FEDERAL REGISTER

VOLUME 34 • NUMBER 18

Tuesday, January 28, 1969 • Washington, D.C.

Pages 1297–1363

PART I

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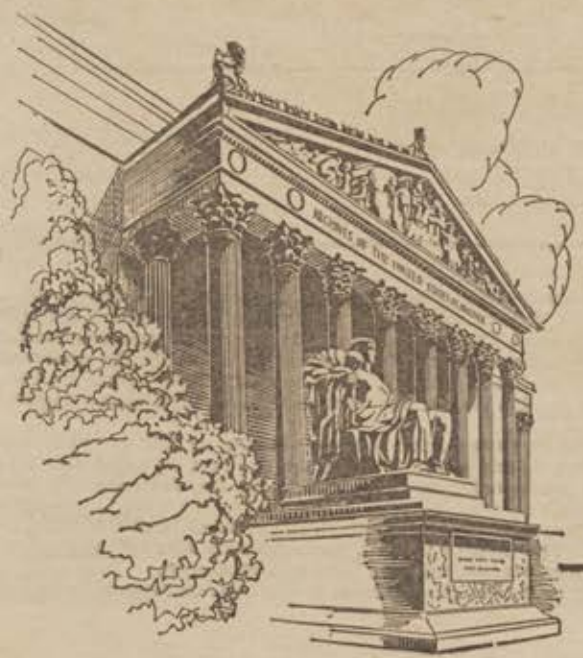

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LIST OF CFR SECTIONS AFFECTED

(ANNUAL CODIFICATION GUIDE—1968)

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Compiled by Office of the Federal Register,
National Archives and Records Service,
General Services Administration

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

Note to subscribers: The Annual 1968 List of CFR Sections Affected was mailed free of charge to FR subscribers on January 22, 1969.

FEDERAL REGISTER
Area Code 202 Phone 962-8626

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. 15), 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, U.S. Government Printing Office, Washington, D.C. 20402.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.

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Title 3—THE PRESIDENT

Executive Order 11453

ESTABLISHING THE CABINET COMMITTEE ON ECONOMIC POLICY

By virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of the Committee.* (a) There is hereby established the Cabinet Committee on Economic Policy (hereinafter referred to as "the Committee").

(b) The President shall preside over meetings of the Committee. The Vice President shall preside in the absence of the President.

(c) The Committee shall be composed of the following:

The Vice President

Secretary of the Treasury

Secretary of Agriculture

Secretary of Commerce

Secretary of Labor

Director of the Bureau of the Budget

Chairman of the Council of Economic Advisers

Counsellor to the President

and such other heads of departments and agencies as the President may from time to time designate.

SEC. 2. *Functions of the Committee.* The Committee shall advise and assist the President in the development and coordination of national economic programs and policies and shall perform such other duties as the President may from time to time prescribe. In addition to such duties, the Committee shall:

(1) Assist the President in the formulation of the basic goals and objectives of national economic policy;

(2) Develop recommendations for the basic strategy of national economic policy to serve as guides for decisions concerning specific economic programs and policies;

(3) Promote the coordination of Federal economic programs;

(4) Consult with individuals from academic, agricultural, business, consumer, labor, and other groups to assure the consideration of a wide range of views about national economic policy; and

(5) Recommend procedures for evaluating the effectiveness of Federal programs in contributing to our national economic objectives.

SEC. 3. *Administrative Arrangements.* (a) The Chairman of the Council of Economic Advisers will coordinate the work of the Committee.

(b) In compliance with provisions of applicable law, and as necessary to effectuate the purposes of this order, (1) the White House Office shall provide or arrange for supporting clerical administrative and other staff services for the Committee, and (2) each Federal department and agency which is represented on the Committee shall furnish the Committee such information and other assistance as may be available.

SEC. 4. *Construction.* Nothing in this order shall be construed as subjecting any department, establishment, or other instrumentality of the executive branch of the Federal Government or the head thereof, or any function vested by law in or assigned pursuant to law to any such agency or head, to the authority of any other such agency or head or as abrogating, modifying, or restricting any such function in any manner.

Richard Nixon

THE WHITE HOUSE,
January 24, 1969.

[F.R. Doc. 69-1210; Filed, Jan. 24, 1969; 4:45 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Emergency Preparedness

Schedules A and C are amended to show the title of the Office of Emergency Planning has been changed to Office of Emergency Preparedness. Effective on publication in the FEDERAL REGISTER, the headnotes of § 213.3126 of Schedule A and § 213.3326 of Schedule C are amended to reflect the current title of the agency.

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69–1116; Filed, Jan. 27, 1969; 8:48 a.m.]

PART 511—POSITION CLASSIFICATION UNDER THE CLASSIFICATION ACT SYSTEM

PART 534—PAY UNDER OTHER SYSTEMS

Miscellaneous Amendments

1. Section 511.201(b) is amended to show the exclusion from classification under the General Schedule of the position of medical student intern with approved training after a minimum of 1 year medical school training, Department of Health, Education, and Welfare, effective June 10, 1966; and the exclusion of medical student interns during the second year of medical school training, Department of the Army, effective December 15, 1968, as set out below.

§ 511.201 **Coverage of and exclusions from the Classification Act.**

* * * * *

(b) *Exclusions.* * * *

* * * * *

Medical student interns, Department of Health, Education, and Welfare, approved training after a minimum of 1 year medical school training.

Medical student interns, Department of the Army, during second year of medical school training.

* * * * *

(5 U.S.C. 5102)

2. Section 534.202(b) is amended to Natural Gas Act that the Commission add the maximum stipends for student interns, Department of Health, Education, and Welfare, effective June 10, 1966; and the maximum stipends for student interns, Department of the Army, effective December 15, 1968, as set out below.

§ 534.202 **Maximum stipends.**

* * * * *

(b) * * *

Medical student interns, Department of Health, Education, and Welfare: Approved training after a minimum of 1 year medical school training...	L–5
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* * * * *

(5 U.S.C. 5102, 5351, 5352, 5541)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 69–1117; Filed, Jan. 27, 1969; 8:48 a.m.]

Title 7—AGRICULTURE

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

[Lemon Reg. 357, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

Order, as amended. The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 910.657 (Lemon Reg. 357, 34 F.R. 810) are hereby amended to read as follows:

§ 910.657 **Lemon Regulation No. 357.**

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 24,180 cartons;
(ii) District 2: 81,840 cartons;
(iii) District 3: 121,830 cartons.

* * * * *

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

Dated: January 23, 1969.

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

[F.R. Doc. 69–1096; Filed, Jan. 27, 1969; 8:47 a.m.]

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

Subpart—Rules and Regulations

MISCELLANEOUS AMENDMENTS

Notice was published in the FEDERAL REGISTER issue of January 1, 1969 (34 F.R. 13), that the Department was giving consideration to a proposed amendment of the rules and regulations (§§ 929.101, 929.102, 929.103, 929.104, 929.105, and 929.106 of this part), hereinafter designated as Subpart—Rules and Regulations, currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929; 33 F.R. 11639), regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The amended marketing agreement and order are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was submitted by the Cranberry Marketing Committee, established under the said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

The notice afforded 15 days for interested persons to submit written data, views, or arguments in connection with said proposal. None were received.

After consideration of all relevant matter presented, including that in the

notice, the information and recommendations of the committee, and other available information, it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations is in accordance with said amended marketing agreement and order, will tend to effectuate the declared policy of the act and contribute to more effective operations under said marketing agreement and order.

Therefore, said rules and regulations are hereby designated as Subpart—Rules and Regulations and are hereby amended in the following respects:

1. A new § 929.107 is added reading as follows:

§ 929.107 Basis for determining established cranberry acreage.

(a) To be classified as established cranberry acreage pursuant to §§ 929.16 and 929.48, all such acreage must presently be producing cranberries on a commercial basis or planted, in accordance with order provisions, so as to produce cranberries on a commercial basis. "Commercial crop" is synonymous with "commercial basis" and shall mean:

(1) Acreage on which a commercial crop of cranberries was produced, harvested, and sold at least once during the crop years 1965–66 through 1967–68, and the record of such sales as verified by the handler thereof, shall show that the cranberries were produced in a quantity of at least 15 barrels per acre; or

(2) Acreage that has a sufficient density of growing vines to show that such acreage can produce a commercial crop of at least 15 barrels an acre without replanting or renovation of any kind.

(b) So that the committee may properly identify established acreage, the grower shall furnish information to the committee, on forms furnished by it upon request, information sufficient to establish that he is the grower for the acreage involved. It shall be the responsibility of the Cranberry Marketing Committee to determine no later than August 31, 1969, by physical inspection or other means whether there is sufficient vine density for cranberry acreage to qualify as "established cranberry acreage" in accordance with paragraph (a)(2) of this section. In making such determination, the committee shall be guided by standards of comparison between the potential bog and present existing bogs in the same area.

(c) If the determination were that all or part of the acreage eligible under paragraph (a)(2) of this section does not have sufficient vine coverage to produce 15 barrels an acre, that portion without sufficient vine coverage will not qualify as established acreage under this section. In the event only a portion of an acreage has sufficient vine population and density to produce 15 barrels of cranberries an acre, such portion will qualify as established cranberry acreage pursuant to this section. Since such qualified portion of the acreage would be eligible for a base quantity, it must be definitely and permanently delineated.

(d) It shall be the responsibility of the grower to maintain adequate sales records to show actual sales from established acreage and submit such records to the committee separately from sales records pertaining to any other acreage. The report of sales must be filed by the grower no later than February 1 of the calendar year succeeding the crop year to which such sales pertain, except that such report of sales for the 1968 crop year shall be filed no later than July 1, 1969.

2. A new § 929.108 is added reading as follows:

§ 929.108 Firm and substantial commitment as used in determining base quantities.

(a)(1) Pursuant to § 929.48(a)(1), provision has been made for growers who did not meet the August 16, 1968, deadline for having established cranberry acreage, but who had made a "firm and substantial commitment" prior to June 21, 1968, so that sales from such acreage may be eligible for calculating the base quantity. In considering what constitutes a "firm and substantial commitment" in order to grant an extension of time in which to plant, the committee should consider the investment in time, money, or labor prior to June 21, 1968, on acreage for the purpose of producing cranberries, which acreage was not planted prior to August 16, 1968. Applications based solely on the acquisition of land or equipment, or a combination thereof, shall not automatically constitute a proper basis for the Committee to find that a firm and substantial commitment had been made.

(2) To receive an extension of time beyond August 16, 1968, in which to plant so as to be eligible for an adjustment or a new base quantity, as provided in § 929.48(a)(1), a grower shall submit proof to the committee which is satisfactory to show a "firm and substantial commitment" had been made. Such proof should include vouchers and sales slips, and records of labor or other expenditures which were made on the specific acreage in question prior to June 21, 1968. Any other form of satisfactory proof shall be considered also. The grower shall file with the committee, on forms furnished by it, other information which may be necessary to substantiate his claim.

(b) To establish proof of commitment, the evidence submitted by the grower shall be in the form of a certified statement transmitted to the committee for its consideration. Such form shall include the following:

(1) The grower's name, address, and phone number;

(2) The location of the acreage and the date of acquisition;

(3) The total cranberry acreage planted prior to 1968;

(4) The total new acreage completed by August 16, 1968;

(5) The total acreage not completed by August 16, 1968;

(6) A statement of contractual labor or equipment used by the grower, including the name of the contractor, the date of the contract, and a copy of the contract;

(7) A list of the names of employees, if the grower employed his own labor force and equipment;

(8) Reasons why the acreage was not completed by August 16, 1968;

(9) A statement describing the work necessary to complete the unfinished bog, including an estimate of expenditures necessary to complete it, specifying the expected date of completion and the year the first crop will be harvested;

(10) A statement giving alternative uses to which the property might be put; and

(11) Any other factors or information which will assist the committee in determining whether to grant an extension of time for planting.

(c) In the event the committee determines an exception should be granted, it may grant the grower an extension of time beyond August 16, 1968, in which to plant vines on the acreage involved.

(d) In the event the grower is not satisfied with the determination of the committee as to whether to grant an extension, he may appeal such decision as provided for in § 929.48(c) of the order. Such extension of time will in no way affect the representative period during which the base quantity will be determined. All requests for an extension must be made to the committee not later than March 31, 1969, and in cases where extensions are granted, all work necessary to produce a crop on the acreage involved must be completed prior to August 1, 1969.

3. A new § 929.109 is added reading as follows:

§ 929.109 Unusual circumstances as used in determining base quantities.

"Unusual circumstances," as used in § 929.48(a)(3), shall include but not necessarily be limited to the taking of property under the power of eminent domain and also "Acts of God," such as an earthquake, seashore erosion, encroachment of sand dunes, saline contamination due to prolonged inundation, a forest fire, and any other circumstances which are beyond the grower's control and destroy the ability of a cranberry bog to produce cranberries to such an extent that the bog is found, in the judgment of the committee, to be permanently lost for commercial purposes. When a grower believes he has lost cranberry acreage due to "unusual circumstances" under the provisions of § 929.48, he shall apply and furnish information to the committee to sufficiently establish that "unusual circumstances" exist.

4. A new § 929.110 is added reading as follows:

§ 929.110 Transfers or sales of cranberry acreage during the representative period.

(a) Sales or transfers of cranberry acreage during the representative period shall be reported, in writing, by the transferor and transferee setting forth sales attributed to such acreage, to the committee at its office in Wareham, Mass., or at such other location as it may designate, not later than 30 days after the transaction has occurred.

(b) Upon transfer of all or a portion of a given acreage, the committee should be given certain specific information either on forms it will provide, or in statements provided by the parties. The purchaser and seller must provide the following information:

(1) Crop records for the acreage involved;

(2) Annual production and sales for each year during the base period on the acreage involved, either in total, or for each individual parcel; and

(3) Such other information as the committee deems necessary.

(c) Cranberry acreage sold or transferred during the representative period shall be recognized in connection with the issuance of base quantities as follows:

(1) If a grower sells all of the acreage comprising the entity, all prior sales made during the representative period, shall accrue to the purchaser.

(2) If a grower sells only a portion of the acreage comprising the entity from which prior sales have been made during the representative period, the purchaser and the seller must agree as to the amount of sales attributed to each portion and both parties give notice thereof to the committee listing such sales separately by years. However, the sales attributed to each such portion shall not exceed the potential production, as determined by the committee, for such acreage at the time of transfer.

5. A new § 929.125 is added reading as follows:

§ 929.125 **Committee review procedures.**

Pursuant to § 929.48(c), growers may request, and the committee shall grant, a review of determinations made by the committee pursuant to § 929.48(a) and (b), in accordance with the following procedures:

(a) If a grower is dissatisfied with a determination made by the committee which affects him, he may submit to the committee within 30 days after he is notified of the determination, a request for a review by the committee of that determination, along with any materials which he feels are pertinent and a written argument if he so desires.

(b) The committee shall review its determination within a reasonable length of time taking into account all materials submitted by the grower in accordance with paragraph (a) of this section, and any other material which it deems pertinent. Thereupon, the committee shall make a redetermination, and notify the grower of its conclusions, accompanied by the reasons for its decision.

(c) If the grower is not satisfied with the subsequent decision of the committee, he may appeal, through the committee, to the Secretary, within 30 days after he is notified of the committee's findings. The committee shall promptly forward the entire file on the matter to the Secretary.

(d) The Secretary shall promptly review the decision of the committee as a result of its redetermination, and in doing so shall consider at least the following information:

(1) The complete file on the issue which was submitted by the committee in accordance with paragraph (c), of this section;

(2) Additional pertinent information submitted to the Secretary by the grower; and

(3) Additional pertinent information submitted to the Secretary by the committee.

