by a recipient of a permit or lease to provide to any person the benefits from the use of land administered by the Forest Service, the resources therefrom, or improvements thereon.

(ii) Refusal or failure by any recipient to provide to any person the benefits from Federal payments based on a share of the receipts from lands administered by the Forest Service.

(iii) Refusal or failure by any recipient to provide to any person the benefits from Federal assistance in cooperative programs for the protection, development, management, and use of forest resources.

(iv) Refusal or failure by any cooperator or other recipient to provide to any person the benefits from Federal assistance through grants or advances of funds for research.

(9) *Farmers Home Administration programs—(i) Direct soil and water loans to association.* (a) A borrower's denial of, or discrimination in furnishing, services under a program or activity financed wholly or partially with the aid of the loan, as in the case of a water supply system.

(b) A borrower's denial of, or discrimination or segregation in permitting, the use of facilities which are part of a project financed wholly or partially with the aid of the loan, as in the case of a golf course, swimming pool, tennis courts, parking areas, lounges, dining rooms, and rest rooms of a recreation association.

(c) Discrimination by a borrower in the terms and conditions of membership

or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a pre-requisite to the participation in services furnished by, or the use of facilities of, the borrower which are financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such services or the use of such facilities.

(d) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(ii) *Direct senior citizens rental housing loans to private nonprofit corporations and consumer cooperatives.* (a) A borrower's exclusion of any person from, discrimination in the terms and conditions of eligibility for, or discrimination against or segregation of any person in, the use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan.

(b) Discrimination by a borrower in the terms and conditions of membership or stock ownership, or refusal or failure of a borrower to accept applications for membership or for purchase of shares of stock, or discrimination by a borrower in acting or failing to act upon such applications, where such membership or stock ownership is a condition of eligibility for use and occupancy of the housing and related facilities financed wholly or partially with the aid of the loan or to the receipt of any benefits or advantages related to such housing or facilities.

(c) Denial or impairment by a borrower of any person's rights as a member or stockholder of the borrower, or a borrower's discrimination against or segregation of persons in the exercise of their rights as members or stockholders of the borrower.

(10) *Cooperative State research programs.* (i) Discrimination in making available information whether published or provided through public or private statement, correspondence, demonstration or field day.

(ii) Discrimination in participation in any cooperative research program or project.

(iii) Discrimination in the use of any facility, including offices, laboratories, or other structures, or research plots or fields.

(iv) Discrimination in employment of graduate students to conduct research when such students receive substantial research training benefits as a result of such employment.

§ 15.4 Assurances required.

(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 ex-

tension 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 the regulations in 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 Agency 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) The assurance required in the case of a transfer of real property, except where covered by subparagraph (3) of this paragraph, shall be inserted in the instrument effecting the transfer of any such land, together with any improvements located thereon, and shall consist of (i) a condition coupled with a right to be reserved to the Department to revert title to the property in the event of breach of such nondiscrimination condition during 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, and (ii) a covenant running with the land for the same period. 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 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 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) *Continuing State programs.* 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 a program 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 finan-

cial 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 the regulations in this part, or a statement of the extent to which it is not, at the time the statement is made, so conducted, 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, including methods of administration which give reasonable assurance that any noncompliance indicated in the statement under subparagraph (1) of this paragraph will be corrected.

(c) *Assurances from institutions.* 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 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 Agency, 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.

§ 15.5 Compliance.

(a) *Cooperation and assistance.* Each Agency shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with the regulations and this part and shall provide assistance and guidance to recipients to help them comply voluntarily with the regulations in this part. As a normal part of the administration of programs covered by the regulations in this part, designated personnel will in their program reviews and other activities or as specifically directed by the Agency, review the activities of recipients to determine whether they are complying with the regulations in this part. Reports by such personnel shall include statements regarding compliance and instances, if any, of noncompliance. In the event of noncompliance, the Agency shall seek to secure voluntary compliance by all appropriate means.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Agency timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Agency may determine to be necessary to ascertain whether the recipient has complied or

is complying with the regulations in 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 the regulations in this part.

(c) *Access to sources of information.* Each recipient shall permit access by authorized employees of this Department 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 the regulations in 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 the regulations in this part and their applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the Department or its Agencies finds necessary to apprise such persons of the protections against discrimination assured them by the Act and the regulations in this part.

§ 15.6 Complaints.

Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by the regulations in this part may by himself or by an authorized representative file with the Secretary or any Agency 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 Agency or the Secretary. Such complaint shall be promptly referred to the Office of the Inspector General. The complaint shall be investigated in the manner determined by the Inspector General and such further action taken by the Agency or the Secretary as may be warranted.

§ 15.7 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 the regulations in this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the regulations in this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of the regulations in this part, including the conduct of any hearing or judicial proceeding arising thereunder.

§ 15.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with the regulations in this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with the regulations in this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance, upon a finding, in accordance with the procedure hereinafter prescribed, 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 § 15.4.* If an applicant fails or refuses to furnish an assurance required under § 15.4 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 an application therefor approved prior to the effective date of the regulations in this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating, or refusing to grant or to continue Federal financial assistance shall become effective until (1) the Agency 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 the requirement imposed by or pursuant to the regulations in this part, (3) the action has been approved by the Secretary pursuant to § 15.10(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 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 Secretary 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 ten days from the mailing of such notice to the recipient or other person. During this period of at least ten days, additional efforts shall be made to persuade the recipient or other person to comply with the regulations in this part and to take such corrective action as may be appropriate.

§ 15.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required under the regulations in this part, 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 Secretary or the Agency 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 the regulations in 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 Department in Washington, D.C., at a time fixed by the hearing officer or by the Secretary unless it is determined 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 officer.

(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 sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure promulgated by the Secretary as 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 hearing 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 these regulations in 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 hearing officer. 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 these regulations with respect to two or more programs to which the regulations in this part apply, or noncompliance with the regulations in 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 procedure not inconsistent with the regulations in this part. Final decisions in such cases, insofar as the regulations in this part are concerned, shall be made in accordance with § 15.10.

§ 15.10 Decisions and notices.

(a) *Decision by hearing officer or Secretary.* (1) The 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 Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. The applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the Secretary his exceptions to the initial decision, with his reasons therefor.

(2) In the absence of exceptions, the Secretary 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 Secretary 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 Secretary.

(b) *Decisions on record or review.* Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing officer pursuant to paragraph (a), 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 Secretary 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 § 15.9(a), a decision shall be made by the Secretary 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 shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the regulations in this part with which it is found that the applicant or recipient has failed to comply.

(e) *Decision by Secretary.* The Secretary shall make any final decision 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 the regulations in this part or the Act.

(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 the regulations in 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 the regulations in this part, or to have otherwise failed to comply with the regulations in this part, unless and until it corrects its noncompliance and satisfies the Agency that it will fully comply with the regulations in this part.

§ 15.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 15.12 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 the regulations in this part apply, 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 the regulations in this part, except that nothing in the regulations 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 the regulations in this part. Nothing in these regulations, however, shall be deemed to supersede any of the following including future amendments thereof:

- (1) Executive Orders 10925 and 11114 and regulations issued thereunder; or
- (2) Executive Order 11063 and regulations issued thereunder or 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 the regulations in this part are inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each Agency shall issue and promptly make available forms and such implementing instructions and procedures consistent with the regulations in this part as may be necessary. Each Agency in making available Federal financial assistance to any program or activity may utilize contractual commitments in obtaining compliance with the regulations in this part, including obtaining compliance by recipients other than the contracting recipient.

(c) *Supervision and coordination.* 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 the regulations in this part (other than responsibility for final decision as provided in § 15.10) 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 these regulations to similar programs and in similar situations.

Effective date: The regulations in this part shall become effective on the 30th day following the date of publication in the FEDERAL REGISTER.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX

PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF AGRICULTURE COVERED BY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Payments for Marketing Service Work, 7 U.S.C. 1623.

Grants for basic scientific research, 42 U.S.C. 1891-1893.

Foreign Market Development Projects, 7 U.S.C. 1691-1724.

Research and Technical Assistance for Farmers' Cooperatives, 7 U.S.C. 451-457.

Cooperative Agricultural Extension Work, 7 U.S.C. 341-349.

Educational Aspects of Agricultural Marketing Act, 7 U.S.C. 1623-1624.

Direct loans and planning advances under the Soil and Water Association Loan Program pursuant to Sections 306 and 314 of

the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. 1926, 1944.

Direct loans under the Senior Citizens Rental Housing loan program pursuant to Section 515(a) of the Housing Act of 1949, 42 U.S.C. 1485(a).

Loans, technical assistance, and preliminary advances under the Rural Renewal loan program pursuant to Section 32(e) of the Bankhead-Jones Farm Tenant Act, 7 U.S.C. 1011(e).

Loans under the Resource Conservation and Development loan program pursuant to Section 32(e) of the Bankhead-Jones Farm Tenant Act and the Agricultural Appropriation Acts, 7 U.S.C. 1011(e) P.L. 88-250 and subsequent Appropriation Acts.

Direct loans under the Farm Ownership and Operating loan programs made for the purpose of installing or improving on farms recreation facilities available to the public, 7 U.S.C. 1922, 1923, 1941.

Loans to cooperative associations under Section 303, Economic Opportunity Act of 1964, P.L. 88-452, 78 Stat. 524.

Disaster and distress assistance through State and other agencies, 7 U.S.C. 1427.

Loans under the Watershed Protection and Flood Prevention loan program in addition to assistance by the Soil Conservation Service, 16 U.S.C. 1001-1008.

Special Milk Program, Act of July 1, 1958, as amended, 7 U.S.C. 1446 note.

School Lunch Program, National School Lunch Act, 42 U.S.C. 1751 *et seq.*

Food Stamp Program, Section 32 of the Act of August 24, 1935, 7 U.S.C. 612c. Food Stamp Act of 1964, 78 Stat. 703.

Direct Distribution Program, Section 416 of the Agricultural Act of 1949, as amended 7 U.S.C. 1431. Section 32 of the Act of August 24, 1935, 7 U.S.C. 612c. Sections 6 and 9 of National School Lunch Act, 42 U.S.C. 1755, 1758.

Hatch Act Experiment Stations, 7 U.S.C. 361a *et seq.*

Section 204(b) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1623.

Cooperative Forestry Research Act, P.L. 87-788.

Experiment Station Research Facilities, 7 U.S.C. 390-390k.

Watershed Protection Program, Watershed Protection and Flood Prevention Act of August 4, 1954, 16 U.S.C. 1001-1008.

Flood Prevention Program, Flood Control Act of December 22, 1944, 58 Stat. 887.

Resource Conservation and Development Program, Title III of the Bankhead-Jones Farm Tenant Act, as amended by Section 102 of the Food and Agriculture Act of 1962, 7 U.S.C. 1010-1012. Soil Conservation Act of April 27, 1935, 16 U.S.C. 590a-f.

Program of Technical Assistance, and Grants of Equipment and Material, and Plant Materials to Soil Conservation Districts, Soil Conservation Act of April 27, 1935, 16 U.S.C. 590a-f.

Rural Electrification and Rural Telephone Programs, Rural Electrification Act of 1936, as amended, 7 U.S.C. 901 *et seq.*

Cropland Conversion Program, 16 U.S.C. 590p(e).