(e) Upon completion of his review, the Secretary shall reach a decision with respect to the matter before him. He shall promptly notify all interested persons of his decision, and such decision shall be final.

It is hereby found that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The amendment contains definitions and procedures necessary for implementation of the grower allotment provisions of the said marketing agreement and this part which became effective by amendment August 16, 1968, and it is essential that said amendment be issued as soon as possible so as to enable the Cranberry Marketing Committee effectively to perform its duties in accordance with said marketing agreement and this part; (2) notice of said amendment was given as hereinbefore stated giving opportunity for interested parties to submit data, views, or arguments with respect thereto, and none were received; (3) the effective date will not require any preparation on the part of persons affected by said amendment which cannot be completed prior thereto; and (4) no useful purpose would be served by delaying the effective date beyond that herein specified.

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

Dated, January 22, 1969, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 69–1097; Filed, Jan. 27, 1969; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

PART 14–1—GENERAL

PART 14–2—PROCUREMENT BY FORMAL ADVERTISING

Procurement Responsibility and Authority and Procurement by Formal Advertising

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 22 (1964 Edition), the following parts of 14–1 and 14–2 of Chapter 14, Title 41 of the Code of Federal Regulations are hereby revised as set forth below:

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the public rulemaking process. However, because these parts are largely a general statement of Departmental policy and internal procedure the rulemaking process will be waived and these parts will become effective upon publication in the FEDERAL REGISTER.

DAVID S. BLACK,
Under Secretary of the Interior.

JANUARY 17, 1969.

1. Subpart 14–1.4. Procurement Responsibility and Authority, published at 33 F.R. 16276 is hereby amended by the deletion of the following language in all subparts: "of this chapter".

2. The general regulations are revised by the addition of § 14–2.407–8.

§ 14–2.407–8 **Protests against award.**

For provisions relating to communications with the Comptroller General, see § 14–2.405–50.

[F.R. Doc. 69–1093; Filed, Jan. 27, 1969; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 60—FEDERAL FINANCIAL ASSISTANCE FOR NONCOMMERCIAL EDUCATIONAL RADIO AND TELEVISION BROADCAST FACILITIES

Part 60 of Title 45 of the Code of Federal Regulations, which governs the administration of Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390–399), is revised to implement changes provided for in Title I of the Public Broadcasting Act of 1967 (Public Law 90–129), and to otherwise improve and make more flexible the administration of the program.

The program described in this part is subject to the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88–352, 78 Stat. 252, 42 U.S.C. Ch. 21) which provides 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 subjected to discrimination under any program or activity receiving Federal financial assistance. Accordingly, payments made pursuant to the regulations in this part are subject to the regulation in 45 CFR Part 80 issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964.

As revised, Part 60 reads as follows:

Sec.
60.5 Application for Federal financial assistance.
60.6 FCC authorization.
60.7 Service of applications.
60.8 Acceptance of applications.
60.9 Assurances required.
60.10 Comments on applications.
60.11 Coordination with the Corporation.
60.12 Processing of applications.
60.13 Criteria for priority of applications.
60.14 Amount of Federal grant entitlement.
60.15 Action on application.
60.16 Revocation of grant.
60.17 Conditions of Federal grant.
60.18 Payment of Federal grant.
60.19 Fiscal reports and records.
60.20 Annual status reports.
60.21 Change in eligibility or use.
60.22 Petition for reconsideration.

AUTHORITY: §§ 60.1 to 60.22 issued under § 394, Public Law 87-447, 76 Stat. 67, as amended, 47 U.S.C. 394.

§ 60.1 Scope.

(a) The rules and regulations in this part govern the provision of grants by the U.S. Commissioner of Education under authority delegated to him by the Secretary of Health, Education, and Welfare for the construction of noncommercial educational broadcasting facilities pursuant to the provisions of Part IV of Title III of the Communications Act of 1934, as amended by Title I of the Public Broadcasting Act of 1967 (Public Law 90-129).

(b) Projects approved prior to November 7, 1967, shall be subject to regulations in this part in effect on that date.

§ 60.2 Other pertinent rules and regulations.

Other rules and regulations pertinent to applications for the operation of noncommercial educational broadcasting stations are contained in the rules and regulations of the Federal Communications Commission (47 CFR Part 1 (Practice and Procedure); Part 2 (Frequency Allocations and Radio Treaty Matters; General Rules and Regulations); Part 73 (Radio Broadcast Services); Part 74 (Experimental, Auxiliary and Special Broadcast and Other Program Distributional Services); and Part 17 (Construction, Marking and Lighting of Antenna Structures)); and in the regulation issued by the Secretary to implement the Civil Rights Act of 1964 (45 CFR Part 80).

§ 60.3 Definitions.

Except as otherwise provided, the following terms shall have the following meanings when used in the rules and regulations in this part:

(a) "Act" means Part IV of Title III of the Communications Act of 1934, as amended (47 U.S.C. 390-399).

(b) "Secretary" means the Secretary of Health, Education, and Welfare.

(c) "FCC" means the Federal Communications Commission.

(d) "Commissioner" means the U.S. Commissioner of Education.

(e) "Corporation" means the Corporation for Public Broadcasting established pursuant to Subpart B of the Act.

(f) "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(g) "State educational television agency" and "State educational radio agency" mean, with respect to television broadcasting and radio broadcasting respectively:

(1) A board or commission established by State law for the purpose of promoting such broadcasting within a State;

(2) A board or commission appointed by the Governor of a State for such purpose if such appointment is not inconsistent with State law; or

(3) A State officer or agency responsible for the supervision of public elementary or secondary education or public higher education within the State which has been designated by the Governor to assume responsibility for the promotion of such broadcasting. In the case of the District of Columbia, the term "Governor" as used in this paragraph means the Commissioner of the District of Columbia, and, in the case of the Trust Territory of the Pacific Islands, means the High Commissioner thereof.

(h) "College" and "university" mean an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond the secondary level, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, and (4) is accredited by a nationally recognized accrediting agency or association.

(i) "Deriving its support in whole or in part from tax revenues," as applied to a college or university, means that such college or university receives direct and continuing State or local tax revenues for a current academic program of instruction for which credit is offered at the higher education level.

(j) "Nonprofit," as applied to any foundation, corporation, or association, means a foundation, corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(k) "Reserved channel" means a channel reserved by the FCC for the exclusive use of a noncommercial educational broadcast station.

(l) "Broadcasting" means the dissemination of standard AM, FM, or TV electronic energy through the atmosphere intended primarily for reception by the general public.

(m) "Educational broadcasting," means broadcasting of educational, community service, and cultural programs of benefit to the area or community served by such broadcasting.

(n) "Project" means the acquisition and installation of only those items of transmission apparatus related to one noncommercial educational broadcasting station (except that the apparatus may be related to two or more such stations where interconnection is involved) which the Commissioner determines to be eligible for Federal financial assistance pursuant to the provisions of this part. Such term also includes planning with respect to such acquisition and installation. (See paragraph (q).)

(o) "Acquisition" means the assumption of ownership of transmission apparatus (including the receipt of gifts) and necessary delivery.

(p) "Installation" means the assembling, affixing, and taking any other steps necessary or required in order to make ready for use transmission apparatus included in the project.

(q) "Planning" means the preparation of the application for a Federal grant under the Act, and the preparation of applications to the FCC for authority to construct and operate the transmission apparatus included in the project. Such term does not include the preparation of statewide or regional plans, the conduct of surveys, or the preparation and conduct of proceedings before the FCC for the purpose of having a radio or television channel or channels reserved for noncommercial educational broadcasting.

(r) "Owned by the applicant" as applied to transmission apparatus means that the applicant's interest in such transmission apparatus is, at least, the primary, equitable, or beneficial interest, including, for the purpose of paragraph (b) of § 60.14, the obligation to own.

(s) "Transmission apparatus" means that equipment which is necessary for noncommercial educational broadcasting and which is itemized in the "List of Transmission Apparatus" maintained and published by the Commissioner. Copies of the list may be obtained by writing to the U.S. Commissioner of Education, Department of Health, Education, and Welfare, Washington, D.C. 20202.

(t) "Closed circuit" means a system for the distribution of electronic signals by a means other than broadcasting.

(u) "Interconnection" means the use of microwave equipment, boosters, translators, repeaters, communication space satellites, or other apparatus or equipment for the transmission and distribution of television or radio programs to noncommercial educational broadcasting stations.

(v) "Regional plan" means an organized design for the dispersion of noncommercial educational broadcasting facilities within a geographical area not otherwise specifically defined by either State boundaries or the broadcast contours of an individual noncommercial educational broadcast station.

(w) "Service area" means:

(1) in the case of television broadcasting, that area included within the station's predicted Grade B contour;

(2) in the case of AM radio broadcasting, that area included within the station's predicted 500 microvolt contour; and

(3) in the case of FM radio broadcasting, that area included within the station's predicted 1 millivolt contour.

(x) "Situated in any State" means, with respect to a noncommercial educational broadcast station and all transmission apparatus resulting from a project associated with such station, situated (irrespective of physical location) in the State in which the channel occupied or applied for is assigned by the FCC, unless the Commissioner, in light of all the pertinent facts and circumstances of a particular case, specifically determines otherwise.

(y) "Fair-market value" means the price arrived at by a seller who is willing to sell, and a buyer who is willing to buy, where both parties are freely negotiating in good faith. Criteria used to establish fair-market value include: (1) The price at which a like item (model, age, and condition) has changed hands; (2) in the case of a donation, the donor's purchase price or cost of manufacture, less reasonable allowance for depreciation due to use and age; (3) the catalog or other established price of a new item of the same type, less reasonable allowance for depreciation due to use and age; or (4) appraisal, satisfactory to the United States, made by one or more qualified, impartial appraisers.

§ 60.4 Eligible applicants.

(a) Applications for Federal financial assistance under this part for an educational television project may be submitted by:

(1) An agency or officer responsible for the supervision of public elementary or secondary education or public higher education within a State, or within a political subdivision thereof;

(2) A State educational television agency;

(3) A college or university deriving its support in whole or in part from tax revenues; or

(4) A nonprofit foundation, corporation or association which is organized primarily to engage in or encourage noncommercial educational television broadcasting and is eligible to receive a license from the FCC for a noncommercial educational television broadcasting station pursuant to the rules and regulations of the FCC in effect on April 12, 1962; or

(5) A municipality which owns and operates a facility used only for noncommercial educational broadcasting.

(b) Applications for Federal financial assistance under this part for an educational radio project may be submitted by:

(1) An agency or officer responsible for the supervision of public elementary or secondary education or public higher education within a State, or within a political subdivision thereof;

(2) A State educational radio agency;

(3) A college or university deriving its support in whole or in part from tax revenues; or

(4) A nonprofit foundation, corporation or association which is organized primarily to engage in or encourage noncommercial educational radio broadcasting and is eligible to receive a license from the FCC, or meets the requirements of subparagraph (4) of paragraph (a) of this section and is also organized primarily to engage in or encourage such radio broadcasting and is eligible for such a license for such a radio station; or

(5) A municipality which owns and operates a facility used only for noncommercial educational broadcasting.

§ 60.5 Application for Federal financial assistance.

An application for Federal financial assistance under this part must be filed with the Commissioner by the applicant and contain such information with respect to the project and related noncommercial educational broadcasting activities of the applicant as the Commissioner may deem necessary. The application shall be executed by an official or representative of the applicant duly authorized to make such application and to provide the required assurances. The Commissioner may request an applicant to file such additional information, documents, written statements, justification and exhibits as he may deem necessary. The applicant may submit, on his initiative, amendments or additional information relevant to his application.

§ 60.6 FCC authorization.

(a) In any case where the project requires an authorization or authorizations from the FCC, the applicant must file with the Commissioner a copy of each FCC application and any amendments thereto.

(b) If the FCC returns, dismisses or denies an application required for the project or any part thereof, the Commissioner may return the application for Federal financial assistance to the applicant.

§ 60.7 Service of applications.

(a) Each applicant shall promptly serve a copy of his application, and each amendment thereto, for Federal financial assistance under this part upon each of the following:

(1) The Secretary, Federal Communications Commission, Washington, D.C. 20554; and

(2) The State educational television or radio agency, if any, in the State in which the channel associated with the project is assigned by the FCC, or, if the channel in question is assigned jointly to communities in different States, upon the State educational television or radio agency, if any, in each of such States.

(b) Each applicant must also give written notice of the filing of his application, and each amendment thereto, to the State educational broadcast agency, if any, in any State, any part of which is within the service area of the proposed broadcast station unless such agency has been served in accordance with paragraph (a) of this section.

§ 60.8 Acceptance of applications.

(a) Applications tendered for filing with the Commissioner will be given a preliminary examination. Those found to be complete or substantially complete will be accepted for filing. Applications which are not substantially complete or which are determined to be substantially not in accordance with the provisions of this part will not be accepted for filing and will be returned to the applicant: *Provided*, That, within 30 days of such return, the applicant may file with the Commissioner a petition pursuant to § 60.22. Acceptance of an application for filing will not preclude subsequent return or disapproval of the application if it is found to be not in accordance with the provisions of this part, or if the applicant fails to file any additional information or documents requested by the Commissioner.

(b) Applications proposing projects which require authorization or authorizations from the FCC will not be accepted for filing by the Commissioner until after the FCC has accepted for filing the necessary application or applications to the FCC for such authorization or authorizations.

§ 60.9 Assurances required.

No project will be approved unless the applicant has given assurances acceptable to the Commissioner:

(a) That:

(1) The applicant meets the requirements of eligibility set forth in § 60.4;

(2) The applicant's organic or corporate powers include the authority to construct and operate noncommercial educational broadcast facilities, and to receive Federal funds for such construction;

(b) That in the case of a nonprofit foundation, corporation or association eligible under § 60.4, the applicant is so organized as to be reasonably representative of the educational, cultural, and civic groups in the community to be served, and free from such control by a single private entity (either through membership on its board of directors, source of funds, or otherwise) as would prevent or restrict it from serving overall community needs or interests;

(c) That the transmission apparatus to be acquired and installed under the project will be owned by the applicant;

(d) That the operation of the noncommercial educational broadcast facilities will be under the control of the applicant or a person qualified under § 60.4 to be an applicant;

(e) That sufficient funds will be available when needed:

(1) To meet the non-Federal share of the cost of the project;

(2) To acquire all land and to construct and install all facilities, structures and equipment, in addition to the transmission apparatus included in the project, necessary to place the proposed noncommercial educational broadcast facilities in operation; and

(3) To operate and maintain the noncommercial educational broadcast facilities;

(f) That all non-Federal financial sources available for the project have been taken into account, and that the non-Federal share stated by the applicant as being available for use in the project is the maximum contribution available from such sources;

(g) That the transmission apparatus to be acquired and installed under the

project will be used primarily for educational broadcasting purposes and only incidentally for other educational purposes by means of closed circuit;

(h) That, in the case of an application for an educational radio project:

(1) There has been comprehensive planning for educational broadcasting facilities and services in the area the applicant proposes to serve, and the applicant has participated in such planning; and

(2) The applicant will make the most efficient use of the frequency assigned to him by the FCC.

§ 60.10 Comments on applications.

(a) The Commissioner will publish notice in the FEDERAL REGISTER of the acceptance for filing of each application and of the receipt of each amendment which substantially affects an application.

(b) Within 30 calendar days from the date on which notice is published in the FEDERAL REGISTER of the acceptance for filing of an application (and within 10 calendar days from the date on which notice is published in the FEDERAL REGISTER of the receipt of an amendment) any State educational television and/or radio agency and any other interested person may file comments with the Commissioner in support of or in opposition to the application or amendment, setting forth the grounds for such support or opposition, accompanied by a certification that a copy of such comments has been mailed to the applicant.

(c) Within 15 calendar days from the last day for filing such comments, the applicant may file a reply to any comments opposing his application or an amendment thereof.

(d) The time periods referred to in paragraphs (b) and (c) of this section may be extended by the Commissioner if good cause is shown therefor.

§ 60.11 Coordination with the Corporation.

In acting on applications and carrying out his other responsibilities under the Act and this part, the Commissioner may consult with the Corporation and other agencies, organizations and institutions administering programs which may be effectively coordinated with Federal assistance provided under the Act and this part.

§ 60.12 Processing of applications.

(a) With respect to applications accepted for filing pursuant to § 60.7, the Commissioner may at any time (1) defer action on all applications or on groups of application; (2) institute priorities for the consideration and approval of applications; (3) establish and announce "cut-off" dates for the filing of applications when he deems it necessary for the efficient administration of the program; and (4) establish temporary limitations on the maximum amount of Federal grants which may be approved for projects situated in each of the several States, if in his judgment such action would assist in promoting equitable distribution of such Federal grants throughout the several States.

(b) The Commissioner may, prior to the approval of any application or group of applications under this part, obtain and consider the advice and recommendations of a panel of competent specialists who are not employees of the Federal government and who are not employed by or associated with any applicant having an application under review at that time.

§ 60.13 Criteria for priority of applications.

In order to achieve the objectives of section 392(d) of the Act, the Commissioner, in determining whether to approve an application for a Federal grant in whole or in part and the amount of such grant, or whether to defer action on such an application, will consider the following factors (not listed in any order of priority):

(a) Whether the project will result in the activation of a new noncommercial educational broadcasting station;

(b) The area and population which will receive a new noncommercial educational broadcasting service as a result of the project;

(c) The hours during which the noncommercial educational broadcasting station will operate;

(d) The general and special educational and cultural needs of the area for noncommercial educational broadcasting service as well as the need for local outlets for the origination of noncommercial educational broadcasting programs; the extent to which those needs are being or will be met by existing or proposed noncommercial educational broadcasting stations; and the extent to which the project is necessary to meet those needs;

(e) The extent to which the project will contribute to meeting the needs for noncommercial educational broadcasting in the State;

(f) The extent to which provision has been made for the cooperation and participation of educational, cultural and community service agencies, institutions and organizations within the service area of the station;

(g) The extent to which any proposed interconnection of noncommercial educational broadcasting stations is necessary to provide new or improved noncommercial educational broadcast service;

(h) The cost of the project and of the various components thereof in relation to the objectives to be achieved;

(i) The extent to which the various items of transmission apparatus proposed are necessary to, and capable of achieving the objectives of, the project;

(j) How quickly the applicant can be expected to complete the project;

(k) The provisions of any relevant statewide or regional noncommercial educational broadcast plans;

(l) Whether the transmission apparatus will be used for noncommercial educational broadcasting on a reserved channel;

(m) The extent to which non-Federal funds will be used to meet the total cost of the project;

(n) The extent to which the noncommercial educational broadcasting station associated with the project will contribute to the improvement of quality in noncommercial educational broadcasting in the nation; and

(o) The recommendations, if any, of the State educational television or radio agency as defined in § 60.3(g).

§ 60.14 Amount of Federal grant entitlement.

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the Federal grant entitlement shall be an amount determined by the Commissioner, which in no case shall exceed 75 percent of the amount which he determines to be the total reasonable and necessary cost of the project. Such cost shall include the following:

(1) The purchase price of transmission apparatus (or fair-market value of donated transmission apparatus) to be acquired in the project; and

(2) Other costs related to the acquisition and installation of transmission apparatus in the project and to planning therefor, including the cost of engineering, legal, and other services.

(b) Project costs shall not include the value of:

(1) Transmission apparatus owned by the applicant prior to acceptance by the Commissioner for filing of the application, and services related thereto;

(2) Transmission apparatus to the extent acquired or installed by donation from the United States or with Federal funds provided from sources other than under this part; and

(3) Transmission apparatus previously acquired or installed by a person other than the applicant by donation from the United States, or with Federal funds pursuant to this part or any other provision of law.

(c) The total amount of the Federal grant entitlement may not exceed the amount reasonable and necessary to meet the monetary cost of the transmission apparatus and personnel services in the project which are not donated.

§ 60.15 Action on application.

(a) After consideration of the application, any comments and replies filed by interested parties and any other relevant information, the Commissioner will either:

(1) Approve the application and estimate the amount of the Federal grant entitlement; or

(2) Deny approval of the application, in whole or in part, and set forth in writing, the grounds and reasons therefor, provided that such denial shall not become final until 30 calendar days from the date of such denial, within which time the applicant may file with the Commissioner a petition for reconsideration pursuant to § 60.22, unless the right to file such a petition is waived in writing by the applicant.

(b) The approval, in whole or in part, of an application shall not become final until the applicant complies with all relevant requirements imposed by this part,

and with such additional conditions imposed on the Federal grant as the Commissioner may deem necessary to insure full compliance with the provisions and objectives of the Act and in any case where the Commissioner approves, in whole or in part, any application which requires an authorization or authorizations from the FCC, such approval will not become effective unless and until the FCC grants the required authorizations and such grant or grants become final.

(c) Upon the Commissioner's approval or denial, in whole or in part, of an application, the Commissioner will inform:

(1) The applicant;

(2) Each State educational television or radio agency, if any, in any State, any part of which lies within the service area of the applicant's broadcast station; and

(3) The FCC.

§ 60.16 Revocation of grant.

(a) Approval of an application may be revoked by the Commissioner on the following grounds:

(1) Final action by the FCC revoking a construction permit required for such project, denying an application for extension or modification of such construction permit, or denying an application for a construction permit to replace such required construction permit; or denying an application for a license to cover the construction permit; or

(2) Forfeiture of a construction permit required for a project for which a grant has been approved; or

(3) Failure of the applicant to complete the project within a reasonable period of time, or to use the Federal funds for the purposes for which granted; provided, that within 30 calendar days from the date of receipt of notice of such revocation, the applicant may file with the Commissioner a petition for reconsideration pursuant to § 60.22.

(b) If approval of an application is revoked pursuant to the provisions of this section, no further Federal funds will be paid to the applicant, and the Commissioner will take such steps as may be deemed necessary to protect the Federal financial interests.

§ 60.17 Conditions of Federal grant.

In addition to any other conditions imposed by law or determined by the Commissioner to be reasonably necessary to fulfill the purpose of the Federal grant, each Federal grant shall be subject to the condition that the applicant shall:

(a) Use the Federal grant funds for the purposes for which the Federal grant was made and for the items of transmission apparatus and other expenditure items specified in the application for inclusion in the project, except that the grantee may substitute other items where necessary or desirable to carry out the purpose of the project and provided that such substitutions will not result in an increase in grant entitlement and are approved by the Commissioner;

(b) Promptly complete the project and place the noncommercial educational broadcast facilities into operation;

(c) Maintain, during construction of the project and for 10 years after completion of the project, protection against common hazards through adequate insurance coverage or other equivalent undertakings; except that, to the extent the applicant follows a different policy of protection with respect to its other property, the applicant may extend such policy to transmission apparatus acquired and installed under the project;

(d) Provide qualified engineering supervision and inspection of the project to insure that the completed project is consistent with the approved application and good engineering practice.

(e) Employ adequate methods of obtaining a competitive basis for the acquisition and installation of transmission apparatus included in the project either by appropriate public advertising or by circularizing three or more competitive vendors, and that the award of the contract will be made to the lowest responsible and acceptable bidder.

(f) Permit the Secretary, the Commissioner, and the Comptroller General of the United States, or any of their duly authorized representatives, to have access for the purpose of audit and examination to any books, documents, papers, and records of the applicant that are pertinent to the receipt and use of Federal financial assistance under this part;

(g) Permit inspection by the Commissioner or his duly authorized representative of the transmission apparatus acquired with Federal financial assistance at any reasonable time within 10 years after completion of the project;

(h) Repay to the United States any Federal grant funds found by the Commissioner to have been used contrary to law, to these regulations, to the assurances given to the Commissioner and to the conditions of the Federal grant, and any amount paid in excess of the Federal share of the actual cost of the approved project;

(i) Comply with the regulations issued by the Department of Health, Education, and Welfare to implement Title VI of the Civil Rights Act of 1964 (45 CFR Part 80);

(j) Incorporate into any contracts exceeding $10,000 for the installation of transmission apparatus acquired in the project the provision for equal employment opportunity for all qualified persons without regard to race, creed, color, or national origin, as prescribed by section 203 of Executive Order 11246 (30 F.R. 12319 Sept. 28, 1965); and otherwise comply with the requirements of section 301 of said Executive order; and

(k) Comply with Executive Order 11296 relating to the evaluation of flood hazards in locating federally financed projects.

§ 60.18 Payment of Federal grant.

(a) After the Commissioner's approval of an application becomes final in accordance with § 60.15(b), the amount of the Federal grant will be paid to the applicant in the following manner unless the Commissioner for good cause shown has approved an alternative method of payment:

(1) An amount not exceeding 50 percent of the total amount of the Federal grant entitlement approved by the Commissioner will be paid to the applicant upon the applicant's request and certification that such an amount is needed to pay liabilities incurred in the project.

(2) An amount not to exceed the balance of the grant entitlement will be paid upon completion or substantial completion of the project. Payment will be made only after inspection of the project and the applicant's financial records pertinent to the Federal financial assistance, as the Commissioner may deem necessary, and approval by the Commissioner of a Request for Final Payment which shall include—

(i) Certification that the noncommercial educational broadcasting station has, where required, FCC authorization to broadcast following acquisition and installation of project equipment,

(ii) Certification that the acquisition and installation of the project equipment either has been completed or is substantially completed in accordance with the project as approved by the Commissioner, and

(iii) A detailed financial report itemizing the actual costs incurred in either completing the project or substantially completing the project, and the sources of funds for paying for the items of transmission apparatus delivered, accompanied by certified true copies of invoices, bills, or other satisfactory documents indicating that the expenses have been incurred and the amount thereof. If payment is requested on the basis of substantial rather than final completion of the project, the amount of payment provided for herein shall be computed on the basis of the cost attributable by the Commissioner to the completed portion of the project. Upon final completion of such project as approved by the Commissioner, the applicant will amend the Request for Final Payment to include the remaining project costs and these will be paid in accordance with subparagraph (3) of this paragraph.

(3) Any payment on the basis of final completion of the project pursuant to subparagraph (2) of this paragraph will be made upon:

(i) Final inspection and certification of final completion by an appropriate program official, and

(ii) Receipt of written assurances, binding upon the applicant, by an appropriate official thereof, that amounts of sustained audit exceptions taken in any subsequent audit will be refunded to the United States.

(b) If the actual costs incurred in completing the project are less than the estimated costs which constituted the basis for the Commissioner's determination of the amount of the Federal grant entitlement, the amount of the final grant shall be that amount of the actual

total project cost remaining after deducting the amount of local matching funds certified by the applicant at the time of project approval as being available for use in the project (including the fair-market value of gifts, if any), provided that in no case shall the final Federal grant exceed the Federal grant entitlement.

§ 60.19 Fiscal reports and records.

(a) The applicant shall furnish such progress or other reports relating to the construction of the project as may be directed by the Commissioner.

(b) The applicant shall establish and maintain fiscal controls, accounts and other documents which will provide for the specific identification of the receipt and disposition of all Federal grant funds and clearly identify the nature, purpose, and amount of all expenditures incurred for the project.

(c) The applicant shall maintain accessible and intact all fiscal or other records relating to the receipt and expenditure of the Federal grant funds and relating to the expenditure of the non-Federal share of the cost of the project:

(1) For 5 years after the close of the fiscal year in which the expenditure was made; or

(2) Until the applicant is notified of the completion of the Secretary's fiscal audit, whichever is earlier.

(d) The records involved in any expenditure which has been questioned shall be further maintained until the matter has been reviewed and cleared by the Secretary.

(e) The applicant shall maintain, for 10 years after completion of the project, adequate descriptive inventories or other records supporting accountability of all transmission apparatus acquired and installed in the project and costing, or in the case of donations, having a fair market value of, $100 or more, except that when depreciation of such apparatus results in a fair market value of less than $100 per unit such apparatus may be deleted from such inventory. The applicant shall appropriately mark such transmission apparatus in a permanent manner in order to assure easy and accurate identification and reference to such inventory records.

§ 60.20 Annual Status Reports.

During the 10-year period commencing with the date of completion of a project with respect to which a Federal grant has been made pursuant to this part, the applicant or other owner of transmission apparatus resulting from the project must file with the Commissioner:

(a) An annual status report on or before each April 1 following completion of the project, certifying:

(1) That the owner of such transmission apparatus continues to be an agency, officer, institution, foundation, corporation, association, or municipality described in § 60.4 as being eligible to receive a grant;

(2) That there has been no change in ownership or use of such transmission apparatus during the reporting period, or describing any change during such period; and

(3) That such transmission apparatus as are owned by the applicant as of that date are being used for noncommercial educational broadcasting purposes.

(b) A copy of each of the following applications and reports which the applicant or other owner files with the FCC with respect to any such transmission apparatus:

(1) Applications for extension of construction permit, license to cover construction permit, modification of construction permit or license, renewal of license and for voluntary or involuntary assignment or transfer of control; and

(2) Ownership reports and annual financial reports.

§ 60.21 Change in eligibility or use.

(a) If, within 10 years after completion of any project with respect to which a Federal grant has been made pursuant to this part:

(1) The applicant or other owner ceases to be an agency, officer, institution, foundation, corporation, association, or municipality described in § 60.4 as being eligible to receive a Federal grant; or

(2) Any of the transmission apparatus included in the project ceases to be used for any purpose, either permanently or for an indefinite period of time, or such apparatus is used or disposed of for other than noncommercial educational broadcasting (other than as a trade-in for acquisition of other transmission apparatus to be used for such purposes), the applicant or other owner shall (except as provided in paragraph (b) of this section) pay to the United States the amount bearing the same ratio to the then fair-market value of such apparatus, as the amount of the Federal participation bore to the cost of acquisition or installation of such apparatus.

(b) Where the applicant or other owner proposes to cease using any of the transmission apparatus included in the project for noncommercial educational broadcasting (as set forth in subparagraph (2) of paragraph (a) of this section), he may file a petition with the Commissioner requesting release from the obligation to make repayment to the United States, and setting forth with particularity the grounds and reasons for the request. Such petitions will be granted by the Commissioner only for good cause, and only if the proposed cessation of use for noncommercial educational broadcasting has not already taken place, unless the petitioner demonstrates to the satisfaction of the Commissioner that such cessation was due to causes not under the control of the petitioner. If the Commissioner denies the petition, the applicant or other owner may within 30 calendar days from the date of receipt of notice of such denial, file a petition for reconsideration pursuant to § 60.22.

(c) In any case where the Commissioner has reason to believe that any change in eligibility or use of transmission apparatus (as described in paragraph (a) of this section), has already taken place, he will promptly notify the applicant or other owner of the grounds and reasons for his belief that repayment to the United States is required. The applicant or owner may, within 30 days from the date of receipt of such notification, file with the Commissioner a petition for reconsideration pursuant to § 60.22.

(d) If the Commissioner determines that the applicant or other owner is obligated to make a repayment to the United States he will seek to reach agreement as to the amount of such repayment. If such an agreement cannot be reached, the Commissioner will cause an action to be brought in the U.S. District Court for the district in which the noncommercial educational broadcasting facilities are situated to determine the amount of the repayment, and will take such action as may be necessary to secure repayment.