Price support programs operating through producer associations, cooperatives, and other recipients in which the recipient is required to furnish specified benefits to producers (e.g., tobacco, peanuts, naval stores, cotton, rice, honey, dry edible beans, cottonseed and soybeans price support programs), Agricultural Act of 1949, as amended, 7 U.S.C. 1421 *et seq.* Commodity Credit Corporation Charter Act, 15 U.S.C. 714 *et seq.*

Surplus removal programs operating through purchases or diversion payments under clause (2) of section 32 of the Act of August 24, 1935, as amended, in which the recipient under the program is required to provide specified benefits to producers, Section 32 of the Act of August 24, 1935.

Administration and management of National Forests and National Grasslands, and other lands administered by the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Permits for use of National Forests and National Grasslands by other than individuals at a nominal or no charge, Act of June 4, 1897, as amended, 16 U.S.C. 551. Secretary's Regs. U-11, 36 C.F.R. 251.2. Time Permit Act of March 4, 1915, as amended, 16 U.S.C. 497. American Antiquities Act of June 8, 1906, 16 U.S.C. 433. Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1011(c), (d).

b. Permits for use of Government-owned improvements and land used therewith by other than individuals at a nominal charge, Section 7 of Granger-Thye Act of April 24, 1950, 16 U.S.C. 580d.

c. Easements for use of National Forests and National Grasslands by other than individuals at a nominal or no charge, Act of March 4, 1911, as amended, 16 U.S.C. 523. Act of May 13, 1946, as amended, 49 U.S.C. 1115. Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1011(d).

d. Permits for disposal of common varieties of mineral materials from lands under Forest Service jurisdiction for use by other than individuals at a nominal or no charge, Act of July 31, 1947, as amended, 30 U.S.C. 601-603, 611. Act of June 11, 1960, 5 U.S.C. 511 note.

e. Timber granted free or at nominal cost to any group, Act of June 4, 1897, as amended, 16 U.S.C. 551. Title III, Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1011(b). Secretary's Regs. S-24 and S-29, 36 C.F.R. 221.24, 221.29.

f. Road rights-of-way, Federal Highway Act of August 27, 1958, 23 U.S.C. 107.

g. Rights-of-way for wagon roads or railroads, Act of March 3, 1899, 16 U.S.C. 525.

h. Use of Federal land for airports, Federal Airport Act of May 13, 1946, as amended, 49 U.S.C. 1105, 1115.

i. Revenue sharing payment to States:

1. Payment of 25 percent of national forest receipts to States for schools and roads, Act of May 23, 1908, as amended, 16 U.S.C. 500.

2. Payment to Minnesota from national forest receipts of a sum based on a formula, Section 5 of the Act of June 22, 1948, as amended, 16 U.S.C. 577g-577g-1.

3. Payment to New Mexico and Arizona of proportion of national forest receipts for common-school fund, Sections 6 and 24 of Act of June 20, 1910, 36 Stat. 557, 562, 573.

4. Payment of 25 percent of net revenues from Title III, Bankhead-Jones Farm Tenant Act, lands to counties for school and road purposes or both, Section 33, Title III, of Bankhead-Jones Farm Tenant Act of July 22, 1937, 7 U.S.C. 1012.

Cooperation in the protection, development, management, utilization of forest resources administered by the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Fire prevention and suppression, Section 2 of Clarke-McNary Act of June 7, 1924, as amended, 16 U.S.C. 565.

b. Forest seedling production and distribution, Section 4 of Clarke-McNary Act of June 7, 1924, as amended, 16 U.S.C. 567.

c. Assistance to States for tree planting, Title IV, Section 401, of Agricultural Act of 1956, as amended, 16 U.S.C. 568-e-g.

d. Technical assistance in forest management, Cooperative Forest Management Act of August 25, 1950, 16 U.S.C. 568 c, d.

e. General forestry assistance, Annual Appropriation Acts commencing with the Department Appropriation Act of 1905; Organic Act of 1862, 5 U.S.C. 511.

f. Control of white pine blister rust, White Pine Blister Rust Protection Act of April 26, 1940, 16 U.S.C. 594a.

g. Protections of forest resources from insects, pests and diseases, Forest Pest Control Act of June 25, 1947, 16 U.S.C. 594-1-5.

Research programs of the Forest Service in which Federal assistance is rendered, including but not limited to the following activities:

a. Advance of funds for cooperative research, Section 20 of Granger-Thye Act of April 24, 1950, added April 6, 1956, 16 U.S.C. 581-1.

b. Grants for support of scientific research, Act of September 6, 1958, 42 U.S.C. 1891-1893.

c. Research cooperation, McSweeney-McNary Act of May 22, 1928, as amended, 16 U.S.C. 581 et seq.

[F.R. Doc. 64-12534; Filed, Dec. 3, 1964; 4:23 p.m.]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Administrator, Housing and Home Finance Agency

PART 1—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE HOUSING AND HOME FINANCE AGENCY—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A of Title 24 CFR is hereby amended by adding the following new Part 1:

- Sec.
- 1.1 Purpose.
 - 1.2 Definitions.
 - 1.3 Application 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.

AUTHORITY: The provisions of this Part 1 are issued under sec. 602 of the Civil Rights Act of 1964, P.L. 88-352, 78 Stat. 252, 42 U.S.C. 2000d-1; sec. 502(a) of the Housing Act of 1948, 12 U.S.C. 1701c; 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 Housing and Home Finance Agency.

§ 1.2 Definitions.

As used in this Part 1—

(a) The term "Agency" means the Housing and Home Finance Agency.

(b) The term "Administrator" means the Housing and Home Finance Administrator.

(c) The term "responsible Agency official" with respect to any program or activity receiving Federal financial as-

sistance means the Administrator 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.

(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 Agency 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 Agency, including any program or activity assisted under the Agency programs listed in Appendix A of this Part 1. It applies to money paid, property transferred, or other Federal financial assistance extended under any such program or activity after the effective date of this Part 1 pursuant to an application approved prior to such effective date. This Part 1 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 or activity before the effective date of this Part 1, (3) any assistance to

any person who is the ultimate beneficiary under any such program or activity, or (4) 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 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 or activity is not covered. Other programs or activities 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) A recipient, in determining the location or 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, ac-

commodations, 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 persons of a particular race, color, or national origin.

(3) 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.

(4) 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.

(c) *Employment practices.* 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, lay-off, or termination, up-grading, demotion, or 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 Executive Order 11114 (28 F.R. 6485).

(d) *Exception.* A person shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program or activity limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 1.5 Assurances required.

(a) *General.* Every contract for Federal financial assistance to carry out a program or activity to which this Part 1 applies, executed on or after the effective date of this Part 1, and every application for such Federal financial assistance submitted on or after such effective date, 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 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 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 contract or application. The responsible Agency 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.

(b) *Pre-existing 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 the effective date of this Part 1, and the funds have not been fully disbursed by the Agency, the responsible Agency 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) *Pre-existing 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 the effective date of this Part 1, 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 the effective date of this Part 1, (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, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (2) provide such methods of administration for the program or activity as are found by the responsible Agency official to give reasonable assurance that the recipient will comply with all requirements imposed by or pursuant to this Part 1, or reasonable assurance that any noncompliance indicated in the statement under clause (1) will be corrected.

(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 Agency 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.

§ 1.6 Compliance information.

(a) *Cooperation and assistance.* Each responsible Agency official 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 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 is complying with this Part 1.

(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 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 Agency 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 Agency 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 Agency 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 Agency official or his designee.

(c) *Investigations.* The responsible Agency 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 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 § 1.8.

(2) If an investigation does not warrant action pursuant to paragraph (d) (1) of this section 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 person for the purpose of interfering with any right or privilege secured by title VI of the Act of 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 Agency shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph, except that the Agency shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to a contract therefor approved prior to the effective date of this Part 1.

(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 1, (3) the action has been approved by the Administrator, and (4) the expiration of 30 days after the Administrator 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 Agency official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Administrator, (3) the applicant or recipient 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 ten days from the mailing of such notice to the applicant or recipient. During this period of at least ten 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 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 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) of this Part 1 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 Agency 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 Procedure 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 sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure issued by the Agency 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 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 Agency and the applicant or recipient, and opportunity shall be given to refute facts and argu-

ments 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 with respect to two or more programs or activities to which this Part 1 applies are asserted to constitute non-compliance with this Part 1 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 Administrator 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 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 by certified or registered mail, return receipt requested. 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 copy of the final decision of the responsible Agency 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 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, by certified or registered mail, return receipt requested.

(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 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, under 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 under 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 Agency official that it will fully comply with this Part 1.

§ 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 Agency 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 of such assistance under such program or activity 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 the effective date of this Part 1. Nothing in this Part 1, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 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 activity or situation to which this Part 1 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 1 as applied to programs and activities to which this Part 1 applies and for which he is responsible.

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of the Agency, 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 Agency 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.

This Part 1 shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

ROBERT C. WEAVER,
Housing and Home
Finance Administrator.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

PROGRAMS OF THE HOUSING AND HOME FINANCE AGENCY TO WHICH THIS PART 1 APPLIES

1. Community Disposition Program—Atomic Energy Community Act of 1955, §§ 11-13, 21, 31-36, 41-43, 51-57, 61-66, 101-103, 111-119, 69 Stat. 471 (1955), 42 U.S.C. 2301; E.O. 11105, 28 F.R. 3909.
2. Low-Income Housing Demonstration Grant Program—§ 207, Housing Act of 1961, 75 Stat. 165 (1961), 42 U.S.C. 1436.
3. Mass Transportation Demonstration Grant Program—§ 303, Housing Act of 1961, 75 Stat. 166 (1961), 42 U.S.C. 1453(b).
4. Rehabilitation Direct Loan Program—§ 312, Housing Act of 1964, 78 Stat. 790 (1964), P.L. 88-560.
5. Training and Fellowship Programs—Title VIII, Housing Act of 1964, 78 Stat. 769 (1964), P.L. 88-560.
6. Urban Mass Transportation Programs—Urban Mass Transportation Act of 1964, 78 Stat. 302 (1964), P.L. 88-365.
7. Low-Rent Public Housing Program—United States Housing Act of 1937, 50 Stat. 888 (1937), 42 U.S.C. 1401.
8. Open Space Land Program—Title VII, Housing Act of 1961, 75 Stat. 183 (1961), 42 U.S.C. 1500.
9. Urban Renewal Demonstration Grant Program—§ 314, Housing Act of 1954, 68 Stat. 629 (1954), 42 U.S.C. 1452a.
10. Urban Renewal Program (Slum Clearance and Urban Renewal)—Title I, Housing Act of 1949, 63 Stat. 414 (1949), 42 U.S.C. 1450.
11. College Housing Loan Program—Title IV, Housing Act of 1950, 64 Stat. 77 (1950), 42 U.S.C. 1749.
12. Community Facilities Administration Liquidation Programs.
13. Program of Advances for Public Works Planning—§ 702, Housing Act of 1954, 68 Stat. 641 (1954), 40 U.S.C. 462.
14. Public Facility Loans Program—Title II, Housing Amendments of 1955, 69 Stat. 642 (1955), 42 U.S.C. 1491.
15. Public Works Acceleration Act Program—Public Works Acceleration Act, 76 Stat. 541 (1962), 42 U.S.C. 2641.