§ 60.22 Petition for reconsideration.

(a) A petition for reconsideration as provided in §§ 60.8, 60.15, 60.16, and 60.21 must be filed timely with the Commissioner, must state with particularity in what respect the Commissioner's action is claimed to be unjust, unwarranted, or erroneous, must specifically indicate the relief sought, and must be accompanied by a written statement on the question presented. The petition for reconsideration may be accompanied by a request for a hearing, in which event the petitioner must state with particularity the grounds and reasons therefor. If the Commissioner designates the matter for hearing, he will specify the questions in issue, designate the hearing officer and specify the procedures and rules relating to the conduct of the hearing. If the Commisisoner does not find that sufficient grounds and reasons exist for granting the relief sought or for providing a requested hearing, he will notify the petitioner, giving reasons for the refusal.

(b) In the event of a hearing the hearing officer shall make a written report to the Commissioner based upon the hearing and containing a recommended decision on the issues. A copy of the report shall be mailed to the petitioner, and the petitioner shall have 15 calendar days from the date of receipt (or such additional time as may be given for good cause) to file with the Commissioner a written statement setting forth with particularity alleged errors in the report and discussing any policy and legal issues presented.

(c) If no written statement is made by the petitioner or by a State educational television or radio agency on the report of the hearing officer and if the Commissioner does not decide to review it, such report shall become the final administrative decision without further proceedings. If a written statement is made on the report of the hearing officer or if the Commissioner decides to review it, he shall review the record of the proceedings and issue a decision based thereon, setting forth the grounds and reasons therefor.

(d) The Commissioner will notify each State educational television or radio agency, if any, in any State, any part of which lies within the service area of the petitioner's broadcasting station, of the filing of a petition for reconsideration under this section and each such agency will be given an opportunity to comment upon the petition. In the event the Commissioner provides a hearing with respect to an action taken under § 60.15, each such State educational television or radio agency will be given an opportunity to appear and to present relevant information and arguments. Any such agency participating in the hearing will be furnished the report of the hearing officer referred to in paragraph (b) of this section and given an opportunity to make a written statement thereon, prior to the expiration of the time period during which time the petitioner may file his statement under paragraph (b) of this section.

(e) Interested persons other than a State educational television or radio agency referred to in paragraph (d) of this section may comment in writing upon any petition for reconsideration filed under this section and for good cause shown, may be given an opportunity to participate to such extent as the Commissioner may determine is appropriate in a hearing held pursuant to this section.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 69-1104; Filed, Jan. 27, 1969; 8:47 a.m.]

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 124—FINANCIAL ASSISTANCE FOR DEMONSTRATION PROJECTS FOR REDUCING THE NUMBER OF SCHOOL DROPOUTS

Grants made pursuant to the regulations set forth below are subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (Public Law 88-352).

Subpart A—Definitions

Sec.
124.1 Definitions.

Subpart B—Project Proposals

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124.3 Eligibility.
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124.5 Submission.
124.6 Amendments.
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124.8 Proposed services.
124.9 Adequacy of facilities.
124.10–124.14 [Reserved]

Subpart C—Approval of Project Proposals

Sec.
124.15 Criteria for evaluation.
124.16 Disposition.
124.17–124.19 [Reserved]

Subpart D—Federal Financial Participation and Payment Procedures

124.20 Effective date of approved project.
124.21 Payment procedures.
124.22 Availability of funds for approved projects.
124.23 Fiscal and auditing procedures.
124.24 Adjustments.
124.25 Disposal of records.
124.26 Eligible expenditures.
124.27 Funds not expended.
124.28 Acquisition and maintenance of equipment.
124.29–124.32 [Reserved]

Subpart E—General Provisions

124.33 Leasing facilities.
124.34 Copyrights and patents.
124.35 Dissemination of information.

AUTHORITY: The provisions of this Part 124 issued under 5 U.S.C. 301; interpret or apply sec. 707, 81 Stat. 806, as renumbered sec. 807 by sec. 702, 81 Stat. 816, 20 U.S.C. 887.

Subpart A—Definitions

§ 124.1 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965, Public Law 89-10, as amended.

(b) "Commissioner" means the U.S. Commissioner of Education.

(c) "Department" means the U.S. Department of Health, Education, and Welfare.

(d) "Dropout" means a person who withdraws from school membership before completing his elementary and secondary school education.

(e) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(f) "Equipment" means items for the provision of educational instruction or services, including instructional equipment and necessary furniture.

(g) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency of any State or political subdivision thereof having administrative control and direction of a public elementary or secondary school.

(h) "Low-income factor" means an annual family income of $3,000.

(i) "Project proposal" means an application for financial assistance under section 807 of the Act for the carrying out of demonstration projects submitted to the Commissioner for approval.

(j) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include education beyond grade 12.

(k) "Service function" means an educational service which is performed by a legal entity, such as an intermediate agency, whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory, or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools.

(l) "State" includes, in addition to the 50 States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(m) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 887)

Subpart B—Project Proposals

§ 124.2 Purpose.

In order to reduce the number of children who do not complete their education in elementary and secondary schools, financial assistance will be provided under section 807 of the Act for the carrying out of promising demonstration projects involving the use of innovative methods, systems, materials, or programs designed to reduce that number.

(20 U.S.C. 887)

§ 124.3 Eligibility.

Financial assistance under section 807 of the Act will be provided to a local educational agency only upon submission of an application for such assistance and upon approval by the Commissioner of such an application for a proposed project approved by the appropriate State educational agency.

(20 U.S.C. 887)

§ 124.4 Designation and certification of agency to administer the project.

(a) Each project proposal and amendment thereto shall give the official name of the applicant, which shall be the agency responsible for carrying out the project.

(b) Each project proposal shall designate the officer who is responsible for the receipt and disbursement of Federal funds.

(c) Each project proposal and amendment shall include as an attachment a certificate by the officer authorized to make and submit the proposal, or amendment, on behalf of the applicant to the effect that the proposal or amendment has been adopted by the applicant.

(20 U.S.C. 887)

§ 124.5 Submission.

Project proposals shall be submitted to the Commissioner on or before such cut-off dates that he may establish. Each project proposal also must be submitted to and approved by the State educational agency before it can be approved by the Commissioner.

(20 U.S.C. 887)

§ 124.6 Amendments.

Whenever there is any material change in the content or administration of an approved project, or in the organization, policies, or operations of the local educational agency affecting such project, the project shall be appropriately amended. If the amendment is substantial, it may be treated as a new project proposal, to be considered when applications are again reviewed.

(20 U.S.C. 887)

§ 124.7 Administration and reporting.

(a) Each project proposal shall provide that the activities and services for which financial assistance under section 807 of the Act is sought will be administered by, or under the supervision of, the applicant.

(b) Each project proposal shall provide for the making of an annual report and such other reports, in such form, and containing such information, as the Commissioner may reasonably require to carry out his functions under section 807 of the Act and to determine the extent to which the project has been effective in reducing the number of children who drop out of school. The applicant shall keep such records, and afford such access thereto, as the Commissioner may find necessary to assure the correctness of such reports.

(20 U.S.C. 887)

§ 124.8 Proposed services.

Each project proposal shall describe the activity to be undertaken with funds made available under section 807 of the Act and shall contain assurances:

(a) That the project will be carried out in one or more elementary or secondary schools having high concentrations of children from families with incomes not exceeding the low-income factor and having a high percentage of children who do not complete their education in elementary and secondary schools;

(b) That the applicant has analyzed the reasons that children in those schools do not complete their elementary and secondary education and that the proposed project has been designed in the light of that analysis to counteract those reasons; and

(c) That effective procedures, including objective measurements of educational achievements, will be adopted for evaluating at least annually the effectiveness of the proposed project.

The application shall also contain an assurance that none of the funds made available under section 807 of the Act will be used for religious worship or instruction.

(20 U.S.C. 885, 887)

§ 124.9 Adequacy of facilities.

Projects may, if necessary for their success, provide for the acquisition of instructional equipment, materials and supplies. Each project proposal shall describe the facilities to be made available for the project. If a project proposal provides for the leasing or remodeling of facilities, it must show how and why such a provision is necessary for the success of the project and must assure that such a provision will not substantially detract from the value of the proposed project as a demonstration project.

(20 U.S.C. 887)

§§ 124.10–124.14 [Reserved]

Subpart C—Approval of Project Proposals

§ 124.15 Criteria for evaluation of project proposals.

In evaluating project proposals, the Commissioner will give consideration to such criteria as:

(a) Extent to which the applicant has adopted effective procedures to coordinate the development and operation of programs and projects carried out under section 807 of the Act with other public and private programs having the same or similar purposes;

(b) Extent to which the innovative methods, systems, materials or programs show promise of reducing the number of children who do not complete their elementary and secondary school education;

(c) Extent to which the applicant proposes to continuously evaluate the program by use of objective measures in order to determine the effectiveness of the project;

(d) Extent to which there will be effective administration and supervision to assure efficient and economical operation;

(e) Extent to which the project is likely to result in the development of new materials and methods which will be of value in reducing the number of children who do not complete their elementary and secondary school education; and

(f) Extent to which the applicant demonstrates that the project will be undertaken in schools which have a high percentage of children from families with an income not exceeding the low income factor and which have a high percentage of such children who may not complete their elementary and secondary school education;

(g) Extent to which the applicant has consulted with dropouts and potential dropouts and their families and has sought their advice on the relevance of the proposed program;

(h) Extent to which the proposed program is exemplary;

(i) Adequacy of evidence that the proposed project will focus upon one or more local schools;

(j) Degree of awareness of similar programs, research findings or the knowledge of recognized experts.

(20 U.S.C. 887)

§ 124.16 Disposition.

The Commissioner will, on the basis of an evaluation pursuant to § 124.15, (a) approve the project proposal in whole or in part, (b) disapprove the project proposal, or (c) defer action on the project proposal for such reasons as lack of funds or a need for further evaluation. Any deferral or disapproval of the project proposal will not preclude its resubmission or reconsideration at a later time. The Commissioner will notify, in writing, the applicant and the appropriate State educational agency of the disposition of each project proposal. The award document for projects approved by the Commissioner will include an approved budget and the terms and conditions upon which the award is made.

(20 U.S.C. 887)

§§ 124.17–124.19 [Reserved]

Subpart D—Federal Financial Participation and Payment Procedures

§ 124.20 Effective date of approved project.

The effective date for any approved project is the date indicated in the award document. There will be no financial participation under section 807 of the Act with respect to expenditures made prior to the effective date of such award document, which in no event will be prior to the date on which the project proposal was received by the Commissioner in substantially approvable form.

(20 U.S.C. 887; 40 C.G. 615)

§ 124.21 Payment procedures.

The Commissioner will pay to each local educational agency with an approved project, either in advance or by way of reimbursement, amounts equal to the total expenditures by that agency under the approved project, but not in excess of the total allowable expenditures therefor. Payments will be made in a manner consistent with the nature of the activities and the services under the approved project

(20 U.S.C. 887)

§ 124.22 Availability of funds for approved projects.

The issuance of an award document will be regarded as an obligation of the Government of the United States in the amount of the award. Federal appropriations so obligated will remain available for expenditure by such local educational agencies during the period for which the award is made. Funds will be considered to have been expended by a local educational agency on the basis of documentary evidence of binding commitments for the acquisition of goods or property or for the performance of work, except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities shall be considered to have

been expended as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectivley. Such binding commitments for the acquisition of goods or property or for the performance of work shall be liquidated within a reasonable period of time.

(20 U.S.C. 887; 31 U.S.C. 200)

§ 124.23 Fiscal and auditing procedures.

(a) Each project proposal shall designate the officer who will receive and have custody of project funds.

(b) Each local educational agency receiving Federal funds for an approved project shall provide for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of, and accounting for, the Federal funds paid to it. Accounts and supporting documents relating to project expenditures shall be adequate to permit an accurate and expeditious audit.

(c) Each local educational agency shall make appropriate provision for the auditing of project expenditure records by a certified or licensed public accountant, and such records as well as the audit reports shall be available to auditors of the Department.

(20 U.S.C. 887)

§ 124.24 Adjustments.

Each local educational agency shall, in maintaining project expenditure accounts, records, and reports, make any necessary adjustments to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or local administrative reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Commissioner.

(20 U.S.C. 887)

§ 124.25 Disposal of records.

(a) Subject to the provisions of paragraph (d) of § 124.28, each local educational agency shall keep accessible and intact all records pertaining to Federal funds provided under section 807 of the Act and to the expenditure of such funds (1) for 5 years after the close of the fiscal year in which the expenditure is liquidated or (2) until it is notified that such records are not needed for program administrative review, whichever is the earlier.

(b) The records pertaining to any claim or expenditure which has been questioned at the time of audit shall be further maintained.

(20 U.S.C. 887)

§ 124.26 Eligible expenditures.

Expenditures which are eligible for participation under section 807 of the Act are those expenditures which (a) conform to the terms of the approved project and (b) are clearly identifiable as additional expenditures incurred as a result of the section 807 program. None of the funds made available under section 807 of the Act may be used for religious worship or instruction.

(20 U.S.C. 885, 887)

§ 124.27 Funds not expended.

In the event that funds previously made available under section 807 of the Act shall not have been expended for the approved project and, in the judgment of the Commissioner, will not be needed for that purpose, the Commissioner may, upon notice to the local educational agency, reduce the amount of the payment to it to an amount consistent with its needs for that purpose. In the event that an amount in excess of the sum needed for the completion of the project shall have actually been paid to the local educational agency, the custodian of the project funds shall repay that excess amount to the Commissioner.

(20 U.S.C. 887)

§ 124.28 Acquisition and maintenance of equipment.

(a) Title of equipment acquired with funds provided under section 807 of the Act must be vested in, and retained by, a public agency.

(b) All equipment acquired with funds provided under section 807 of the Act must be used for the purposes specified in the approved project, and is accountable to the Federal Government at the end of such project. Such equipment must at all times during the project period be subject to the administrative control of the recipient local educational agency.

(c) Costs of maintaining and repairing equipment purchased with funds provided under section 807 of the Act shall be eligible for financial assistance thereunder during the life of the project. It shall be the responsibility of the local educational agency to make reasonable provision for the maintenance and repair of such equipment.

(d) Each local educational agency shall maintain for the expected useful life of the equipment, or until it is disposed of, inventories of all equipment it acquires with funds under section 807 of the Act and costing $100 or more per unit. The records of such inventories shall be maintained for a period of 1 year after the end of the expected useful life of the equipment or after the equipment is disposed of.

(20 U.S.C. 887)

§§ 124.29–124.32 [Reserved]

Subpart E—General Provisions

§ 124.33 Leasing facilities.

In the case of a project involving the leasing of a facility, the local educational agency shall demonstrate that it will have the right to occupy, to operate, and if necessary to maintain and improve, the leased facility during the proposed period of the project.

(20 U.S.C. 887)

§ 124.34 Copyrights and patents.

(a) Any material of a copyrightable nature produced through a project with financial assistance under title VIII of the Act shall not be copyrighted, but shall be placed in the public domain unless, at the request of the grantee and upon a showing that it will result in more effective development or dissemination of the material and would otherwise be in the public interest, the Commissioner may authorize arrangements for the copyright of the material for a limited period of time.

(b) Any materials of a patentable nature produced through a project with financial assistance under title VIII of the Act shall be subject to the provisions of 45 CFR Parts 6 and 8.

(BOB letter, dated Dec. 3, 1964, to Register of Copyrights and 28 F.R. 10943, Oct. 12, 1963)

§ 124.35 Dissemination of information.

In order to assure the value for demonstration purposes of projects under section 807 of the Act, the local educational agency shall provide for a widespread dissemination of significant information developed as a result of such projects and of their evaluation of them. The cost thereof may be charged to the project to the extent that it is authorized in the award document.

(20 U.S.C. 887)

Dated: December 6, 1968.

HAROLD HOWE II,
U.S. Commissioner of Education.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 69-1102; Filed, Jan. 27, 1969; 8:47 a.m.]

PART 160—TRAINING PROGRAM UNDER MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962

Part 160 of Title 45 of the Code of Federal Regulations, which governs the administration by the Office of Education of training programs under the Manpower Development and Training Act of 1962 (42 U.S.C. 2571–2628), is revised to implement changes provided for in the Manpower Development and Training Amendments of 1966 and 1968 (Public Law 89–792 and Public Law 90–636), and to otherwise improve and make more flexible the administration of the program. As revised, Part 160 reads as follows:

Sec.
160.1 Scope and purpose.
160.2 Definitions.
160.3 Summary of program.
160.4 Institutional training services and facilities.
160.5 Fees or charges.
160.6 Supplanting employed persons.
160.7 State direction and supervision.
160.8 Approval of proposals.
160.9 Amount of payment to State agency.
160.10 Allowable costs.
160.11 Payment procedures.
160.12 Effect of payments.
160.13 State fiscal procedures.
160.14 Records and reports.
160.15 Attendance and training progress reports.
160.16 Retention of fiscal records.
160.17 Equipment and teaching aids purchased with Federal funds.

Sec.
160.18 Federal personal property.
160.19 Materials developed for training purposes.
160.20 Disposal of salable items.
160.21 Final accounting.
160.22 Applicability of other regulations.

AUTHORITY: The provisions of this Part 160 issued under sec. 232, Public Law 87-415, as amended, 42 U.S.C. 2602. Interpret or apply sec. 231, Public Law 87-415, as amended, 42 U.S.C. 2601.

§ 160.1 Scope and purpose.

The regulations in this part govern the administration of part B of title II of the Manpower Development and Training Act of 1962, as amended (42 U.S.C. 2571-2628), which authorizes the provision of education and training needed by persons referred by the Secretary of Labor, both through agreements with States and through arrangements made directly with training facilities pursuant to the last sentence of section 231(a) of the Act.

§ 160.2 Definitions.

As used hereinafter in this part—

(a) "Act" means the Manpower Development and Training Act of 1962, Public Law 87-415, 76 Stat. 23, as amended; 42 U.S.C. 2571-2628.

(b) "Annualization" means financing institutional training programs in designated skills centers for 12 months or more by allocating sufficient funds and number of trainees to insure a predetermined level of operation.

(c) "Basic education" means programs which provide instruction to develop or improve occupationally related language and numerical skills.

(d) "CAMPS" means the Cooperative Area Manpower Planning System which is designed to accomplish coordinated planning by local, State, regional, and Federal planning committees.

(e) "CAMPS Coordinating Committee" means the committee which is responsible for CAMPS at the State level.

(f) "Commissioner" means the U.S. Commissioner of Education or his duly authorized representative.

(g) "Communication skills training" means the development of the processes by which meaningful exchanges take place among individuals in occupational settings.

(h) "Cooperative occupational training" means education and training which provides for occupational instruction through school supervised learning experiences at a job site, including guidance, counseling, and work attitudes orientation.

(i) "Direct arrangement" means an agreement entered into by the Commissioner with a training facility pursuant to § 160.3(d).

(j) "Direction and supervision" includes the planning, development, evaluation, approval, management, administration, and operation of institutional training, guidance and counseling, and other supportive services, whether by the State agency or approved subdivisions of the State, necessary to carry out training responsibilities under the agreement.

(k) "Employability skills training" means training which provides occupational skills which affect an individual's employability, such as good work habits, conformity to expected standards of behavior as an employee, job finding skills, and attitudes essential to satisfactory occupational adjustment.

(l) "Institutional training" or "training" means a systematic sequence of instruction designed to impart predetermined skills, knowledge, information, attitudes, or abilities for a particular occupation or for designated educational objectives by an institutional training facility. It includes but is not limited to basic education, prevocational, vocational and technical training, refresher and part-time training, employability and communication skills training, cooperative occupational training, and guidance and counseling.

(m) "Institutional training facility" or "training facility" means a public or private educational or training facility or institution, including skills centers, which provides training under a State agreement or by direct arrangement.

(n) "Part-time training" means training of at least six and not more than 20 hours a week.

(o) "Prevocational training" means a variety of pretraining education activities provided as part of an occupational training program or as a separate program, and includes but is not limited to basic education, skill exploration, work attitudes orientation, and individual counseling to assist referrals to determine the occupational areas in which they should be trained.

(p) "Prime time" means the usual daytime working hours of the local business community.

(q) "Private," as applied to any institutional training facility, means not under public supervision or control.

(r) "Public," as applied to any institutional training facility, means under public supervision and control.

(s) "Referral" means a person selected for training by the Secretary, U.S. Department of Labor, or his duly authorized representative.

(t) "Refresher training" means short intensive training for unemployed or potentially unemployed professional persons who are not preparing for initial employment in a professional occupation but who need to develop their particular professional skills or a new skill so as to maintain their present employment or to qualify for new employment within their professions.

(u) "Secretary" means the Secretary of the U.S. Department of Health, Education, and Welfare or his duly authorized representative.

(v) "Skills center" means a Manpower Training Skills Center which is a centralized self-contained facility, operating on a continuous prime-time basis, generally under public supervision or control, and especially designed to provide institutional training, guidance and counseling, and supportive services.

(w) "State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(x) "State agency" means the appropriate State education agency responsible under the State agreement for the direction and supervision of training under the Act, except that, with respect to training provided for referrals under subsections (b) and (j) of section 202 of the Act, "State agency" means any other appropriate education agency.

(y) "State agreement" means a written agreement for training executed pursuant to § 160.3(b) by the State and the Commissioner.

(z) "Training project" means a training program for a given number of referrals, either on a class or individual referral basis.

§ 160.3 Summary of program.

(a) *Arrangements for training.* Under section 231 of the Act, the Commissioner will make arrangements for providing institutional training for referrals, either through State agreements pursuant to paragraphs (b) and (c) of this section, or through direct arrangements pursuant to paragraph (d) of this section. In either case, preference will be given to the use of skills centers.

(b) *Revision of State agreements.* State agencies desiring to continue to participate under the Act shall, on or before June 30, 1969, enter into a revised State agreement with the Commissioner, which shall incorporate the provisions of the Act and this part, and include such other provisions as the Commissioner may deem necessary or appropriate to carry out the provisions and purposes of the Act. Such revised State agreements shall continue in effect so long as the Act is in force or until terminated by the Commissioner or the State agency pursuant to article III of the State agreement. The agreement shall be in a form prescribed by the Commissioner, the text of which appears as an appendix at the end of this part.

(c) *Conduct of institutional training under State agreement.* With respect to institutional training provided by a State agency under its State agreement, the State agency shall provide the training specified in the notifications of training need either through public training facilities, or through agreements with private training facilities where such private facilities can provide equipment or services not available in public institutions, particularly for training in technical and subprofessional occupations, or where such institutions can, at comparable cost, (1) provide substantially equivalent training, or (2) make possible an expanded use of the individual referral method, or (3) aid in reducing more quickly unemployment or current and prospective manpower shortages.

(d) *Arrangements by Commissioner other than through State agencies.* In deciding whether to provide for institutional training through a State agency or through other arrangements under section 231 of the Act, the Commissioner shall give preference to training provided through State agencies, particularly where the State agency gives priority to

the use of skills centers in its CAMPS plan, so that sufficient funds and training slots are allocated to operate skills centers effectively. However, if within 30 days of official notification of training need, the State agency does not inform the Commissioner in writing of its plans to provide the needed training, or if the Commissioner determines that other arrangements would permit persons to begin their training within a shorter period of time or permit the needed training to be provided more economically or more effectively, the Commissioner may provide the needed training by direct arrangements with public (other than State agency) or private training facilities.

§ 160.4 Institutional training services and facilities.

No public or private training facility may be used to provide institutional training unless the facility:

(1) Is generally regarded as offering quality training as reflected by such factors at its placement record, accreditation status, or, in the case of a facility which has not previously engaged in training, evidence clearly indicating that such facility can make a unique contribution in providing quality training;

(2) Will provide courses of instruction, based on the recognized training needs of the referrals, which will provide the skills and information requisite for employment;

(3) Will provide instructional staff for such training that meets or exceeds the State's standards of training, education, and experience for teaching similar courses;

(4) Has developed suitable standards which set forth the level of competency that will be required for the successful completion of training;

(5) Will insure that all referrals will have the benefit of educational or vocational guidance services;

(6) Will have the facilities necessary for the training to be provided, including, but not limited to, space, tools, machines, supplies, and teaching aids which shall be available on a primetime basis, as defined in § 160.2(p);

(7) Will establish and maintain appropriate health and safety standards in the conduct of the training; and

(8) Is financially sound and capable of fulfilling its commitments for training.

§ 160.5 Fees or charges.

No fees or charges are to be collected from trainees as a condition of enrollment, participation, or completion of any approved training course of instruction.

§ 160.6 Supplanting employed persons.

Institutional training shall be so designed and conducted as to insure that services rendered by trainees as a part of their training will not have the effect of supplanting persons presently engaged in, or available for, employment in connection with supplying such services.

§ 160.7 State direction and supervision.

(a) *General.* Each State agency with which the Commissioner has a State agreement shall exercise such direction and supervision as is necessary to assure that all notifications of training need are quickly processed; that training projects are expeditiously formulated so that referrals may enter training promptly; that such training is adequate and of such quality as meet the training needs of the referred persons; and that all the provisions and requirements of the Act and the regulations in this part are met by the State agency and all training facilities conducting training under the State agreement.

(b) *State agency staff.* Each State agency shall (1) designate a person qualified in institutional training to provide for State direction and supervision of training projects conducted under its State agreement, and (2) employ such full-time staff as may be necessary to assist in carrying out such functions.

(c) *Development and processing of institutional training proposals.* Prior to the commitment of any funds for training under its State agreement, each State agency shall, through its staff employed pursuant to paragraph (b) of this section, (1) survey and evaluate public and private facilities available in the State for the training of referrals; (2) provide assistance in planning training; and (3) record its review and approval or disapproval of each training proposal application.

(d) *Review, coordination, and evaluation of institutional training*—(1) *Review of proposed training applications.* In its review of proposed training applications, including budget estimates therefor, each State agency shall take into consideration (i) the quality of the proposed training in meeting the needs of referrals, (ii) the comparative advantage of making use of alternative training facilities, including private training facilities in circumstances specified in § 160.3(c), and (iii) the proposed starting, completion, and placement schedules suggested by the Secretary of Labor in the notification of training need so that the training may be responsive to the needs of employers.

(2) *Coordination of training.* Each State agency shall coordinate all training conducted under its State agreement through CAMPS so as to avoid unnecessary duplication and encourage the most efficient use of training facilities and resources to the extent consistent with the expeditious achievement of the purposes of the Act.

(3) *Evaluation of institutional training.* Each State agency shall make provision for periodic evaluations of training conducted under its agreement. Such evaluations shall include the State agency's recommendations for improvement and the need for continuing such training. Reports containing such evaluations shall be submitted by the State agency to the Commissioner within 90 days after the end of the fiscal year in such form as he may prescribe.

(e) *CAMPS coordinating committees, advisory committees, and operations committees*—(1) *CAMPS coordinating committees.* In connection with its functions under the State agreement, each State agency shall participate in the designated CAMPS coordinating committee and shall encourage the participation by local officials in local CAMPS coordinating committees.

(2) *State advisory committees.* In connection with its functions under its State agreement, each State agency shall use the consultative services of a State advisory committee composed, insofar as practicable, of persons representing education, training, labor, management, agriculture, and the public in general, including representatives of the disadvantaged.

(3) *Local advisory committees.* Each State agency shall encourage the use of local advisory committees in connection with training conducted under its State agreement by training facilities at the local level. Such committees shall be constituted on a basis similar to that provided for in the case of the State advisory committee in subparagraph (2) of this paragraph.

(4) *Participation in State operations committees.* Each State agency shall participate in such State-level manpower program operations committees as may be established to aid in carrying out the provisions and purposes of the Act.

§160.8 Approval of applications.

(a) *Institutional training*—(1) *Basis of Federal commitment.* Federal funds under the Act for each fiscal year shall be available for institutional training approved during such fiscal year by a State agency pursuant to paragraph (2) and by the Commissioner pursuant to paragraph (3) of this section.

(2) *Approval by State agency.* (i) Where the Secretaries of Labor and Health, Education, and Welfare have approved a CAMPS plan submitted by a State agency with whom they have an agreement, such State agency shall have authority to approve (a) training project applications for an amount not to exceed 20 per centum of the funds apportioned to such State under the first sentence of section 301(a) without further project approval by the Commissioner, and (b) all other training project applications which conform to such State plan, unless the Commissioner disapproves such project applications within 30 days following receipt of such applications.

(ii) In order that Federal funds may be committed to training projects approved by State agencies pursuant to this paragraph, State agencies shall notify the Commissioner of such projects within ten days of their approval.

(iii) Such approval authority will be vested in State agencies having an agreement with the Commisisoner. All training projects approved by State agencies pursuant to this paragraph shall comply with all other provisions of the Act and these regulations, and the approval procedures followed by the State agency

shall be such as to insure such compliance.

(3) *Approval by Commissioner.* The Commisisoner will approve institutional training projects to be conducted (i) in States which do not have an approved CAMPS plan, and (ii) under direct arrangements entered into by the Commissioner pursuant to § 160.3(d). Prior to the commitment of funds for such institutional training, a training application and budget on approved Office of Education forms shall be prepared on the basis of the estimated costs of the training involved.

(b) *State direction and supervision.* Federal funds under the Act for each fiscal year shall also be available for State direction and supervision of institutional training. An estimate of the cost of State direction and supervision for the fiscal year of the training to be conducted under the agreement shall be separately prepared and submitted to the Commissioner for approval.

(c) *Maximum Federal commitment.* In order to assure that the Federal funds committed with respect to all approved institutional training and the costs of State direction and supervision of the program do not exceed the total funds available for those purposes, each approved budget shall represent the maximum amount the Commissioner is obligated to pay for such training, direction, or supervision. This amount may be revised from time to time by the Commissioner as reductions or increases may warrant.

(d) *Effective date of approval.* The effective date of approval by the Commissioner or by a State agency of an institutional training project, or amendments thereto, shall be the date upon which the State agency and/or training facility is advised by the Commissioner that Federal funds are committed to such project. Expenditures made prior to notification of official commitment of funds will not be allowed.

(e) *Maintenance of effort.* (1) Neither the State CAMPS plan nor any institutional training will be approved by the Commissioner unless he determines that State and local expenditures of public funds (as defined in 45 CFR § 104.39(a)) in the State and in the locality in which the training is to be carried out have not been or are not being reduced below the level expended in the preceding fiscal year for vocational education and training (including program operation under the provisions of the Smith-Hughes Vocational Education Act, titles I, II, and III of the Vocational Education Act of 1946, and the Vocational Education Act of 1963, as amended), except for reductions unrelated to the provisions and purposes of the Act.

(2) Institutional training approved by the State agency shall be submitted to the Commissioner and be accompanied by assurances to this effect, and the Commissioner may from time to time require information to verify the correctness of such assurances.

(3) For the purposes of this paragraph, "locality" means the State or any subdivision thereof being served by the institutional training.