16. Senior Citizens Housing Loan Program—§ 202, Housing Act of 1959, 73 Stat. 687 (1959), 12 U.S.C. 1701q.

[F.R. Doc. 64-12535; Filed, Dec. 3, 1964; 4:23 p.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 31—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF LABOR—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Pursuant to the authority and direction contained in section 602 of Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 78 Stat. 241), Title 29 of the Code of Federal Regulations is hereby amended by establishing a new Part 31 to read as set forth below.

The new 29 CFR Part 31 reads as follows:

- Sec.
- 31.1 Purpose.
- 31.2 Definitions.
- 31.3 General standards.
- 31.4 Employment service programs.
- 31.5 Manpower Development and Training Act, Area Redevelopment Act, Work-Training under Economic Opportunity Act and other government-sponsored training.
- 31.6 State and Federal unemployment insurance programs; allowances under Trade Readjustment Assistance Program, Manpower Development and Training Act, and Area Redevelopment Act.
- 31.7 Compliance information.
- 31.8 Conduct of investigations.
- 31.9 Procedure for effecting compliance.
- 31.10 Hearings.
- 31.11 Decisions and notices.
- 31.12 Judicial review.
- 31.13 Effect on other regulations; supervision and coordination.

AUTHORITY: The provisions of this Part 31 issued under sec. 602, 78 Stat. 252; 42 U.S.C. 501, 29 U.S.C. 49k, and 5 U.S.C. 22.

§ 31.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 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 Labor.

§ 31.2 Definitions.

For purposes of this part—

(a) The term "Act" means the Civil Rights Act of 1964 (78 Stat. 241).

(b) The term "applicant" means one who submits an application, request, or plan required to be approved by the Secretary, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such application, request, or plan.

(c) The term "Department" means the Department of Labor and includes

each of its operating agencies and other organizational units.

(d) 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.

(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 "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.

(g) 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, 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 "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 any 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.

(i) The term "Secretary" means the Secretary of Labor or any person spe-

cifically designated by him to perform any function provided for under this part, except that only the Secretary personally or a hearing examiner shall conduct hearings under § 31.10 of this part.

(j) 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.

§ 31.3 General standards.

(a) *General.* No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance from the Department of Labor.

(b) *Specific discriminatory actions prohibited.* (1) A recipient under any program to which this regulation 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, or

(vii) Deny an individual an opportunity to participate in a program as an employee where a primary objective of the Federal financial assistance is to provide employment.

(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

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) 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.

(4) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a).

(c) The application of the foregoing standards to programs administered by this Department is set forth in §§ 31.4-31.6. The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114. Nothing contained in those sections limits the general application of this § 31.3.

§ 31.4 Employment service programs.

In the administration of the Federal-State employment service program by a recipient of Federal financial assistance (as these terms are defined in § 31.2):

(a) The registration, counseling, testing, recruitment, selection and referral of individuals for job openings or training opportunities and all other activities performed by or through employment service offices financed in whole or in part from Federal funds, including the establishment and maintenance of physical facilities, shall be conducted without regard to race, color or national origin.

(b) No selection or referral of any individual for employment or training shall be made on the basis of any job order or request containing discriminatory specifications with regard to race, color or national origin.

§ 31.5 Manpower Development and Training Act, Area Redevelopment Act, Work-Training Under Economic Opportunity Act and other government-sponsored training.

In the administration of the Manpower Development and Training Act, the Area Redevelopment Act, Title I B 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, referral or training of any individual including employment as an enrollee under Title I B of the Economic Opportunity Act 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 with the contractor as a trainee or enrollee under the Manpower Development and Training Act, the Area Redevelopment Act, or the Economic Opportunity Act 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 or enrollee 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.

§ 31.6 State and Federal Unemployment Insurance Programs; allowances under Trade Readjustment Assistance Program, Manpower Development and Training Act and Area Redevelopment 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 Area Redevelopment Act 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.

§ 31.7 Compliance information.

(a) *Cooperation and assistance.* The Secretary 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 timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the Secretary 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 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 finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 31.8 Conduct of investigations.

(a) *Periodic compliance reviews.* The Secretary 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.

(c) *Investigations.* The Secretary 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) indicates a failure to comply with this part, the Secretary 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 § 31.9.

(2) If an investigation does not warrant action pursuant to subparagraph (1) the Secretary 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 complainant 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.

§ 31.9 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. 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) *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 Secretary 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 Secretary, 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 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.

(c) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the Secretary has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (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.

§ 31.10 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 31.9(b), 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 Secretary 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 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 § 31.9(b) 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 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 section 11 of the Administrative Procedure Act.

(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 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), 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, 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 procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 31.11.

§ 31.11 Decisions and notices.

(a) *Decision by a 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 Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. 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 Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary 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 Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Secretary shall be mailed promptly to the applicant or recipient and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Secretary.

(b) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a), or whenever the Secretary 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 Secretary shall be given in writing to the applicant or recipient and the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to § 31.10(a) a decision shall be made by the Secretary 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 the Secretary 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) *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 Secretary that it will fully comply with this part.

§ 31.12 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 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 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 and 11114, 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, 28 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.* 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.

Effective date. The regulations contained in this Part 31 shall become effective on the 30th day following the date of publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

W. WILLARD WIRTZ,
Secretary of Labor.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

[F.R. Doc. 64-12536; Filed, Dec. 3, 1964;
4:23 p.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

SUBTITLE C—FEDERAL PROPERTY MANAGEMENT REGULATIONS SYSTEM

Chapter 101—Federal Property Management Regulations

SUBCHAPTER A—GENERAL

PART 101-6—MISCELLANEOUS REGULATIONS

Subpart 101-6.2—Nondiscrimination in Federally-Assisted Programs of the General Services Administra- tion—Effectuation of Title VI of the Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, each Federal department or agency which is empowered to extend Federal financial assistance to any program or activity is authorized and directed to issue regulations to effectuate the provisions of section 601 of the Act prohibiting discrimination under such programs or activities on the ground of race, color, or national origin. The following new Subpart 101-6.2, setting forth the regulations of the General Services Administration on this subject, is added to Part 101-6 of Subchapter A:

- Sec.
- 101-6.201 Scope of subpart.
 - 101-6.202 Purpose.
 - 101-6.203 Application of subpart.
 - 101-6.204 Discrimination prohibited.
 - 101-6.204-1 General.
 - 101-6.204-2 Specific discriminatory actions prohibited.
 - 101-6.204-3 Special programs.
 - 101-6.205 Assurances required.
 - 101-6.205-1 General.
 - 101-6.205-2 Continuing State programs.
 - 101-6.205-3 Elementary and secondary schools.
 - 101-6.205-4 Applicability of assurances.
 - 101-6.206 Illustrative applications.
 - 101-6.207 Enforcement responsibility and information.
 - 101-6.207-1 Agencies responsible.
 - 101-6.207-2 Regulations applicable.
 - 101-6.207-3 Agency instructions and reports.
 - 101-6.208 Applicability of §§ 101-6.209 through 101-6.214.
 - 101-6.209 Compliance information.
 - 101-6.209-1 Cooperation and assistance.
 - 101-6.209-2 Compliance reports.
 - 101-6.209-3 Access to sources of information.
 - 101-6.209-4 Information to beneficiaries and participants.
 - 101-6.210 Conduct of investigations.
 - 101-6.210-1 Periodic compliance reviews.

- Sec.
- 101-6.210-2 Complaints.
 - 101-6.210-3 Investigations.
 - 101-6.210-4 Resolution of matters.
 - 101-6.210-5 Intimidatory or retaliatory acts prohibited.
 - 101-6.211 Procedure for effecting compliance.
 - 101-6.211-1 General.
 - 101-6.211-2 Noncompliance with § 101-6.205.
 - 101-6.211-3 Termination of or refusal to grant or to continue Federal financial assistance.
 - 101-6.211-4 Other means authorized by law.
 - 101-6.212 Hearings.
 - 101-6.212-1 Opportunity for hearings.
 - 101-6.212-2 Time and place of hearing.
 - 101-6.212-3 Right to counsel.
 - 101-6.212-4 Procedures, evidence, and record.
 - 101-6.212-5 Consolidated or joint hearings.
 - 101-6.213 Decisions and notices.
 - 101-6.213-1 Decision by person other than the responsible GSA official.
 - 101-6.213-2 Decisions on record or review by the responsible GSA official.
 - 101-6.213-3 Decisions on record where a hearing is waived.
 - 101-6.213-4 Rulings required.
 - 101-6.213-5 Approval by Administrator.
 - 101-6.213-6 Content of orders.
 - 101-6.214 Judicial review.
 - 101-6.215 Effect on other regulations; forms and instructions.
 - 101-6.215-1 Effect on other regulations.
 - 101-6.215-2 Forms and instructions.
 - 101-6.215-3 Supervision and coordination.
 - 101-6.216 Definitions.
 - 101-6.217 Programs to which this Subpart 101-6.2 applies.

AUTHORITY: The provisions of this Subpart 101-6.2 issued under sec. 602, 78 Stat. 252; 42 U.S.C. 501.

§ 101-6.201 Scope of subpart.

This subpart provides the regulations of the General Services Administration (GSA) 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.

§ 101-6.202 Purpose.

The purpose of this subpart 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 GSA.

§ 101-6.203 Application of subpart.

(a) Subject to paragraph (b) and (c) 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 Federally-assisted programs and activities listed in § 101-6.217. It applies to money paid, property transferred, or other Federal financial assistance extended under 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 under 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 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 under 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 Department of Health, Education, and Welfare pursuant to Title VI of the Act shall be applicable to the program involving the donation or transfer of surplus property for purposes of education or public health (§§ 101-6.217 (a) and (b)).

(c) The regulations issued by the Department of Defense pursuant to Title VI of the Act shall be applicable to the program involving the donation of surplus personal property for purposes of Civil Defense (§ 101-6.217(a)).

§ 101-6.204 Discrimination prohibited.

§ 101-6.204-1 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 subpart applies.

§ 101-6.204-2 Specific discriminatory actions prohibited.

(a) (1) A recipient under any program to which this subpart 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 (in-

cluding the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (d) of this § 101-6.204-2).

(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.

(b) As used in this § 101-6.204-2 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.

(c) The enumeration of specific forms of prohibited discrimination in this § 101-6.204-2 does not limit the generality of the prohibition in § 101-6.204-1.

(d) Where a primary objective of the Federal financial assistance to a program to which this Subpart 101-6.2 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; lay-off or termination; up-grading, demotion, or transfer; rates of pay or other forms of compensation; selection for training, including apprenticeship, and use of facilities). Under existing law a primary objective of Federal financial assistance under the program covering stabilization payments to small domestic producers of lead and zinc ores and concentrates (§ 101-6.217(q)) is to provide employment.

§ 101-6.204-3 Special 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.

§ 101-6.205 Assurances required.

§ 101-6.205-1 General.

(a) Every application for Federal financial assistance to carry out a program to which this Subpart 101-6.2 applies, except a program to which § 101-6.205-2 applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Fed-

eral 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 Subpart 101-6.2. 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 GSA 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) The assurance required in the case of a transfer of real property shall be inserted in the instrument effecting the transfer of any such land, together with any improvements located thereon, and shall consist of (1) a condition coupled with a right to be reserved to the agency having the enforcement responsibility (§ 101-6.207-1) to revert title to the property in the event of breach of such nondiscrimination condition, and (2) a covenant running with the land. 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 head of the agency having the enforcement responsibility 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.