§ 160.9 Amount of payment to State agency.

(a) *In general.* Within the State allotments and budget estimates approved by the State agency and the Commissioner, the State agency will be paid the Federal share of the allowable costs attributable to institutional training and to State direction and supervision.

(b) *Determination of Federal share of allowable costs—institutional training.* Subject to the provision in § 160.8(c), the Federal share of allowable costs incurred in connection with institutional training and State direction and supervision approved in any one fiscal year shall not exceed 90 percent of the allowable costs which are attributable to such activities, except that: (i) the Commissioner may determine that Federal funds in excess of 90 percent are necessary to give full effect to the purposes of the Act with respect to training carried out in private training facilities or in conjunction with experimental, developmental, demonstration, and pilot programs and projects under section 102(6) of the Act, and (ii) the State agency of the Trust Territory of the Pacific Islands may be paid up to 100 percent of such costs. The Federal share may include only those allowable costs for which cash expenditures of Federal funds are made pursuant to paragraphs (a), (b), and (c) of § 160.10. The non-Federal share may be on a statewide basis, and may include those allowable costs for which cash expenditures of non-Federal funds are made pursuant to paragraphs (a), (b), and (c) of § 160.10, or contributions in kind of facilities, equipment, and services made pursuant to paragraph (d) of § 160.10. In no event may the Federal share of the total costs of training and State direction and supervision approved in any one fiscal year exceed the amount of cash expenditures attributed to such activities.

§ 160.10 Allowable costs.

(a) *Expenditures for State direction and supervision.* To the extent they are attributable to carrying out the responsibilities of the State agency under its State agreement, the approved allowable costs of the State agency in its direction and supervision of institutional training may include expenditures for the following:

(1) Salaries, including employers' contributions to retirement, workmen's compensation, and other welfare funds maintained for one or more general classes of employees;

(2) Equipment necessary for the direction and supervision of training;

(3) Communications;

(4) Supplies, printing, and printed materials;

(5) Rental of office space (including the cost of utilities and custodial services) if (i) the expenditures for the space are necessary, reasonable, and properly related to the efficient direction of the program; (ii) the State agency will receive benefits of the expenditures during the period of occupancy commensurate with such expenditures; (iii) the amounts paid by the State agency do not exceed comparable rental in the particular locality; (iv) the expenditures represent an actual cost to the State agency; and (v) in the case of publicly owned buildings, like charges are made to other agencies occupying similar space for similar purposes;

(6) Necessary travel and per diem for the State Advisory Committee;

(7) Travel of staff;

(8) Out-of-area travel of local supervisors, counselors, and instructors, including participation in preservice and inservice manpower training staff development programs;

(9) Cost of training staff orientation and development;

(10) The acquisition of resource materials and the cost of development of instructional materials;

(11) Transportation and storage of supplies and equipment obtained on loan from other Federal agencies under section 303(a) of the Act or from Federal excess or surplus property, the National Industrial Reserve, or completed training projects within the State or from other jurisdictions;

(12) Subject to prior approval by the Commissioner, program development costs incurred by approved subdivisions of the State, which costs may include those allowed for State direction and supervision as enumerated in subparagraphs (1) to (11) of this paragraph; and

(13) The cost of audits performed under § 160.13(b).

(b) *Expenditures for training by public training facilities.* To the extent that they are attributable to carrying out institutional training under a State agreement, either by the State agency itself or by arrangement with other public training facilities, approved allowable costs may include expenditures for the following:

(1) Salaries, including employers' contributions to retirement, workmen's compensation, and other welfare funds maintained for one or more general classes of employees;

(2) Acquisition of supplies, training manuals, and materials, and other teaching aids; acquisition, transportation, maintenance, and repair of equipment; and rental of equipment (including publicly owned equipment), providing the amounts paid do not exceed comparable rental in the particular locality;

(3) Rental of space (including the cost of utilities and custodial services) of shops, classrooms and laboratories if: (i) the expenditures for the space are necessary, reasonable, and properly related to the efficient conduct of training projects, (ii) a training project will be benefited by the expenditures during the period of occupancy commensurate with such expenditures, (iii) the amounts paid do not exceed comparable rental in the particular locality, (iv) the expenditures represent an actual cost attributable to the training project, and (v) in the case of publicly owned buildings, like charges

are made to others occupying similar space for similar purposes;

(4) Transportation of local supervisors and counselors in carrying out their responsibilities in connection with approved institutional training within their local area, except that travel may be authorized outside the local area for skills center administrators and project directors as required in carrying out their responsibilities under the Act;

(5) Minor remodeling of public buildings necessary to make existing space suitable for training purposes with allowable costs not to exceed 10 percent of the total budget for a single institutional training facility;

(6) Accident and liability insurance for trainees and employees;

(7) Transportation of trainees for instructional purposes, such as field trips; and

(8) The cost of services or materials for which fees or charges are normally made by the training facility to enrollees for similar training may be included as a separate item in the budget for each training project.

(9) Audits performed under § 160.13(b).

(c) *Expenditures for training by private training facilities.* In the case of institutional training in private training facilities which have entered into arrangements with State agencies under State agreements, the allowable costs shall be either (1) the regular tuition charge for similar training and the cost of any additional supplies, textbooks, and field trips necessary for such training; or (2) if there is no regular tuition charge for similar training, the cost of training as determined by negotiation between the State agency and the training facility, substantiated by appropriate budget backup.

(d) *In-kind contributions.* A computation of the non-Federal share of allowable costs attributable to institutional training and State direction and supervision carried out under State agreements may include the following amounts of in-kind contributions, whether derived from State sources, or donated by public or private agencies, institutions, or organizations, or derived from any other source:

(1) The value of contributed personal services where no cash payments are made;

(2) The rental value of contributed space or equipment, computed on an annual basis or fraction thereof in terms of the comparable rental charges in the particular community or locality for such space or equipment.

(e) *Training through direct arrangements with the Commissioner.* In the case of training provided by training facilities pursuant to direct arrangements with the Commissioner, the allowable costs shall be the cost of the training project or projects as mutually agreed upon by the Commissioner and the training facility.

(f) *Proration of costs.* Only costs attributable to the carrying out of institutional training and State direction and supervision are allowable costs. Where only a portion of a total cost is attributable to carrying out such activities, only that portion which is allowable shall be shown in the budget. Prorated salaries and wages must be documented to show time spent on carrying out such activities and the percentage of time spent on each nonrelated activity. All rental costs of equipment shall be computed on an actual use basis per year or fraction thereof, and all rental costs of space shall be computed on a square foot basis used per year or fraction thereof; and, if used for other purposes, such costs shall be prorated in terms of its use for training project or State direction and supervision.

(g) *Date of allowable costs.* Federal financial participation will be available only for expenditures incurred after the effective date (as defined in § 160.8(d)) of the approved institutional training or the approved budget for State direction and supervision. (See § 160.8(b) and paragraph (a)(12) of this section.)

§ 160.11 Payment procedures.

(a)(1) State agencies which have entered into a State agreement with the Commissioner shall be entitled to withdraw funds under a letter of credit issued by the Commissioner to the State. Withdrawals are made on the basis of payment vouchers in accordance with instructions furnished to the State for use of the letter of credit. The State is authorized to issue payment vouchers against the letter of credit only upon official notification of an award from the Commissioner. Notice of cancellation of a specific project or a decrease in the amount originally approved for a specific project shall automatically preclude the State from drawing a payment voucher for such project in an amount in excess of the amended approval.

(2) Payments made pursuant to direct arrangements may be made periodically, either in advance or by way of reimbursement, as determined by the Commissioner.

(b) If the actual costs incurred in completing an institutional training project or portion thereof are less than the estimated costs which constituted the Commissioner's basis for the determination of the amount of the Federal funds committed to the cost of the project or portion thereof completed, the amount of the next ensuing notification of award, or installment payment as the case may be, shall be reduced accordingly or the amount of unexpended Federal funds remaining at the time of the completion of the training shall be refunded to the United States as an overpayment.

§ 160.12 Effect of payments.

Neither the approval of any CAMPS plans or institutional training or administrative budget nor any advance or other payment made pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure to observe, before or after such administrative action, any Federal requirement.

§ 160.13 State fiscal procedures.

(a) The State agency may make payments in advance or by way of reimbursement to training facilities conducting institutional training under the State agreement. Such payments shall be supported by statements of expenditures, either made or proposed on forms provided by the Commissioner.

(b) The State agency shall require each training facility providing training under the State agreement to keep adequate records by budget classification of expenditures made for each training project. Where payment is to be made on a reimbursable basis, prior to final settlement for a training project, the State agency shall determine the correctness of the amount through an audit made in accordance with generally accepted auditing standards by an appropriate State audit agency or by an independent certified public accountant or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other subdivision of the United States.

§ 160.14 Records and reports.

(a) Each State agency and each training facility with which the Commissioner has a State agreement or direct arrangement shall submit such reports (at such time and on such forms as may be prescribed therefor) as the Commissioner or Secretary of Labor may require to perform their respective duties under the Act (including the attendance and training progress reports required in § 160.15) and shall keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports. Such records shall indicate these activities as separate and distinct from other activities of the State agency or training facility.

(b) Each State agency shall also include in its arrangements for training with public or private training facilities provisions requiring the keeping of such records and the submittal of such reports as may be required for the State agency to carry out its responsibilities under the Act.

§ 160.15 Attendance and training progress reports.

Pursuant to regulations issued by the Secretary of Labor (29 CFR §§ 20.50 and 20.51), each training facility shall submit a certification to the local representatives of the Secretary of Labor, on forms and in accordance with instructions provided therefor, with respect to each person receiving training who, without good cause (as determined pursuant to criteria issued under 29 CFR § 20.50(b)), is found upon review by an official of the training facility not to have a satisfactory attendance record or not to be making satisfactory progress in his training.

§ 160.16 Retention of fiscal records.

(a) Each State agency and each training facility with which the Commissioner has a State agreement or direct arrangement shall provide for keeping accessible and intact all records supporting claims

for Federal funds or relating to the accountability of a State agency or training facility for expenditure of such funds and relating to the expenditure of its share of the costs of providing training under the Act:

(1) For 5 years after the close of the fiscal year in which the expenditure was made by the State agency or any public or private training facility; or

(2) Until the State agency or training facility is notified of the completion of the Federal fiscal audit, whichever is earlier.

(b) The records involved in any claim or expenditure which has been questioned by the Federal fiscal audit shall be further maintained until necessary adjustments have been made and the adjustments have been approved by the Commissioner.

§ 160.17 Equipment and teaching aids purchased with Federal funds.

(a) *Equipment and teaching aids purchased under State agreement.* Equipment and teaching aids purchased by a State or local educational agency with funds to carry out the provisions of a State agreement shall be under the control of the State, with full custody and accountability in the State agency and not in a local educational agency or any other agency or institution. So long as the Act is in force, such equipment and teaching aids shall not be disposed of by the State without the consent of the Commissioner and shall be made available during their useful lives by the State agency for the purpose of carrying out the agreement, including the conduct of training projects other than those for which the equipment and teaching aids were originally purchased.

(b) *Equipment and teaching aids acquired under direct arrangements.* All direct arrangements with public or private training facilities will provide that equipment and teaching aids purchased under such direct arrangements will not be disposed of by the training facility without the consent of the Commissioner, and shall, upon discontinuance of their use in a training project, be made available by the training facility for assignment to other training projects at the request of the Commissioner.

(c) *Disposition of equipment and teaching aids.* When items of equipment, in the cost of which the Federal Government has participated, are sold or diverted to uses inconsistent with carrying out the agreement prior to the expiration of the Act, the Federal Government shall be credited with its proportionate share of the value of such equipment, the value being determined on the basis of the sale price in the case of a bona fide sale or on the fair market value in the case of diversion for uses other than the purpose of carrying out the agreement. If such equipment is loaned to another party for uses other than adult basic and vocational education which do not interfere with its full use in carrying out the agreement, the Federal Government shall be credited with its proportionate share of the fair rental value of such use or, in the case of a bona fide lease, the rent prescribed in the lease arrangement.

(d) *Inventories of units of equipment.* (1) When the unit cost of equipment is $50 or more, the State agency shall maintain an up-to-date inventory of all equipment acquired (i) as a part of the training projects approved under the Act, (ii) for use in State direction and supervision of training, and (iii) for use in program development by other agencies. A separate inventory must be maintained for equipment described in subdivisions (i), (ii), and (iii) of this subparagraph. A training facility with which the Commissioner has a direct arrangement shall maintain an up-to-date inventory on all such equipment acquired pursuant to the arrangement.

(2) All equipment inventoried under this paragraph must be clearly marked to identify it as having been purchased with funds provided under the Act. Such inventories shall be maintained (i) until the expiration of the useful life of such equipment, or (ii) until the State agency or training facility is notified by the Secretary of the completion of the audit covering the disposition of such equipment.

§ 160.18 Federal personal property.

Excess or other Federal personal property on loan from other Federal agencies is available, on a loan basis, for use in training projects. Only the right of possession is granted. Title to such property remains in the United States. The use of such property is subject to the following conditions: (a) The State agency or training facility with which the Commissioner has a State agreement or direct arrangement shall maintain separate records of all excess or other Federal personal property received in such form and detail as will permit the location and identification of such property at any time; (b) the possessor shall be responsible for such property from the time of receipt or its release to the transportation agent, whichever is earlier; and (c) in the event of any loss or damage to any of such property, the State agency or training facility shall file such claim and/or institute and prosecute to conclusion such proceedings as may be necessary to recover, for the account of the United States, the fair value of any such property.

§ 160.19 Materials developed for training purposes.

Any training materials which are developed or created by a State agency or training facility for the conduct of training with funds under the Act shall be made available, upon request, for study, reproduction, distribution, and use by the Commissioner and such persons or organizations as the Commissioner may designate. No such materials may be published for sale without the prior approval of the Commissioner, which approval shall be subject to such conditions and requirements as he deems appropriate.

§ 160.20 Disposal of salable items.

If items produced from supplies paid for in whole or in part with funds under the Act or otherwise resulting from institutional training are disposed of, the disposition shall not involve the sale or resale of such items except as may be specifically authorized by the Commissioner.

§ 160.21 Final accounting.

In addition to such other accounting as the Commissioner may require, each State agency and each training facility with which the Commissioner has a State agreement or direct arrangement shall render, with respect to each approved training project and budget for State direction and supervision, a full account of (a) the sum total of all amounts paid with respect to such project or budget, (b) all equipment and teaching aids purchased with Federal funds, (c) all Federal personal property loaned for use in the training project, (d) all training materials developed for use in the training project, and (e) all salable items resulting from the training project. A report of such account shall be submitted to the Commissioner within 60 days of the expiration or termination of the training project or the program of State direction and supervision for which the account is made.

§ 160.22 Applicability of other regulations.

Federal financial assistance under this part is subject to the requirements of Title VI of the Civil Rights Act of 1964, approved July 2, 1964 (Public Law 88-352, 78 Stat. 252, 42 U.S.C. 2000d et. seq.). Section 601 of that Act provides 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 subjected to discrimination under any program or activity receiving Federal financial assistance. Therefore, Federal financial assistance pursuant to this part is subject to the regulation in 42 CFR Part 80.

PETER P. MUIRHEAD
Acting U.S. Commissioner of Education.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary of Health, Education, and Welfare.