(c) The assurance required in the case of a transfer of personal property shall be inserted in the instrument effecting the transfer of the property.

(d) In the case of programs not involving a transfer of property, the assurance required shall be inserted in the agreement executed between the United States and the recipient covering the extension of Federal financial assistance.

§ 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 regulation applies shall as a condition to its approval and the ex-

tension 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 regulation, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (b) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible official of the Federal agency concerned 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, including methods of administration which give reasonable assurance that any noncompliance indicated in the statement under clause (a) will be corrected.

§ 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 United States Commissioner of Education determines is adequate to accomplish the purposes of the Act and applicable regulations thereunder, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the Commissioner 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 101-6.2. 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.

§ 101-6.205-4 Applicability of assurances.

(a) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this § 101-6.205 shall extend to admission practices and to all other practices relating to the treatment of students.

(b) 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 applicant establishes, to the

satisfaction of the responsible GSA 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.

(c) Where an installation or facility (for example, a public airport, or park or recreation area) is comprised of real property for which application is made under a program, and, in addition, other real property of the applicant, the assurance required under this § 101-6.205 shall be applicable to the entire installation or facility.

§ 101-6.206 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions of this subpart § 101-6.2 to certain programs of 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 101-6.2):

(a) In the programs involving the transfer of surplus property for airport, park or recreation, historic monument, wildlife conservation, or street widening purposes (§§ 101-6.217 (c), (d), (e), and (h)), the public generally is entitled to the use of the facility and to receive the services provided by the facility and to facilities operated in connection therewith, without segregation or any other discriminatory practices.

(b) In the program involving the loan of machine tools to nonprofit institutions or training schools (§ 101-6.217 (o)), discrimination by the recipient in the admission of students or trainees or in the treatment of its students or trainees in any aspect of the educational process is prohibited. In the case of an institution of higher education, the prohibition applies to the entire institution except as provided in paragraph (b) of § 101-6.205.4. In the case of elementary or secondary schools, the prohibition applies to all elementary and secondary schools of the recipient school district, consistent with § 101-6.205-3. In this and other illustrations the prohibition of discrimination in the treatment of students or 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 recipient.

(c) In the programs involving the donation of personal property to public bodies or the American National Red Cross (§§ 101-6.217 (f) and (j)), discrimination in the selection or treatment of individuals to receive or receiving the benefits or services of the program is prohibited.

(d) In the program involving the donation of personal property to eleemosynary institutions (§ 101-6.217 (i)), the assurance will apply to applicants for admission, patients, interns, residents,

student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the institution, and will apply to the entire institution and to facilities operated in connection therewith, subject to the provisions of §§ 101-6.205-4(b).

(e) In the programs involving the allotment of space by GSA to Federal Credit Unions, without charge for rent or services, and the provision of free space and utilities for vending stands operated by blind persons (§§ 101-6.217 (i) and (k)), discrimination by segregation or otherwise in providing benefits or services is prohibited.

(f) In the program involving grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving, and compiling and publishing of documentary sources significant to the history of the United States (§ 101-6.217(n)), discrimination by the recipient in the selection of students or other participants in the program, and, with respect to educational institutions, in the admission or treatment of students, is prohibited.

(g) In the program involving stabilization payments to small domestic producers of lead and zinc ores and concentrates (§ 101-6.217(q)), discrimination against applicants for employment or employees is prohibited.

(h) A recipient may not take action that is calculated to bring about indirectly what this subpart forbids it to accomplish directly.

§ 101-6.207 Enforcement responsibility and information.

§ 101-6.207-1 Agencies responsible.

The responsibility for determining and enforcing compliance with this Subpart 101-6.2, including the assurances in the transfer instruments referred to in § 101-6.205-1, is as follows:

(1) The Administrator of the Federal Aviation Agency with respect to surplus real or personal property disposed of for public airport purposes (§ 101-6.217(c)).

(2) The Secretary of Interior in the case of surplus real property, including improvements, disposed of for use as a public park, public recreation area, or historic monument (§ 101-6.217(d)).

(3) The Administrator of General Services in the case of all other programs to which this Subpart 101-6.2 applies.

§ 101-6.207-2 Regulations applicable.

The regulations issued pursuant to Title VI of the Act by the head of each agency named in paragraph (a) of this § 101-6.207 shall be applicable to that agency's compliance and enforcement activities.

§ 101-6.207-3 Agency instructions and reports.

Notwithstanding paragraphs (b) and (c) of § 101-6.203, each agency, other than GSA, involved in the administration of the programs described in §§ 101-6.217 (a) through (d) shall furnish to GSA copies of all instructions and changes therein issued to implement, with respect to such programs, the regulations issued by such agency pursuant to

Title VI of the Act. In addition, each such agency shall promptly advise GSA of any sanctions imposed or removed by such agency with respect to said programs.

§ 101-6.208 Applicability of §§ 101-6.209 through 101-6.214.

Sections 101-6.209 through 101-6.214, relating to compliance and enforcement are applicable only to programs with respect to which GSA has the enforcement responsibility.

§ 101-6.209 Compliance information.

§ 101-6.209-1 Cooperation and assistance.

Each responsible GSA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Subpart 101-6.2 and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

§ 101-6.209-2 Compliance reports.

Each recipient shall keep such records and submit to the responsible GSA official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible GSA official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this Subpart 101-6.2. 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 subpart.

§ 101-6.209-3 Access to sources of information.

Each recipient shall permit access by the responsible GSA 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 subpart. 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.

§ 101-6.209-4 Information to beneficiaries and participants.

Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Subpart 101-6.2 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 GSA official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this Subpart 101-6.2.

§ 101-6.210 Conduct of investigations.

§ 101-6.210-1 Periodic compliance reviews.

The responsible GSA official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this regulation.

§ 101-6.210-2 Complaints.

Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this Subpart 101-6.2 may by himself or by a representative file with the responsible GSA 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 GSA official or his designee.

§ 101-6.210-3 Investigations.

The responsible GSA 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 Subpart 101-6.2. 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 subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

§ 101-6.210-4 Resolution of matters.

(a) If an investigation pursuant to § 101-6.210-3 indicates a failure to comply with this Subpart 101-6.2, the responsible GSA 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 § 101-6.211.

(b) If an investigation does not warrant action pursuant to paragraph (a) of this section the responsible GSA official or his designee will so inform the recipient and the complainant, if any, in writing.

§ 101-6.210-5 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 Subpart 101-6.2, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this subpart, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 101-6.211 Procedure for effecting compliance.

§ 101-6.211-1 General.

If there appears to be a failure or threatened failure to comply with this

Subpart 101-6.2, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this subpart 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, (a) 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 (b) any applicable proceeding under State or local law.

§ 101-6.211-2 Noncompliance with § 101-6.205.

If an applicant fails or refuses to furnish an assurance required under § 101-6.205 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 § 101-6.211-3. The GSA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under § 101-6.211-3 except that GSA 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 Subpart 101-6.2.

§ 101-6.211-3 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 (a) the responsible GSA official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (b) 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 Subpart 101-6.2, (c) the action has been approved by the Administrator pursuant to § 101-6.213-5, and (d) the expiration of 30 days after the Administrator 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.

§ 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 action has been approved by the Administrator, (c) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (d) 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 101-6.2 and to take such corrective action as may be appropriate.

§ 101-6.212 Hearings.

§ 101-6.212-1 Opportunity for hearing.

Whenever an opportunity for a hearing is required by § 101-6.211-3, 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 (a) 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 GSA official that the matter be scheduled for hearing, or (b) 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 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 § 101-6.211-3, and consent to the making of a decision on the basis of such information as is available.

§ 101-6.212-2 Time and place of hearing.

Hearings shall be held at the offices of GSA in Washington, D.C., at a time fixed by the responsible GSA official unless he 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 section 11 of the Administrative Procedure Act, 5 U.S.C. 1010.

§ 101-6.212-3 Right to counsel.

In all proceedings under this § 101-6.212 the applicant or recipient and GSA shall have the right to be represented by counsel.

§ 101-6.212-4 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, 5 U.S.C. 1004-1007, 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.

(b) Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart 101-6.2, 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.

§ 101-6.212-5 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute non-compliance with this Subpart 101-6.2 with respect to two or more programs to which this subpart applies, or non-compliance with this subpart and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Administrator 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 regulation. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 101-6.213.

§ 101-6.213 Decisions and notices.

§ 101-6.213-1 Decision by person other than the responsible GSA 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 GSA 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 GSA official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible GSA 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 GSA 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 GSA official.

§ 101-6.213-2 Decisions on record or review by the responsible GSA official.

Whenever a record is certified to the responsible GSA official for decision or he reviews the decision of a hearing examiner pursuant to § 101-6.213-1, or whenever the responsible GSA 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 GSA official shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101-6.213-3 Decisions on record where a hearing is waived.

Whenever a hearing is waived pursuant to § 101-6.212 a decision shall be made by the responsible GSA 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.

§ 101-6.213-4 Rulings required.

Each decision of a hearing officer or responsible GSA 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 Subpart 101-6.2 with which it is found that the applicant or recipient has failed to comply.

§ 101-6.213-5 Approval by Administrator.

Any final decision of a responsible GSA official (other than the Administrator) 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 Subpart 101-6.2 or the Act, shall promptly be transmitted to the Administrator, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

§ 101-6.213-6 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 Subpart 101-6.2, 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 subpart, or to have otherwise failed to comply with this subpart, unless and until it corrects its noncompliance and

satisfies the responsible GSA official that it will fully comply with this subpart.

§ 101-6.214 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 101-6.215 Effect on other regulations; forms and instructions.

§ 101-6.215-1 Effect on other regulations.

All regulations, orders, or like directions heretofore issued by any officer of GSA 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 Subpart 101-6.2 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 subpart, except that nothing in this subpart 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 subpart. Nothing in this subpart, however, shall be deemed to supersede any of the following (including future amendments thereof):

(a) Executive Order 10925, 26 F.R. 1977, 3 CFR 1959-1963 Comp., and regulations issued thereunder.

(b) Executive Order 11114, 28 F.R. 6485, 3 CFR 1963 Supp., and regulations issued thereunder, or

(c) Any other regulations or instructions insofar as such regulations or instructions prohibit discrimination on the grounds of race, color, or national origin in any program or situation to which this subpart is inapplicable, or prohibit discrimination on any other ground.

§ 101-6.215-2 Forms and instructions.

Each responsible GSA official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this Subpart 101-6.2 as applied to programs to which this subpart applies and for which he is responsible.

§ 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 101-6.2 (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.

§ 101-6.216 Definitions.

As used in this subpart:

(a) The term "General Services Administration" or "GSA" includes each of its operating services and other organizational units.

(b) The term "Administrator" means the Administrator of General Services.

(c) The term "responsible GSA official" with respect to any program receiving Federal financial assistance means the Administrator or other official of GSA who by law or by delegation has the principal responsibility within GSA 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, or organization, or any 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.

(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 GSA 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.

§ 101-6.217 Programs to which this Subpart 101-6.2 applies.

(a) 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 (section 203(j) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j)), 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) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)).

(c) Disposal of surplus real or personal property for public airport purposes (section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. 1622(g))).

(d) Disposal of surplus real property, including improvements, for use as a public park, public recreational area, or historic monument (section 13(h) of the Surplus Property Act of 1944, 50 U.S.C. 1622(h)).