APPENDIX—MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962, AS AMENDED

TRAINING PROGRAM AGREEMENT

ARTICLE I. TERMS OF AGREEMENT

The U.S. Commissioner of Education (hereinafter referred to as the "Commissioner"), acting for the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), and _____ (Name of authorized State Agency) (hereinafter referred to as the "State Agency"), acting for _____ (Name of State, District, Commonwealth, etc.) _____, in order to carry out those provisions of the Manpower Development and Training Act of 1962, as amended (hereinafter referred to as

the "Act") for which the Secretary is responsible, hereby agree that the State Agency will provide training and that the Commissioner will make payments of Federal funds for such training in accordance with the provisions of the Act and the implementing regulations (45 CFR Part 160).

ARTICLE II. PERIOD OF PERFORMANCE

This Agreement shall continue in effect so long as the Act is in force or until terminated by the Commissioner or the State Agency pursuant to Article III.

ARTICLE III. TERMINATION

A. The State Agency may terminate this Agreement on 30 days' advance notice in writing to the Commissioner, or without such advance notice if it certifies to the Commissioner, accompanied by an opinion of an appropriate legal officer of the State that it is no longer legally able to comply substantially with all or any part of this Agreement.

B. The Commissioner may terminate this Agreement on 30 days' advance notice in writing to the State Agency. He may terminate it without such notice if, after affording an opportunity for a hearing to the State Agency, he finds that the State Agency is no longer able or has failed to comply substantially with all or any part of this Agreement.

C. Upon termination of this Agreement, any funds paid to a State Agency pursuant to this Agreement prior to the date of such termination, and any equipment purchased with funds paid to the State Agency under this Agreement shall be accounted for in accordance with provisions in the regulations.

ARTICLE IV. COMPLETION OF PROJECTS AFTER CHANGE IN REGULATIONS

In the event of any change in the regulations, the State Agency may carry to completion any project in accordance with the provisions of the regulations in effect at the time of final approval of that project by the Commissioner or the State Agency, as the case may be.

ARTICLE V. NONDISCRIMINATION

A. Federal financial participation under this Agreement is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (Public Law 88-342).

B. Employment will be in accordance with the provisions of Executive Order No. 11246 of September 24, 1965. The equal employment opportunity clause contained in section 202 of such Executive order shall be deemed to be a part of this Agreement as though the provisions were set out in full herein: *Provided*, That the terms "State Agency", "Commissioner", and "Agreement" shall be substituted for the terms "contractor", "contracting officer", and "contract", respectively, wherever they appear therein; and that the terms "subcontractor" and "subcontract" in paragraph (7) thereof shall be deemed to include training facilities and agreements with such training facilities, respectively.

ARTICLE VI. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom.

ARTICLE VII. EFFECTIVE DATE

This Agreement shall be effective as of the date it is signed by the Commissioner.

(Name of the authorized State Agency)

(Address)

By: ---

(Title)

(Date)

By: ---

(Title)

(Date)

Approved: ---
(Signature of State Legal Officer)

(Title)

(Date)

Secretary of Health, Education, and Welfare:

By: ---
(U.S. Commissioner of Education)

(Date)

Certified to be a true copy of the original:

[F.R. Doc. 69-1103; Filed, Jan. 27, 1969; 8:47 a.m.]

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

AFDC Foster Care

Interim Policy Statement No. 16 setting forth regulations with respect to AFDC Foster Care was published in the FEDERAL REGISTER of September 7, 1968 (33 F.R. 12755). No objections having been received from any person, such regulations are hereby codified by adding a new § 233.110 to Part 233 of Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

§ 233.110 AFDC Foster Care.

(a) *Requirements for State Plans.* Effective July 1, 1969, a State plan for AFDC must provide for aid to families with dependent children in the form of foster care for children specified in section 408 of the Social Security Act. Provision must be made for both foster family care and institutional care in accordance with the individual child's needs. Public institutions may be used, without Federal financial participation, to discharge the institutional obligation in whole or in part. The State plan must specify the types of institutions which will be used. The use of institutions outside the State will also meet the requirement for the provision of institutional care.

(b) *Federal Financial Participation.* (1) Federal financial participation may be claimed, effective January 1, 1968, in AFDC foster care payments not to exceed an average of $100 per month per recipient, made on behalf of children as specified in section 408 of the Act, who are included in the approved State plan under title IV-A of the Act. The maximum of $100 per month per recipient may be disregarded when the provisions of section 1118 of the Act are applied.

(2) In addition to children for whom Federal financial participation was available prior to January 1, 1968, Federal financial participation is available for assistance in the form of foster care for the following additional children if they are included in the State plan:

(i) Children placed since May 1, 1961, in foster care, if they would have received AFDC in or for the month in which court proceedings that resulted in removal from the home were initiated, if application had been made for them, and

(ii) Children placed since May 1, 1961, who lived with a relative enumerated in the State's approved plan within 6 months prior to the month in which court proceedings were initiated which resulted in such children being placed in foster care, and who would have received AFDC in or for such month if in such month they had been living with (and were removed from the home of) such a relative and if application had been made for them.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date: The regulations in this section shall be effective upon their publication in the FEDERAL REGISTER.

Dated: January 10, 1969.

JOSEPH H. MEYERS,
Acting Administrator, Social and Rehabilitation Service.

Approved: January 17, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1106; Filed, Jan. 27, 1969; 8:47 a.m.]

PART 225—TRAINING AND USE OF SUBPROFESSIONALS AND VOLUNTEERS

Interim Policy Statement No. 15 setting forth the regulations for the State plan programs administered under titles I, IV (parts A and B), V, X, XIV, XVI and XIX of the Social Security Act with respect to the Training and Use of Subprofessionals and Volunteers was published in the FEDERAL REGISTER on September 7, 1968 (33 F.R. 12754). After consideration of the views presented by interested persons, certain changes in the regulations were made. Accordingly, the regulations as so amended are hereby codified by adding a new Part 225 to Chapter II

of Title 45 of the Code of Federal Regulations as set forth below.

Sec.
225.1 Definitions.
225.2 State plan requirements.
225.3 Federal financial participation.

AUTHORITY: The provisions of this part 225 issued under sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

§ 225.1 Definitions.

(a) The classification of subprofessional staff as community service aides refers to persons in a variety of positions in the planning, administration, and delivery of health, social, and rehabilitation services in which the duties of the position are composed of tasks that are an integral part of the agency's service responsibilities to people and that can be performed by persons with less than a college education, by high school graduates, or by persons with little or no formal education.

(b) "Full-time or part-time employment" means that the person is employed by the agency and his position is incorporated into the regular staffing pattern of the agency. He is paid a regular wage or salary in relation to the value of services rendered and time spent on the job.

(c) The term "Volunteer" describes a person who contributes his personal service to the community through the agency's human services program. He is not a replacement or substitute for paid staff but adds new dimensions to agency services, and symbolizes the community's concern for the agency's clientele.

(d) "Partially paid volunteers" means volunteers who are compensated for expenses incurred in the giving of services. Such payment does not reflect the value of the services rendered, or the amount of time given to the agency.

§ 225.2 State plan requirements.

Effective July 1, 1969, the State plan for OAA, AFDC, AB, APTD, AABD or MA under title I, IV (part A), X, XIV, XVI or XIX of the Social Security Act or for CWS under title IV (part B) of the Act (see 42 CFR Part 201), or for MCH and CC under title V of the Act (see 42 CFR Part 200), must:

(a) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(1) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan under title I, IV (part A), X, XIV, XVI, or XIX of recipients; and will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives;

(2) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(3) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, preservice and in-service training and educational leave with pay, progress to positions of increasing responsibility and reward;

(4) An organized training program, supervision, and supportive services for subprofessional staff; and

(5) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

(b) Provide for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency and for that purpose provide for:

(1) A position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions;

(2) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(3) A program for organized training and supervision of such volunteers;

(4) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(5) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is adequate for the achievement of the agency's service goals.

§ 225.3 Federal financial participation.

Under the State plan programs under Titles I, IV (Parts A and B), V, X, XIV, XVI, and XIX of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

Effective date: The regulations in this part shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 15, 1969.

JOSEPH H. MEYERS,
Acting Administrator,
Social and Rehabilitation Service.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1105; Filed, Jan. 27, 1969; 8:47 a.m.]

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Interim Policy Statement No. 2, setting forth the regulations for the program administered under title XIX of the Social Security Act with respect to optional inclusion of essential persons, was published in the FEDERAL REGISTER on July 17, 1968 (33 F.R. 10228). Interim Policy Statement No. 12, setting forth the regulations for the same program with respect to financial eligibility for the medically needy under the medical assistance programs, was published in the FEDERAL REGISTER of September 7, 1968 (33 F.R. 12751). No objection having been received from any person, such regulations including additional policy on cost sharing in sec. 248.21(a)(1)(ii), are hereby codified by adding a new Part 248 to Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

Sec.
248.11 Title XIX; optional inclusion of certain "essential persons" under plan approved under title I, X, XIV, or XVI; Federal financial participation.
248.21 Financial eligibility; medical assistance programs; medically needy.

AUTHORITY: The provisions of this Part 248 issued under sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

§ 248.11 Title XIX; optional inclusion of certain "essential persons" under plan approved under title I, X, XIV, or XVI; Federal financial participation.

Effective with respect to payments made on or after January 2, 1968, under a State plan approved under title XIX of the Social Security Act, Federal financial participation is available in the costs of medical care and services provided under such a plan to a spouse of a recipient of financial assistance under another plan of the State approved under title I, X, XIV, or XVI of the Act, who is living with and has been determined, in accordance with such other plan, to be essential to the well-being of such recipient, and whose needs are taken into account in determining the amount of financial assistance provided to such recipient.

§ 248.21 Financial eligibility—medical assistance program—medically needy.

(a) *Requirements for State plans.* A State plan for medical assistance, if it includes the medically needy, must:

(1) Provide levels of income and resources for maintenance, in total dollar amounts, as a basis for establishing financial eligibility for medical assistance, in accordance with the following:

(i) Such income levels must be comparable as among individuals and families of varying sizes.

(ii) The income levels for maintenance must be, as a minimum, at the level of the most liberal money payment standard used by the State, at any time on or after January 1, 1966, as a measure of financial eligibility in any categorical money payment program in the

State, or at the level for which Federal financial participation is available pursuant to paragraph (b) of this section, whichever is less. Where a State imposes any deduction cost sharing, enrollment fee, premium, or similar charge under the plan with respect to any medical assistance furnished to an individual thereunder, such charge may not be imposed to the extent that it would reduce the individual's income below the most liberal money payment standard referred to in the preceding sentence.

(iii) A lower income level for maintenance must be used for individuals not living in their own homes but receiving care in nursing homes, institutions for tuberculosis, or mental diseases or other medical facilities providing long-term care. This lower income level must be reasonable in amount for clothing and personal needs for such individuals. When such an individual's home is maintained for a spouse or other dependents, the appropriate income level for such dependents, plus the individual's income level for maintenance in a long-term care facility, is applicable.

(iv) Resources which may be held must, as a minimum, be at the most liberal level used in any money payment program in the State on or after January 1, 1966, and the amount of liquid assets which may be held must increase with an increase in the number of individuals in the family. There must be separate levels established for resources.

(2) Provide that there will be a flexible measurement of available income which will be applied in the following order of priority:

(i) First, for maintenance, so that any income in an amount at or below the established level will be protected for maintenance.

(ii) Next, income in excess of that needed for maintenance will be applied to costs incurred for medical insurance premiums and for necessary medical or remedial care recognized under State law and not encompassed within the State plan for medical assistance. States may set reasonable limits on such medical services for which excess income may be applied.

(iii) All of the remaining excess income will be applied to costs of medical assistance included in the State plan.

(3) Provide that all income and resources (after all State policies governing the disregard, or setting aside for future needs, of income and resources in the State's approved plans under titles I, IV—Parts A, X, XIV, and XVI have been applied) will be considered in establishing eligibility, and in the flexible application of income to medical costs not in the State plan, and payment toward the medical assistance costs.

(4) Provide that only such income and resources as are actually available will be considered; that income and resources will be reasonably evaluated; and that only such income and resources will be considered as will be "in hand" within a period, preferably of not more than 3 months, but not in excess of 6 months, ahead, including the month in which medical services were rendered for which payment would be made under the plan.

(5) Provide that financial responsibility of any individual for any applicant or recipient of medical assistance will be limited to the responsibility of spouse for spouse and of parents for children under age 21, or blind, or permanently and totally disabled; and specify the extent to which the financial responsibility of any such relatives is taken into account.

(b) *Federal financial participation.* Payments in behalf of medically needy individuals are subject to Federal financial participation only to the extent that they are made for a member of a family the annual income of which is within the income levels established in the following:

(1) In the case of any State with an approved plan under which medical assistance was furnished to medically needy individuals prior to July 26, 1967, the applicable income levels with respect to the third and fourth calendar quarters of 1968 are 150 percent of the amounts specified in subparagraph (2) of this paragraph. With respect to all calendar quarters during 1969, the income levels are 140 percent of such amounts and, thereafter, 133⅓ percent of such amounts. In the case of any other State, the income levels with respect to any calendar quarter beginning after March 31, 1968, are 133⅓ percent of the amounts specified in subparagraph (2) of this paragraph. Any total yearly income levels established by applying the above percentages which are not multiples of $100 shall be rounded to the next higher multiple of $100. Federal financial participation is available for a person whose annual income exceeds this level to the extent that medical expenses exceed the income excess (see subparagraph (2) (iii) of this paragraph).

(2) The amounts to be applied in calculating the income levels referred to in subparagraph (1) of this paragraph are the highest amounts which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under part A of title IV of the Act, subject to the following modifications:

(i) In the case of a single individual the amount of the income level shall be reasonaby related to the amounts payable under such plan to families consisting of two or more individuals who are without income or resources.

(ii) If the amounts established under such plan are subject to a maximum family limit, the income level for families which exceed such limit will be determined by adding an amount for each member of the family to such limit. The amounts to be added shall be reasonably related to those established under the plan for families which are within the maximum family limit.

(iii) In computing a family's or individual's income for purposes of subparagraphs (1) and (2) of this paragraph, there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family or individual for medical care or for any other type of remedial care recognized under State law.

(3) If a State furnishes medical assistance on the basis of income levels which are higher than those specified in this section, the State agency must submit to the Department of Health, Education, and Welfare for its approval income levels which are calculated on the basis provided in this section, and must establish procedures to assure that claims for Federal financial participation are limited accordingly.

Effective date: The regulations in this part shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 9, 1969.

JOSEPH H. MEYERS,
Acting Administrator,
Social and Rehabilitation Service.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1107; Filed, Jan. 27, 1969; 8:47 a.m.]

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Protective and Vendor Payments for Dependent Children

Interim Policy Statement No. 13 setting forth the regulations for the program administered under Title IV—Part A of the Social Security Act, with respect to Protective and Vendor Payments for Dependent Children, was published in the FEDERAL REGISTER of September 7, 1968 (33 F.R. 12753). Views of interested persons were requested, received and considered, and in the light thereof, certain changes in the regulations were made.

Accordingly, a new § 234.60 is added in Part 234, Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

§ 234.60 Protective and vendor payments for dependent children.

(a) *Requirements for State plans.* The State plan for AFDC must provide that:

(1) Methods will be in effect by which children will be identified whose relatives have demonstrated such an inability to manage funds that payments to the relative have not been or are not currently used in the best interest of the child.

(2) Criteria will be established to determine under what circumstances payments will be made in whole or in part directly to—

(i) Another individual who is interested in or concerned with the welfare of such child or relative; or

(ii) A person or persons furnishing food, living accommodations or other goods, services, or items to or for the child, relative, or essential person.

(3) Aid in the form of foster care in behalf of eligible children will be included in the plan no later than July 1, 1969.

(4) There will be responsibility to assure referral to social services for appropriate action to protect recipients where problems and needs for services and care of the recipients are manifestly beyond the ability of the protective payee to handle.