(e) Disposal of real property to States for wildlife conservation purposes (Act of May 19, 1948, 16 U.S.C. 667b-d).

(f) Donation of personal property to public bodies (section 202(h) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 483(h)).

(g) Grants of easements by the General Services Administration pursuant to the Act of October 23, 1962 (40 U.S.C. 319-319c), and grants by the General Services Administration of revocable licenses or permits to use or occupy Federal real property, if the consideration to the Government for such easement, licenses, or permits is less than estimated fair market value.

(h) Conveyance of real property or interests therein by the General Services

Administration to States or political subdivisions for street widening purposes pursuant to the Act of July 7, 1960 (40 U.S.C. 345c), if the consideration to the Government is less than estimated fair market value.

(i) Allotment of space by the General Services Administration in Federal buildings to Federal Credit Unions, without charge for rent or services (section 25 of the Federal Credit Union Act, 12 U.S.C. 1770).

(j) Donation of surplus property to the American National Red Cross (section 203(l) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(l)).

(k) Provision by the General Services Administration of free space and utilities for vending stands operated by blind persons (§ 1 of the Randolph-Sheppard Act, 20 U.S.C. 107).

(l) Donation of forfeited distilled spirits, wine, and malt beverages to eleemosynary institutions (26 U.S.C. 5688).

(m) Donation of surplus Federal records (Federal Records Disposal Act of 1943, 44 U.S.C. 366-380).

(n) Grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving and compiling, and publishing of documentary sources significant to the history of the United States (section 503 of the Federal Property and Administrative Services Act of 1949, as amended by P.L. 88-383).

(o) Loan of machine tools and industrial manufacturing equipment in the national industrial reserve to nonprofit educational institutions or training schools (section 7 of the National Industrial Reserve Act of 1948, 50 U.S.C. 456).

(p) District of Columbia grant-in-aid hospital program (60 Stat. 896, as amended).

(q) Stabilization payments to small domestic producers of lead and zinc ores and concentrates (30 U.S.C. 681-689; Delegation of Authority from the Secretary of the Interior to the Administrator of General Services, 27 F.R. 3822).

(r) Payments in lieu of taxes on certain real property transferred from the Reconstruction Finance Corporation (Title VII of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 521-524).

(s) Conveyance of certain lands and property to the State of Hawaii without reimbursement (P.L. 88-233, 77 Stat. 472).

Effective date: This subpart shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

LAWSON B. KNOTT, Jr.,
Acting Administrator
of General Services.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

[F.R. Doc. 64-12537; Filed, Dec. 3, 1964;
4:23 p.m.]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 17—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF THE IN- TERIOR—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A of 43 CFR is hereby amended by adding a new Part 17 reading as follows:

Sec.	
17.1	Purpose.
17.2	Application of this part.
17.3	Discrimination prohibited.
17.4	Assurances required.
17.5	Compliance information.
17.6	Conduct of investigation.
17.7	Procedure for effecting compliance.
17.8	Hearings.
17.9	Decisions and notices.
17.10	Judicial review.
17.11	Effect on other regulations; forms and instructions.
17.12	Definitions.

AUTHORITY: The provisions of this Part 17 are issued under sec. 602, 78 Stat. 252, and the laws referred to in Appendix A.

§ 17.1 Purpose.

The purpose of this part is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 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 the Interior.

§ 17.2 Application of this part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Department, including programs and activities that are Federally assisted under the laws 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 regulation 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) except to the extent described in § 17.3, any employment practice, under any such program, of any employer, employment agency, or labor organization. The fact that a statute under which Federal financial assistance is extended to a program or activity is not listed in Appendix A shall not

mean, if Title VI is otherwise applicable, that such program or activity is not covered. Other statutes now in force or hereafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

§ 17.3 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 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 respect individuals of a particular race, color, or national origin.

(3) References in this section to 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) The enumeration of specific forms of prohibited discrimination in this paragraph (b) and paragraph (c) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Employment practices.* 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 (1) to reduce the unemployment of such individuals or to help them through employment to meet subsistence needs, (2) to assist such individuals in meeting 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. Assistance given programs under the following laws has one of the above purposes as a primary objective:

Department projects under the Public Works Acceleration Act, 42 U.S.C. 2641-2643.

Aid to education—Commercial fisheries, 16 U.S.C. 760d.

Water Resources Research Act of 1964, Title I, Public Law 88-379, 78 Stat. 329.

Programs under statutes 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.

The requirements applicable to construction employment under any such program shall be those specified in or pursuant to E.O. 11114.

(d) *Programs for Indians, natives of certain territories, and Alaska natives.* An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program which, in accordance with Federal law, is limited to Indians, natives of certain territories, or Alaska natives, if the individual is not a member of the class to which the program is addressed. Such programs include those authorized by statutes listed in Appendix B of this part.

(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.

§ 17.4 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. 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 head of the bureau or office administering the Federal financial assistance 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) The assurance required in the case of a transfer of real property, except where covered by subparagraph (3) of this paragraph (a), shall be inserted in the instrument effecting the transfer of any such land, together with any improvements located thereon, and shall consist of (i) a condition coupled with a right to be reserved to the Department to revert title to the property in the event of breach of such nondiscrimination condition during 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, and (ii) a covenant running with the land for the same period. 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 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 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) *Continuing State programs.* (1) Every application by a State or any agency or political subdivision of a State to carry out a program involving continuing Federal financial assistance to which this regulation applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (i) 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, or a statement of the extent to which it is not, at the time the statement is made, so conducted, and (ii) provide or be accompanied by provision for such methods of administration for the program as are found by the head of the bureau or office administering the Federal financial assistance 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, including methods of administration which give reasonable assurance that any noncompliance indicated in the statement under subdivision (i) of this subparagraph will be corrected.

(2) With respect to some programs which are carried out by States or agencies or political subdivisions of States and which involve continuing Federal financial assistance administered by the Department, there has been no requirement that applications be filed by such recipients. From the effective date of this part no Federal financial assistance administered by this Department will be extended to a State or to an agency or a political subdivision of a State unless an application for such Federal financial assistance has been received from the State or State agency or political subdivision.

(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 United States Commissioner of Education 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 Commissioner 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.

(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, for a student assistance 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 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 head of the bureau or office administering the Federal financial assistance, 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.

§ 17.5 Compliance information.

(a) *Cooperation and assistance.* The head of each bureau or office administering Federal financial assistance 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 head of the bureau or office administering the Federal financial assistance timely, complete and accurate compliance reports, at such times, and in such form and containing such information, as the head of the bureau or office 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 head of the bureau or office administering the Federal financial assistance or his designee or by an employee authorized 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 head of the bureau or office administering the Federal financial assistance finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 17.6 Conduct of investigations.

(a) *Periodic compliance reviews.* The head of each bureau or office administering Federal financial assistance 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 head of the bureau or office administering the Federal financial assistance 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 head of the bureau or office or his designee.

(c) *Investigations.* The head of a bureau or office 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 regulation, the head of the bureau or office 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 § 17.7.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the head of the bureau or office 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.

§ 17.7 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.

(b) *Noncompliance with § 17.4.* If an applicant fails or refuses to furnish an assurance required under § 17.4 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 such 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 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 head of the bureau or office administering the Federal financial assistance 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 Secretary pursuant to paragraph (e) of § 17.9, 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 applicant or recipient as to whom such 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 head of the bureau or office administering the Federal financial assistance has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (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.

§ 17.8 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by paragraph (c) of § 17.7, 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 head of the bureau or office or the hearing examiner to whom the matter has been assigned 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 paragraph (c) of § 17.7 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 head of the bureau or office or 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 the head of the bureau or office admin-

istering the Federal financial assistance 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 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 sections 5 through 8 of the Administrative Procedure Act (5 U.S.C. 1004 through 1007) 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.

(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 that 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 procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 17.9.

§ 17.9 Decisions and notices.

(a) *Decision by a 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 head of the bureau or office administering the Federal

financial assistance for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. If 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 head of the bureau or office his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the head of the bureau or office 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 head of the bureau or office shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence either of exceptions or of a notice of review, the initial decision shall constitute the final decision of the head of the bureau or office.

(b) *Decisions on record or review by the head of a bureau or office.* Whenever a record is certified to the head of the bureau or office for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the head of the bureau or office 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 head of the bureau or office 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 paragraph (a) of § 17.8, a decision shall be made by the head of the bureau or office 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 examiner or the head of a bureau or office 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 regulation with which it is found that the applicant or recipient has failed to comply.

(e) *Approval by Secretary.* Any final decision of the head of a bureau or office 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.

(f) *Content of decisions.* 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 pro-

gram 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 non-compliance and satisfies the head of the bureau or office that it will fully comply with this part.

§ 17.10 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 17.11 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 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 regulation. Nothing in this regulation, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 and regulations issued thereunder, (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.* The head of each bureau and office administering Federal financial assistance shall issue and promptly make available to interested persons 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 such officials of the Department as he deems appropriate, 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 § 17.9), 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 of the Act and this part to similar programs and in similar situations.

§ 17.12 Definitions.

As used in this part:

(a) The term "Act" means the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

(b) The term "Department" means the Department of the Interior, and includes each of its bureaus and offices.

(c) The term "Secretary" means the Secretary of the Interior.

(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) grants or donations of Federal property and interests in property, (3) the detail of Federal personnel, (4) 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 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, or organization, or any 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 the ultimate beneficiary under 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 the head of a bureau or office, 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.

This part shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

STEWART L. UDALL,
Secretary of the Interior.

NOVEMBER 30, 1964.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

Federal financial assistance subject to Part 17 includes, but is not limited to, that authorized by the following statutes:

1. *Public Lands and Acquired Lands.* (a) Grants and loans of Federal funds.

1. Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. secs. 181-287).

2. Mineral Leasing Act for Acquired Lands (30 U.S.C. secs. 351-359).

3. Alaska Grazing Act (44 Stat. 1452, 48 U.S.C. sec. 471, et seq.).

4. Proceeds of Certain Land Sales (R.S. sec. 3689, as amended, 31 U.S.C. sec. 711 (17)).

5. Taylor Grazing Act (48 Stat. 1269, as amended, 43 U.S.C. sec. 315 et seq.).

6. Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (50 Stat. 874, 43 U.S.C. sec. 1181f).

7. Payment to States for Swamp Lands Erroneously Sold by U.S. (R.S. sec. 3689, as amended, 31 U.S.C. 711 (18)).

8. Alaska Statehood Act, sec. 6(f), (72 Stat. 341, 48 U.S.C. note preceding sec. 21).

(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Materials Act (61 Stat. 681, as amended, 30 U.S.C. secs. 601-604).

2. Rights-of-way for Tramroads, Canals, Reservoirs (28 Stat. 635, as amended, 43 U.S.C. secs. 956, 957).

3. Highway Rights-of-way (R.S. sec. 2477, 43 U.S.C. sec. 932).

4. Small Tract Act (52 Stat. 609, as amended, 43 U.S.C. secs. 682a-682e).

5. Rights-of-way for Dams, Reservoirs, Water Plants, Canals, etc. (33 Stat. 628, 16 U.S.C. sec. 524).

6. Rights-of-way for Power and Communication Facilities (36 Stat. 1253, as amended, 43 U.S.C. sec. 961).

7. Rights-of-way for Electrical Plants, Poles, etc. (31 Stat. 790, as amended, 43 U.S.C. sec. 959).

8. Recreation and Public Purposes Act (44 Stat. 741, as amended, 43 U.S.C. secs. 869-869-4).

9. Stock-Watering Reservoirs (29 Stat. 434, as amended, 43 U.S.C. secs. 952-955).

10. Alaska Housing Authority Act (63 Stat. 60, 43 U.S.C. sec. 484c).

11. Railroad Rights-of-way in Alaska (30 Stat. 409, 48 U.S.C. secs. 411-419).

12. Grants to States in Aid of Schools (44 Stat. 1026, as amended, 43 U.S.C. sec. 870).

13. Carey Act (28 Stat. 422, as amended, 43 U.S.C. sec. 641).

14. Airports and Aviation Fields (45 Stat. 728, as amended, 49 U.S.C. secs. 211-214).

15. Special Land Use Permits (R.S. sec. 453, as amended, 43 U.S.C. sec. 2).

16. Rights-of-way for Irrigation and Drainage (26 Stat. 1101, as amended, 43 U.S.C. sec. 946).

17. Rights-of-way for Pipelines to Transport Oil or Natural Gas (41 Stat. 449, as amended, 30 U.S.C. sec. 185).

18. Townsite Laws (R.S. 2380 et seq., as amended, 43 U.S.C. sec. 711 et seq.).

19. Leases of Lands near Springs (43 Stat. 1133, 43 U.S.C. sec. 971).

20. Rights-of-way for Railroads (18 Stat. 482, 43 U.S.C. sec. 934).

21. Grants of Easements (76 Stat. 1129, 40 U.S.C. secs. 319-319c).

II. *Water and Power.* (a) Grants and loans of Federal funds.

1. Federal Reclamation Program (32 Stat. 388, 43 U.S.C. sec. 391, and Acts amendatory or supplementary thereto).

2. Reservation of Land for Park, Playground, or Community Center (38 Stat. 727, 43 U.S.C. sec. 569).

3. Distribution System Loan Program (69 Stat. 244, as amended, 43 U.S.C. sec. 421a-421d).

4. Rehabilitation and Betterment Loan Program (63 Stat. 724, as amended, 43 U.S.C. sec. 504).

5. Small Reclamation Project Loan Program (70 Stat. 1044, 43 U.S.C. sec. 422a-422k).

6. Assistance to School Districts on Reclamation Projects (62 Stat. 1108, 43 U.S.C. sec. 385a).

7. Payment from Colorado River Dam Fund, Boulder Canyon Project (54 Stat. 776, as amended, 43 U.S.C. 618(c)).

8. Payment on In Lieu of Taxes Lands Acquired Pursuant to Columbia Basin Project Act (57 Stat. 19, 16 U.S.C. sec. 835c-1).

9. Payment in Lieu of Taxes on Land to Trinity County, California (69 Stat. 729).

10. Saline Water Research Program (66 Stat. 328, as amended, 42 U.S.C. sec. 1951).

11. Water User Repayment Obligations on Reclamation Projects (43 Stat. 703, 43 U.S.C. sec. 501, 62 Stat. 273, 66 Stat. 754).

12. Water Resources Research Act (78 Stat. 329).

(b) Sale, lease, grant or other disposition of, or the permission to use Federal property or any interest in such property at less than fair market value.

1. Townsite Disposal on Reclamation Projects (34 Stat. 116, 43 U.S.C. sec. 566).

2. Transfer of Federal Property in Coulee Dam, Washington (71 Stat. 529, 16 U.S.C. sec. 835c note).

3. Transfer of Federal Property to Boulder City, Nevada (72 Stat. 1726, 43 U.S.C. sec. 617u note).

4. Reservation of Land for Park, Playground, or Community Center (38 Stat. 727, 43 U.S.C. sec. 569).

5. Saline Water Research Program-Donation of Laboratory Equipment (72 Stat. 1793, 42 U.S.C. sec. 1892).

6. Reclamation Program-Conveyance of Land to School Districts (41 Stat. 326, 43 U.S.C. sec. 570).

7. Recreation and Public Purposes Program (44 Stat. 741, as amended, 43 U.S.C. sec. 869-869a).

8. Dedication of Land for Public Purposes, Page, Arizona (72 Stat. 1686, 1688).

9. Removal of Sand, Gravel, and Other Minerals, and Building Materials from Reclamation Project Lands (53 Stat. 1196, as amended, 43 U.S.C. sec. 387).

III. *Mineral Resources.* Grants and loans of Federal funds.

1. Control of Coal Mine Fires (68 Stat. 1009, 30 U.S.C. sec. 551-558 et seq.).

2. Anthracite Mine Drainage and Flood Control and Sealing of Abandoned Mines and Filling Voids (69 Stat. 352, as amended, 30 U.S.C. secs. 571-576).

IV. *Fish and Wildlife.* (a) Grants and loans of Federal funds.

1. Pittman-Robertson Act (50 Stat. 917, as amended, 16 U.S.C. sec. 669).

2. Dingell-Johnson Act (64 Stat. 430, 16 U.S.C. sec. 777).

3. Sharing of Refuge Revenues (49 Stat. 383, as amended, 16 U.S.C. sec. 715b).

4. Aid to Alaska (Section 6(e) of the Alaska Statehood Act, 72 Stat. 340, and Act of February 28, 1944, 58 Stat. 101, 16 U.S.C. sec. 631e).

5. Commercial Fisheries Resource and Development Act (78 Stat. 197).

6. Aid to Education (70 Stat. 1126, 16 U.S.C. sec. 760d).

7. Development of Disease Resistant Oysters (76 Stat. 356, 16 U.S.C. secs. 760j-760l).

(b) Sale, lease, grant, or other disposition of, or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Cooperative Research and Training Program for Fish and Wildlife Resources (74 Stat. 733, 16 U.S.C. sec. 753a).

2. Fishery Development in the South Pacific (61 Stat. 726, as amended, 16 U.S.C. sec. 758b).

3. Migratory Marine Fishery Program (73 Stat. 642, 16 U.S.C. sec. 760f).

4. Protection and Conservation of Bald and Golden Eagles (54 Stat. 251, as amended, 16 U.S.C. sec. 668a).

5. Wildlife Land Transfers (sec. 8 of Colorado River Storage Project Act of 1956, 70 Stat. 110, 43 U.S.C. sec. 620g).

6. Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. secs. 661-664).

(c) Furnishing of services of a type for which the recipient would otherwise pay.

1. Rice Land Fishery Program (72 Stat. 35, 16 U.S.C. sec. 778a).

2. Lamprey Eradication Program (60 Stat. 930, as amended, 16 U.S.C. sec. 921).

3. Cooperative Research and Training Program for Fish and Wildlife Resources (74 Stat. 733, 16 U.S.C. sec. 753a).

4. Fishery Development in the South Pacific (61 Stat. 726, as amended, 16 U.S.C. sec. 758b).

5. Migratory Marine Fishery Program (73 Stat. 642, 16 U.S.C. sec. 760f).

6. Fish and Wildlife Coordination Act (48 Stat. 401, as amended, 16 U.S.C. sec. 661 et seq.).

V. *Parks and Territories.* (a) Grants and loans of Federal funds.

1. Payments to School Districts—Yellowstone National Park (62 Stat. 338, 16 U.S.C. sec. 40a).

2. Payments in Lieu of Taxes—Grand Teton National Park (64 Stat. 851, 16 U.S.C. 406d-3).

3. Payments to North Dakota for International Peace Park (63 Stat. 888, as amended, 68 Stat. 300, 72 Stat. 985).

4. Bureau of Outdoor Recreation (77 Stat. 49, 16 U.S.C. 4601).

5. Revised Organic Act of the Virgin Islands (68 Stat. 497, as amended, 48 U.S.C. sec. 1541-1644).

6. Guam Rehabilitation Act (77 Stat. 302).

7. Organic Act of Guam (64 Stat. 384, as amended, 48 U.S.C. secs. 1421-1425 except sec. 9(a), 48 U.S.C. sec. 1422c(a)).

8. Guam Agricultural Act (P.L. 88-584, 78 Stat. 926).

(b) Sale, lease, grant or other disposition of, or the permission to use Federal property or any interest in such property at less than fair market value.

1. Puerto Rico Federal Relations Act (39 Stat. 954, 48 U.S.C. sec. 748).

2. Virgin Islands Corporation Act (63 Stat. 350, as amended, 48 U.S.C. sec. 1407 et seq.).

3. Territorial Submerged Lands Act (77 Stat. 338, 48 U.S.C., secs. 1701-1704).

4. Organic Act of Guam (64 Stat. 392, 48 U.S.C. 1421f(c)).

(c) Furnishing of services by the Federal Government of a type for which the recipient would otherwise pay.

1. Bureau of Outdoor Recreation (77 Stat. 49, 16 U.S.C. sec. 4601).

VI. *Indian Affairs.* (a) Grants and loans of Federal funds.

1. Menominee County, Wis. Educational Grants (76 Stat. 53).

(b) Sale, lease, grant, or other disposition of or the permission to use, Federal property or any interest in such property at less than fair market value.

1. Conveyance of School Property (67 Stat. 41, as amended, 25 U.S.C. sec. 293a).

2. Adult Vocational Training Act (70 Stat. 986, 25 U.S.C. sec. 309).

VII. *General.* 1. Department Projects under the Public Works Acceleration Act (76 Stat. 541, 42 U.S.C. secs. 2641-2643).

2. Grants for Support of Scientific Research (72 Stat. 1793, 42 U.S.C. secs. 1891-1893).

3. Special Use Permits (R.S. sec. 441, as amended, 5 U.S.C. sec. 485).

4. Land and Water Conservation Fund Act of 1964 (Public Law 88-578, 78 Stat. 897).

APPENDIX B

The following statutes authorize programs limited to individuals of a particular race, color, or national origin.

I. *Indians and Alaska Natives.* 1. Snyder Act (42 Stat. 208, 25 U.S.C. sec. 13).

2. Adult Vocational Training Act (70 Stat. 986, 25 U.S.C. sec. 309).

3. Vocational and Trade School Act (48 Stat. 986, 25 U.S.C. sec. 471).

4. Johnson-O'Malley Act (48 Stat. 596, as amended, 25 U.S.C. secs. 452-53).

5. Revolving Fund for Loan to Indians (48 Stat. 986, 25 U.S.C. sec. 470).

6. Revolving Fund for Loans to Tribes (77 Stat. 301).

7. Conveyance of Buildings, Improvements, or Facilities to Tribes (70 Stat. 1057, 25 U.S.C. sec. 443a).

8. Alaska Reindeer Act (50 Stat. 900, 48 U.S.C. secs. 250-250p).

9. Disposals to Alaskan Natives (44 Stat. 629, 48 U.S.C. secs. 355a and 355c).

II. *Natives of Certain Territories.* 1. Acceptance of Samoan Cession Agreement (45 Stat. 1253, as amended, 48 U.S.C. 1661).

2. Samoan Omnibus Act (76 Stat. 586, 48 U.S.C. 1666).

3. Guam Organic Act (64 Stat. 387, 48 U.S.C. 1422c).

[F.R. Doc. 64-12538; Filed, Dec. 3, 1964; 4:23 p.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 80—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Subtitle A 45 CFR is hereby amended by adding the following new Part 80:

Sec.	Purpose.
80.1	Application of this part.
80.2	Discrimination prohibited.
80.3	

Sec.	
80.4	Assurances required.
80.5	Illustrative applications.
80.6	Compliance information.
80.7	Conduct of investigations.
80.8	Procedure for effecting compliance.
80.9	Hearings.
80.10	Decisions and notices.
80.11	Judicial review.
80.12	Effect on other regulations; forms and instructions.
80.13	Definitions.

AUTHORITY: The provisions of this Part 80 are issued under sec. 602, 78 Stat. 252, and the laws referred to in Appendix A.

§ 80.1 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 Department of Health, Education, and Welfare.

§ 80.2 Application of this part.

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 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 regulation 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 any such program, of any employer, employment agency, or labor organization, except to the extent described in § 80.3. 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.

§ 80.3 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 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 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) 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.

(c) *Employment practices.* 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. The following programs under existing laws have one of the above objectives as a primary objective:

(a) Department projects under the Public Works Acceleration Act, Public Law 87-658.

(b) Community work and training programs under title IV of the Social Security Act, 42 U.S.C. 609.

(c) Work-study program under the Vocational Education Act of 1963, P.L. 88-210, sec. 13.

(d) Programs 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) Establishment of sheltered workshops under the Vocational Rehabilitation Act, 29 U.S.C. 32-34.

The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114.

(d) *Indian Health and Cuban Refugee 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.

§ 80.4 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. 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 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) The assurance required in the case of a transfer of surplus real property shall be inserted in the instrument effecting the transfer of any such surplus land, together with any improvements located thereon, and shall consist of (i) a condition coupled with a right to be reserved to the Department to revert title to the property in the event of breach of such nondiscrimination condition during 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, and (ii) a covenant running with the land for the same period. In the event a transferee of surplus 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 encumbrance remains effective.

(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 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 part, or a statement of the extent to which it is not, at the time the statement is made, so conducted, 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, including methods of administration which give reasonable

assurance that any noncompliance indicated in the statement under subparagraph (1) of this paragraph will be corrected.

(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 Commissioner of Education 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 Commissioner may reserve the right to re-determine, 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, 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 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.

§ 80.5 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions to some of the major programs 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 part, as a condition of the receipt of Federal financial assistance.)

(a) In grant programs which support 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 the Federally-affected area programs (P.L. 315 and P.L. 874) for construction aid and for general support of the operation of elementary or secondary schools, or in programs for 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.

(c) In a research, training, demonstration, 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 Department 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.

(d) In a training grant to a hospital or other 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 and any provision of medical or other services and any financial aid to individuals incident to the program.

(e) In grant programs 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 the case of hospital construction 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 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.

(f) 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.

(g) Each applicant for a grant for the construction of educational television facilities is required to provide an assurance that it will, in its broadcast services, give due consideration to the interests of all significant racial or ethnic groups within the population to be served by the applicant.

(h) 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 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 program as respects individuals of a particular race, color, or national origin.

§ 80.6 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 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. 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 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 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 Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 80.7 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.

(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 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 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 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 § 80.8.

(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 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.

§ 80.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this regulation, 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 § 80.4.* If an applicant fails or refuses to furnish an assurance required under § 80.4 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 such 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 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 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 Secretary pursuant to § 80.10(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 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 Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Secretary, (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 the regulation and to take such corrective action as may be appropriate.

§ 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 or 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 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 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 ac-

cordance with section 11 of the Administrative Procedure Act.

(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 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.

(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 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 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 regulation is concerned, shall be made in accordance with § 80.10.

§ 80.10 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. 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 § 80.9(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 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 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 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.

(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 assur-

ance 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.

§ 80.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 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 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 any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114 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, 28 F.R. 734, or (3) 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 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 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 § 80.10), 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 to similar programs and in similar situations.

As used in this part—

(a) The term "Department" means the Department of Health, Education, and Welfare, and includes each of its operating agencies and other organizational units.

(b) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(c) The term "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 within the Department 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, 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.

(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 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.

Effective date. This part shall become effective on the 30th day following the date of its publication in the FEDERAL REGISTER.

Dated: November 27, 1964.

[SEAL] ANTHONY J. CELEBREZZE,
Secretary of
Health, Education, and Welfare.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

PROGRAMS TO WHICH THIS PART APPLIES

Part 1. *Programs other than State-administered continuing programs.*

1. Experimental hospital facilities (sec. 624, Public Health Service Act, 42 U.S.C. 291n).
2. Health research facilities (title VII, part A, Public Health Service Act, 42 U.S.C. 292-292j).
3. Teaching facilities for medical, dental, and other health personnel (title VII, part B, Public Health Service Act, 42 U.S.C. 293-293h; secs. 801-804, Public Health Service Act, 42 U.S.C. 296, 296a-c).
4. Mental retardation research facilities (title VII, part D, Public Health Service Act, 42 U.S.C. 295-295e).
5. University affiliated mental retardation facilities (part B, Mental Retardation Facilities Construction Act, 42 U.S.C. 2661-2665).
6. Heart disease laboratories and related facilities for patient care (sec. 412(d), Public Health Service Act, 42 U.S.C. 287a(d)).
7. Municipal sewage treatment works (sec. 6, Federal Water Pollution Control Act, 33 U.S.C. 466e).
8. Loans for acquisition of science, mathematics, and foreign language equipment (title III, National Defense Education Act, 20 U.S.C. 445).
9. Construction of facilities for institutions of higher education (Higher Education Facilities Act, 20 U.S.C. 701-757).
10. School construction in Federally-affected areas (20 U.S.C. 631-645).
11. Educational television broadcasting facilities (47 U.S.C. 390-397).
12. Surplus real and related personal property disposal (40 U.S.C. 484(k)).
13. George Washington University Hospital construction (76 Stat. 83, P.L. 87-460, May 31, 1962).

14. Loan service of captioned films for the deaf (42 U.S.C. 2491-2494).

15. Residential vocational education schools (20 U.S.C. 351).

16. Demonstration projects under the Public Works Acceleration Act (P.L. 87-658).

17. Research projects, including conferences, communication activities and primate or other center grants (secs. 301, 303, 308, 624, Public Health Service Act, 42 U.S.C. 241, 242a, 242f, 291n; sec. 4, Federal Water Pollution Control Act, 33 U.S.C. 466c; sec. 3, Clean Air Act, 42 U.S.C. 1857b).

18. General research support (sec. 301(d), Public Health Service Act, 42 U.S.C. 241).

19. Community health studies and demonstrations (sec. 316, Public Health Service Act, 42 U.S.C. 247a).

20. Mental health demonstrations and administrative studies (sec. 303(a)(2), Public Health Service Act, 42 U.S.C. 242a).

21. Migratory workers health services (sec. 310, Public Health Service Act, 76 Stat. 592, P.L. 87-692, Sept. 25, 1962).

22. Intensive vaccination projects (sec. 317, Public Health Service Act, 42 U.S.C. 247b).

23. Tuberculosis and venereal disease control projects (current appropriation Act, P.L. 88-605).

24. Air pollution demonstration and survey projects and control programs (secs. 3 and 4, Clean Air Act, 42 U.S.C. 1857b, 1857c).

25. Water pollution demonstration grants (sec. 4(a)(2), Federal Water Pollution Control Act, 33 U.S.C. 466c).

26. Health research training projects and fellowship grants (secs. 301, 433, Public Health Service Act, 42 U.S.C. 241, 289c).

27. 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. 3, Clean Air Act, 42 U.S.C. 1857b; sec. 4, Federal Water Pollution Control Act, 33 U.S.C. 466c).

28. Advanced professional nurse traineeships, improvement in nurse training and partial reimbursement to diploma schools of nursing (secs. 805, 806, 821, Public Health Service Act, 42 U.S.C. 296d, 296e, 297).

29. Grants to institutions for traineeships for professional public health personnel (sec. 306, Public Health Service Act, 42 U.S.C. 242d).

30. Grants to schools for specialized training in public health (sec. 309, Public Health Service Act, 242g).

31. Grants for special vocational rehabilitation projects (sec. 4, Vocational Rehabilitation Act, 29 U.S.C. 34).

32. Experimental, pilot or demonstration projects to promote the objectives of title I, IV, X, XIV, or XVI of the Social Security Act (sec. 1115, Social Security Act, 42 U.S.C. 1315).

33. Social security and welfare cooperative research or demonstration projects (sec. 1110, Social Security Act, 42 U.S.C. 1310).

34. Child welfare research, training or demonstration projects (sec. 526, Social Security Act, 42 U.S.C. 726).

35. Research projects relating to maternal and child health services and crippled children's services (sec. 532, Social Security Act, 42 U.S.C. 729a).

36. Maternal and child health special project grants to institutions of higher learning (sec. 502(b), Social Security Act, 42 U.S.C. 702(b)).

37. Maternity and infant care special project grants to local health agencies (sec. 531, Social Security Act, 42 U.S.C. 726).

38. Special project grants to institutions of higher learning for crippled children's services (sec. 512(b), Social Security Act, 42 U.S.C. 712(b)).

39. Demonstration and evaluation projects and training of personnel in the field of juvenile delinquency (Juvenile Delinquency and Youth Offenses Control Act of 1961 (42 U.S.C. 2541, et seq.)).

40. Cooperative educational research (20 U.S.C. 331-332).

41. Language research (title VI, National Defense Education Act, 20 U.S.C. 512).

42. Research in new educational media (title VII, National Defense Education Act, 20 U.S.C. 541-542).

43. Research, training, and demonstration projects under Vocational Education Act of 1963 (sec. 4(c), 20 U.S.C. 35c(c)).

44. Grants for research and demonstration projects in education of handicapped children (20 U.S.C. 618).

45. Training grants for welfare personnel (sec. 705, Social Security Act, 42 U.S.C. 906).

46. Allowances to institutions training graduate fellows or other trainees (title IV, National Defense Education Act, 20 U.S.C. 461-465; sec. 4, Vocational Rehabilitation Act, 29 U.S.C. 34; secs. 301, 433, etc., Public Health Service Act, 42 U.S.C. 241, 289(c), etc.; sec. 3, Clean Air Act, 42 U.S.C. 1857b; sec. 4, Federal Water Pollution Control Act, 33 U.S.C. 466c).

47. Grants for teaching and the training of teachers for the education of handicapped children (20 U.S.C. 611-617).

48. Training persons in the use of films for the deaf (42 U.S.C. 2493(b)(4)).

49. Training for teachers of the deaf (20 U.S.C. 671-676).

50. Research in the use of educational and training films for the deaf (42 U.S.C. 2493(a)).

51. Operation and maintenance of schools in Federally-affected areas (20 U.S.C. 236-244).

52. Grants for teacher training and employment of specialists in desegregation problems (sec. 405, Civil Rights Act of 1964, P.L. 88-352).

53. Issuance to agencies or organizations of rent-free permits for operation, on Federal property in the custody of the Department, of vending stands for the blind, credit unions, Federal employee associations, etc. (Randolph-Sheppard Vending Stand Act, 20 U.S.C. 107-107f; 45 CFR Part 20; sec. 25, Federal Credit Union Act, 12 U.S.C. 1770; etc.).

54. Higher education student loan program (title II, National Defense Education Act, 20 U.S.C. 421-429).

55. Health professions school student loan program (title VII, Part C, Public Health Service Act, 42 U.S.C. 294; secs. 822-828, Public Health Service Act, 42 U.S.C. 297 a-g).

56. Land-grant college aid (7 U.S.C. 301-329).

57. Language and area centers (title VI, National Defense Education Act, 20 U.S.C. 511-513).

58. American Printing House for the Blind (20 U.S.C. 101-105).

59. Future Farmers of America (36 U.S.C. 271-291) and similar programs.

60. Science Clubs (20 U.S.C. 2 (note)).

61. Howard University (20 U.S.C. 121-131).

62. Gallaudet College (31 D.C. Code, Ch. 10).

63. Hawaii leprosy payments (sec. 331, Public Health Service Act, 42 U.S.C. 255).

64. Grants to schools of public health for provision of comprehensive training and specialized services and assistance (sec. 314(c), Public Health Service Act, 42 U.S.C. 246(c)).

65. Grants to agencies and organizations under Cuban Refugee program (22 U.S.C. 2601(b)(4)).

66. Grants for construction of hospitals serving Indians (P.L. 85-151, 42 U.S.C. 2005).

67. Indian Sanitation Facilities (P.L. 86-121, 42 U.S.C. 2004a).

68. Areawide planning of health facilities (sec. 318, Public Health Service Act, 42 U.S.C. 247c).

69. Training institutes under sec. 511 of the National Defense Education Act of 1958, as amended (20 U.S.C. 491) and under title XI of such Act as added by P.L. 88-665 (20 U.S.C. 591-592).

Part 2. State-administered continuing programs.

1. Grants to States for control of venereal disease, tuberculosis, and for public health services (heart, cancer, mental health, radiological health, etc.) (sec. 314, Public Health Service Act (42 U.S.C. 246), and current appropriation act).

2. Grants to States for water pollution control (sec. 5, Federal Water Pollution Control Act, 33 U.S.C. 466d).

3. Grants to States for vocational rehabilitation services (sec. 2, Vocational Rehabilitation Act, 29 U.S.C. 32).

4. Grants to States for projects to extend and improve vocational rehabilitation services (sec. 3, Vocational Rehabilitation Act, 29 U.S.C. 33).

5. Designation of State licensing agency for blind operators of vending stands (Randolph-Sheppard Vending Stand Act, 20 U.S.C. 107-107f).

6. Grants to States for old-age assistance and medical assistance for the aged (title I, Social Security Act, 42 U.S.C. 301-306).

7. Grants to States for aid and services to needy families with children (title IV, Social Security Act, 42 U.S.C. 601-609).

8. Grants to States for aid to the blind (title X, Social Security Act, 42 U.S.C. 1201-1206).

9. Grants to States for aid to the permanently and totally disabled (title XIV, Social Security Act, 42 U.S.C. 1351-1355).

10. Grants to States for aid to the aged, blind or disabled or for such aid and medical assistance for the aged (title XVI, Social Security Act, 42 U.S.C. 1381-1385).

11. Grants to States for maternal and child health services (title V, part 1, Social Security Act, 42 U.S.C. 701-705).

12. Grants to States for services for crippled children (title V, part 2, Social Security Act, 42 U.S.C. 711-715).

13. Grants to States for special projects for maternity and infant care (sec. 531, Social Security Act, 42 U.S.C. 729).

14. Grants to States for child welfare services (title V, part 3, Social Security Act, 42 U.S.C. 721-725, 727, 728).

15. Grants to States for public library services and construction (20 U.S.C. sec. 351-358; P.L. 88-269).

16. Grants to States for strengthening science, mathematics, and modern foreign language instruction (title III, National Defense Education Act, 20 U.S.C. 441-444).

17. Grants to States for guidance, counseling and testing of students (title V-A, National Defense Education Act, 20 U.S.C. 481-484).

18. Grants to States for educational statistics services (sec. 1009, National Defense Education Act, 20 U.S.C. 589).

19. Surplus personal property disposal donations for health and educational purposes through State agencies (40 U.S.C. 484(j)).

20. Grants to States for hospital and medical facilities (title VI, Public Health Service Act, 42 U.S.C. 291-291z).

21. Grants to States for community mental health centers construction (Community Mental Health Centers Act, 42 U.S.C. 2681-2688).

22. Grants to States for vocational education (Smith-Hughes Act, 20 U.S.C. 11-15, 16-28; George-Barden Act, 20 U.S.C. 151-159, 15aa-15j, 15aaa-15ggg; Supplementary Acts, 20 U.S.C. 30-34).

23. Grants to States for mental retardation facilities (Part C, Mental Retardation Facilities Construction Act, 42 U.S.C. 2671-2677).

24. Arrangements with State vocational education agencies for training under the Area Redevelopment Act and the Manpower Development and Training Act of 1962 (42 U.S.C. 2513(c), 2601, 2602).

25. Grants to States for comprehensive planning for mental retardation (title XVII, Social Security Act, 42 U.S.C. 1391-1394). [F.R. Doc. 64-12539; Filed, Dec. 3, 1964; 4:23 p.m.]

Chapter VI—National Science Foundation

PART 611—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE NATIONAL SCIENCE FOUNDATION—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Part 611 reads as follows:

Sec.	Purpose.
611.1	Application of part.
611.2	Discrimination prohibited.
611.3	Assurances required.
611.4	Illustrative applications.
611.5	Compliance information.
611.6	Conduct of investigations.
611.7	Procedure for effecting compliance.
611.8	Hearings.
611.9	Decisions and notices.
611.10	Judicial review.
611.11	Effect on other regulations; forms and instructions.
611.12	Definitions.

AUTHORITY: The provisions of this Part 611 issued under sec. 602, 78 Stat. 252 and sec. 11(a), 64 Stat. 153.

§ 611.1 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 Science Foundation.

§ 611.2 Application of part.

This part applies to any program for which Federal financial assistance is authorized under a law administered by the Foundation, 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 regulation 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 § 611.3. The fact that a program or activity is not listed in the Appendix 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 hereafter enacted

may be added to this list by notice published in the FEDERAL REGISTER.

§ 611.3 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 of 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) 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) 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.

(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.

(2) Programs 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, including research associates, where in training for the same or related employments, have one of the above purposes as a primary purpose.

(3) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Executive Order 11114.

(d) *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.

§ 611.4 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 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 Foundation 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) The assurance required in the case of a transfer of real property except where covered by subparagraph (3) of this paragraph shall be inserted in the instrument effecting the transfer of any such land, together with any improvements located thereon, and shall consist of (i) a condition coupled with a right to be reserved to the Foundation to revert title to the property in the event of breach of such nondiscrimination condition during 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, and (ii) a covenant running with the land for the same period. 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 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 the General Services Administration. (41 CFR 101-6.2.)

(b) *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 Commissioner of Education 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 Commissioner may reserve the right to re-determine, 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.

(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, 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 applicant establishes, to the satisfaction of the responsible Foundation 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.

§ 611.5 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions to some of the programs of the Foundation. (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.)

1. In programs for support to elementary or secondary schools such as for the acquisition of equipment 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.

2. 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 Foundation official that practices with respect to other parts or programs of the university will not interfere, directly or in-

directly, with fulfillment of the assurance required with respect to the graduate school.

3. In a training grant to a hospital or other 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.

4. In grant programs to assist in the construction of facilities for research or for the provision of educational 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 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.

5. Upon transfers of real or personal property for research 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.

§ 611.6 Compliance information.

(a) *Cooperation and assistance.* The responsible Foundation 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 Foundation official timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Foundation 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 Foundation 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 Foundation official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

§ 611.7 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Foundation 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 Foundation 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 Foundation official.

(c) *Investigations.* The responsible Foundation 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 non-compliance 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 regulation, the responsible Foundation 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 § 611.8.

(2) If an investigation does not warrant action pursuant to subparagraph (1) of this paragraph the responsible Foundation 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.

§ 611.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to com-

ply 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 § 611.4.* If an applicant fails or refuses to furnish an assurance required under § 611.4 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 Foundation shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such subsection, except that the Foundation 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.* No order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Foundation 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 Director and the National Science Board pursuant to § 611.10(e), and (4) the expiration of thirty 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 Foundation official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved by the Director and the National Science Board, (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 ten days from the mailing of such notice to the recipient or other person. During this period of at least ten 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.

§ 611.9 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 611.8(b), 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 twenty days after the date of such notice within which the applicant or recipient may request of the responsible Foundation 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 § 611.8(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 Foundation in Washington, D.C., at a time fixed by the responsible Foundation official unless he determines that the convenience of the applicant or recipient or of the Foundation requires that another place be selected. Hearings shall be held before the responsible Foundation official or, at the discretion of the Director, 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 Foundation 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 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 Foundation 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 non-compliance 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 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. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 611.10.

§ 611.10 Decisions and notices.

(a) *Decision by a person or persons other than the responsible Foundation 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 recommended findings and proposed decision to the responsible Foundation 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 Foundation official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible Foundation 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 Foundation 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 Foundation official.

(b) *Decisions on record or review by the responsible Foundation official.* Whenever, after hearing, a record is certified to the responsible Foundation official for decision or he reviews the decision of a hearing examiner pursuant to paragraph (a) of this section, or whenever the responsible Foundation 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 Foundation 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 § 611.9(a), a decision shall be made by the responsible Foundation 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, panel, or responsible Foundation official shall set forth the 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 and National Science Board.* Any final decision of a responsible Foundation 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 or the Act, shall promptly be transmitted to the Director who may approve such decision, may vacate it, or remit or mitigate any sanction imposed. In the event that the imposition of a sanction is considered appropriate by the Director, such decision will be forwarded to the National Science Board for approval before any sanction is 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 Foundation official that it will fully comply with this part.

§ 611.11 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 611.12 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 Foundation 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. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Orders 10925 and 11114, 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 Foundation 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 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 § 611.10), including the achievement of effective coordination and maximum uniformity within the Foundation and within the Executive Branch of the Government in the application of Title VI and this regulation to similar programs and in similar situations.

§ 611.13 Definitions.

As used in this part:

(a) The term "Foundation" means the National Science Foundation, and includes each of its organizational units.

(b) The term "Director" means the Director of the National Science Foundation.

(c) The term "responsible Foundation official" with respect to any program receiving Federal financial assistance means the Director or other official of the Foundation designated by the Director.

(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 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.

(f) 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.

(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, 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.

(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 Foundation 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.

Effective date. This part shall become effective on the 30th day after the date of its publication in the FEDERAL REGISTER.

Dated: November 30, 1964.

LELAND J. HAWORTH,
Director,
National Science Foundation.

Approved: December 3, 1964.

LYNDON B. JOHNSON.

APPENDIX A

PROGRAMS TO WHICH THIS PART APPLIES ¹

1. Support of basic scientific research.
2. Development and implementation of institutional science programs.
 - A. Institutional base grants.
 - B. Instructional equipment for undergraduate education.
 - C. Graduate science facilities.
 - D. Science development.
3. Support of specialized research facilities.
4. Science education programs.
 - A. Institutes.
 - B. Research participation and science activities for teachers.
 - C. Science education for undergraduate students.
 - D. Science education for secondary students.
 - E. Specialized advanced science education projects.
 - F. Cost of education payments to universities.

[F.R. Doc. 64-12540; Filed, Dec. 3, 1964; 4:23 p.m.]

¹ All the above programs listed are conducted pursuant to authority contained in the National Science Foundation Act of 1950, as amended, 42 U.S.C. 1861-1875.