(5) Standards will be established for selection:

(i) of protective payees, who are interested in or concerned with the recipient's welfare, to act for the recipient in receiving and managing assistance, with the selection of a protective payee being made by the recipient, or with his participation and consent, to the extent possible. If it is in the best interest of the recipient for a staff member of a private agency, of the public welfare department, or of any other appropriate organization to serve as a protective payee, such selection will be made preferably from the staff of an agency or that part of the agency providing protective services for families; and the public welfare department will employ such additional staff as may be necessary to provide protective payees. The selection will not include: the executive head of the agency administering public assistance; the person determining financial eligibility for the family; special investigative or resource staff, or staff handling fiscal processes related to the recipient; or landlords, grocers, or other vendors of goods or services dealing directly with the recipient.

(ii) of persons providing goods or services with the selection of such persons being made by the recipient, or with his participation and consent, to the extent possible.

(6) The agency will undertake and continue special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family.

(7) Review of the need for protective payments or payments to a person furnishing goods or services on behalf of children and the way in which a protective payee's responsibilities are carried out will be made as frequently as indicated by the individual's circumstances and at least every 3 months.

(8) Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, as follows:

(i) When relatives are considered able to manage funds in the best interest of the child, there will be a return to money payment status.

(ii) When it appears that need for protective payments or payments to a person furnishing goods or services will continue or is likely to continue beyond 1 year because all efforts have not resulted in sufficiently improved use of assistance in behalf of the child, judicial appointment of a guardian or other legal representative will be sought and such payments will terminate when the appointment has been made.

(9) Opportunity for a fair hearing will be given to any individual claiming assistance in relation to the determination;

(i) That a protective payment, or a payment to a person furnishing food, living accommodations, or other goods or services to a child, relative or other individual, should be made or continued,

(ii) As to the payee selected, or

(iii) That foster care will be provided.

(10) Payments for the AFDC child and other eligible members of the family or household will be made by use of methods described in subparagraph (2) or (3) of this paragraph as required under the work incentive program (section 402(a)(19)(F) of the Act): *Provided*, That, notwithstanding the provisions of such subparagraph (2), when protective payments are made the entire payment will be made to the protective payee and when vendor payments are made the greater part of the payment will be made through this method. In such cases, subparagraphs (5) and (7) of this paragraph will also be applicable. These provisions will be applicable to a relative with whom the AFDC child resides, who has been referred to the Secretary of Labor and has without good cause refused to participate in a work incentive program or to accept a bona fide offer of employment, during a 60-day period if such relative accepts counseling aimed at encouraging him to participate in a work incentive program. Provision will be made for termination of protective payments, or payments to a person furnishing goods or services, with return to money payment status when adults who refused training or employment without good cause either accept training or employment or agree to do so in the event such opportunities are not currently available. In the case of continuing refusal of the relative to participate, payments will be continued for the children in the home in accordance with such subparagraph (2).

(b) *Federal financial participation.* Federal financial participation is available in payments which otherwise qualify as money payments with respect to an eligible dependent child, but which are made to a protective payee under paragraph (a)(5)(i) of this section, or to a person furnishing food, living accommodations, or other goods or services to a child, relative or essential person. Payrolls must identify protective payment cases or payments to a person furnishing goods or services, either by use of a separate payroll for these cases or by using a special identifying code or symbol on the regular payroll.

(1) The payment must be supported by an authorization of award through amendment of an existing authorization document for such case or by preparation of a separate authorization document. In either instance, the authorization document must be a formal agency record signed by a responsible agency official, showing the name of each eligible child and relative, the amount of payment authorized and the name of the protective payee.

(2) The number of individuals for whom protective payments or payments to a person furnishing goods or services are made who can be counted as recipients for Federal financial participation in any month is limited to 10 percent of the number of other AFDC recipients in the State for that month.

(i) In computing such 10 percent, individuals with respect to whom protective payments or payments to persons furnishing goods or services are made for any month because of their refusal without good cause to participate in a work incentive program or because of their refusal without good cause to accept a bona fide offer of employment in which they are able to engage are not to be counted.

(ii) The State may decide whether the same percentage limitation is applied in each local administrative subdivision or it may establish a method of assuring that the number of recipients for whom matchable payments are made does not exceed the limitation for the State as a whole.

(iii) If the number of recipients in cases for whom protective payments or payments to persons furnishing goods or services are made in any month does not exceed 10 percent of all other AFDC recipients in that month, all such payments and recipients may be included in computing Federal financial participation. If the number of recipients in cases for whom protective payments or payments to persons furnishing goods or services are made exceeds 10 percent of all other AFDC recipients, then it will be necessary to identify cases whose total recipient count is within the 10 percent limit. Only the payments and recipient count for such identified cases may be included for Federal financial participation. Other recipients receiving protective payments or payments to a person furnishing goods or services must be excluded from the recipient count, and assistance payments (including vendor medical payments and pooled fund premiums) for such recipients must be excluded from assistance expenditures, in determining a State's claim for Federal financial participation.

(iv) In computing the 10 percent limit on the number of recipients of protective payments or payments to a person furnishing goods or services, the numerical limit may be rounded upward to the nearest whole number.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date: The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 10, 1969.

JOSEPH H. MEYERS,
Acting Administrator,
Social and Rehabilitation Service.

Approved: January 17, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1108; Filed, Jan. 27, 1969; 8:47 a.m.]

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Protective Payments for the Aged, Blind, or Disabled

Interim Policy Statement No. 14 setting forth the regulations for the programs administered under titles I, X, XIV, or XVI of the Social Security Act, with respect to Protective Payments for the Aged, Blind or Disabled, was published in the FEDERAL REGISTER of September 7, 1968 (33 F.R. 12754). Views of interested persons were requested, received and considered, and in the light thereof, certain changes in the regulations were made.

Accordingly, a new § 234.70 is added in Part 234, Chapter II of Title 45 of the Code of Federal Regulations as set forth below:

§ 234.70 Protective payments for the aged, blind, or disabled.

(a) *State plan requirements.* If a State plan for OAA, AB, APTD, or AABD under the Social Security Act includes provisions for protective payments, the State plan must provide that:

(1) Methods will be in effect to determine that needy individuals have, by reason of physical or mental condition, such inability to manage funds that making payment to them would be contrary to their welfare; such methods to include medical or psychological evaluations, or other reports of physical or mental conditions including observation of gross conditions such as extensive paralysis, serious mental retardation, continued disorientation, or severe memory loss.

(2) There will be responsibility to assure referral to social services for appropriate action to protect recipients where problems and needs for services and care of the recipients are manifestly beyond the ability of the protective payee to handle. (See subparagraph (5) of this paragraph.)

(3) Standards will be established for selection of protective payees who are interested in or concerned with the individual's welfare, to act for the individual in receiving and managing assistance, with the selection of a protective payee being made by the individual, or with his participation and consent, to the extent possible. If it is in the best interest of the individual for a staff member of a private agency, of the public welfare department, or of any other appropriate organization to serve as a protective payee, such selection will be made preferably from the staff of an agency or that part of the agency providing protective services for families or for the disabled or aged group of which the recipient is a member; and such staff of the public welfare department will be utilized only to the extent that the department has adequate staff for this purpose. The selection will not include: The executive head of the agency administering public assistance; the person determining financial eligibility for the individual; special investigative or resource staff, or staff handling fiscal processes related to the recipient; or landlords, grocers, or other vendors of goods or services dealing directly with the recipient—such as the proprietor, administrator or fiscal agent of a nursing home, or social care, medical or nonmedical institution, except for the superintendent of a public institution for mental diseases or a public institution for the mentally retarded, or the designee of such superintendent, when no other suitable protective payee can be found and there are appropriate staff available to assist the superintendent in carrying out the protective payment function.

(4) Protective payments will be made only in cases in which the assistance payment, with other available income, meets all the need of the individual, using the State's standards for assistance for the pertinent program, not standards for protective payment cases only.

(5) The agency will undertake and continue special efforts to protect the welfare of such individuals and to improve, to the extent possible, their capacity for self-care and to manage funds.

(6) Reconsideration of the need for protective payments and the way in which a protective payee's responsibilities are carried out will be as frequent as indicated by the individual's circumstances and at least every 6 months.

(7) Provision will be made for appropriate termination of protective payments as follows:

(i) When individuals are considered able to manage funds in their best interest, there will be a return to money payment status.

(ii) When a judicial appointment of a guardian or other legal representative appears to serve the best interest of the individual, such appointment will be sought and the protective payment will terminate when the appointment has been made.

(8) Opportunity for a fair hearing will be given to any individual claiming assistance in relation to the determination that a protective payment should be made or continued, and in relation to the payee selected.

(b) *Federal financial participation.* Federal financial participation is available for payments, which otherwise qualify as money payments with respect to a needy individual, but which are made to a protective payee under paragraph (a)(3) of this section. The payment must be supported by an authorization of award through amendment of an existing authorization document for such case or by preparation of a separate authorization document. In either instance, the authorization document must be a formal agency record signed by a responsible agency official showing the name of each eligible individual, the amount of payment authorized and the name of the protective payee. Payrolls must identify protective payment cases either by use of a separate payroll for these cases or by using a special identifying code or symbol on the regular payroll.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date: The regulations in this section shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 15, 1969.

JOSEPH H. MEYERS,
Acting Administrator,
Social and Rehabilitation Service.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1109; Filed, Jan. 27, 1969; 8:48 a.m.]

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Interim Policy Statement No. 17 setting forth regulations for the medical assistance program administered under title XIX of the Social Security Act, with respect to cost-sharing and similar charges (sections 1902(a)(14) and (15) of the Act), was published in the FEDERAL REGISTER of September 7, 1968 (33 F.R. 12755). The views of interested persons were requested, received, and considered. The one suggestion received proposed that money-payment recipients pay part of the cost of medical services received. Such cost-sharing by money-payment recipients is not appropriate under the Act. Senate Report No. 744, 90th Congress, first session 186 (1967). Therefore, no change has been made in the regulations.

Interim Policy Statement No. 21 also setting forth regulations for the program under title XIX, with respect to coordination of title XIX with part B of title XVIII of the Social Security Act (sections 1843, 1902(a)(10)(II), 1903(a)(1), and 1903(b)(2) of the Act, including the amendment made by section 303 of Public Law 90-364), was published in the FEDERAL REGISTER of September 6, 1968 (33 F.R. 12687). No suggestions or objections were received and no change has been made in the regulations.

Accordingly, these regulations are codified by adding new Part 249 of Chapter II, Title 45 of the Code of Federal Regulations as set forth below.

Sec.
249.40 Cost sharing and similar charges; State plan requirements.
249.41 Coordination of title XIX with part B of title XVIII, Social Security Act.

AUTHORITY: The provisions of this Part 249 issued under sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

§ 249.40 Cost sharing and similar charges; State plan requirements.

A State plan for medical assistance under title XIX of the Social Security Act must:

(a) Provide that no deduction, cost sharing, enrollment fee, premium, or similar charge, with respect to any medical or remedial care and services furnished under the plan, will be imposed on any categorically needy individual.

(b) If any deduction, cost sharing, enrollment fee, premium, or similar charge, with respect to any medical or remedial

care and services furnished under the plan, is imposed on any medically needy individual, specify the amount and the method of determining it.

(1) The cost sharing must be reasonably related to the recipient's income or his income and resources.

(2) The cost sharing must be administratively feasible.

(c) Provide that any medical resource of an individual in the form of insurance or other entitlement will be used to reduce the amount, duration and scope of care provided under the plan. However, assistance may be provided subject to the provision in section 1902(a)(25) of the Act regarding third party liability. Also, care covered by excess income or resources of the individual in accordance with section 1902(a)(17) of the Act may not reduce the assistance available under the plan.

§ 249.41 Coordination of title XIX with part B of title XVIII, Social Security Act.

(a) *Requests for "buy-in" agreements.* States have through December 31, 1969, to request a "buy-in" agreement for the following two groups:

(1) Individuals receiving money payments under the plan of the State approved under titles I, X, XIV, and XVI, and part A of title IV of the Social Security Act (under the prior law, States had only through December 31, 1967, to request an agreement for such individuals) and

(2) All individuals who are eligible to receive medical assistance under the State's plan under title XIX of the Act.

(b) *Comparability.* Payment made by a State of premiums under title XVIII, part B of the Act, whether through a "buy-in" agreement or otherwise, or provision for meeting part or all of the cost of the deductibles, cost sharing, or similar charges under part B, does not impose an obligation on the State to make comparable services available to other title XIX recipients (below age 65). This provision permits the States to enter into agreements to pay the premium charges under part B or to pay the deductibles and other charges under that program without obligating themselves to provide the range of part B benefits to other individuals who are under title XIX of the Act. Any State implementing this provision must amend its plan accordingly.

(c) *Federal financial participation.* (1) There will be no Federal financial participation in the monthly insurance premium under title XVIII, part B of the Act which the title XIX State pays on behalf of nonmoney payment individuals eligible to receive medical assistance under title XIX of the Act.

(2) There will also be no Federal financial participation for State expenditures for medical assistance after December 31, 1969, under title XIX of the Act, which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of title XVIII of the Act. This applies to all persons who could have been covered under such program, whether on an individual basis or through the "buy-in."

Effective date: The regulations in this part are effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 10, 1969.

JOSEPH H. MEYERS,
Acting Administrator,
Social and Rehabilitation Service.

Approved: January 17, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1112; Filed, Jan. 27, 1969; 8:48 a.m.]

PART 280—GRANTS FOR EXPANSION AND DEVELOPMENT OF UNDERGRADUATE AND GRADUATE PROGRAMS IN SOCIAL WORK

Notice of proposed regulations for the program administered under title VII, section 707, of the Social Security Act, with respect to grants for education for social work to colleges and graduate schools and to associations of such institutions was published in the FEDERAL REGISTER of October 18, 1968 (33 F.R. 15482). After consideration of the views presented by interested persons, section 280.3 was amended to clarify the curriculum content and location of the baccalaureate undergraduate program. In addition, a definition of the term "project" was added. This was done to clarify that such section 707 provides for part of the costs for expansion, improvement and development of a social work education program. Accordingly, a new Part 280 is added to Chapter II of Title 45 of the Code of Federal Regulations as set forth below.

Federal financial assistance extended under this part is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Sec.

AUTHORITY: The provisions in this Part 280 issued under sec. 1102, 49 Stat. 647, sec. 707, 81 Stat. 930; 42 U.S.C. 1302 and 908.

§ 280.1 Purpose.

The Administrator, Social and Rehabilitation Service, is authorized to make grants to meet part of the costs of development, expansion, or improvement of undergraduate programs in social work and programs for the graduate training of professional social work personnel.

§ 280.2 Definitions.

As used in this part:

(a) "Service" means the Social and Rehabilitation Service in the U.S. Department of Health, Education, and Welfare.

(b) "Administrator" means the Administrator, Social and Rehabilitation Service.

(c) "School of social work" means a department, school, division, or other administrative unit, in a public or nonprofit private college or university, which provides, primarily or exclusively, a program of education in social work and allied subjects leading to a graduate degree in social work, and which is accredited or has been granted candidacy for accreditation by the Council on Social Work Education.

(d) "Nonprofit" as applied to any college or university refers to a college or university which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) "Project" means the development, expansion, or improvement activity, constituting an integral part of a social work education program, which is funded jointly under this part by the Federal government and the grantee.

§ 280.3 Eligibility for grants.

Grants may be made to:

(a) Public or nonprofit private colleges and universities, for expansion, development, and improvement of baccalaureate undergraduate programs in social work. The program shall be placed within an administrative structure to achieve liberal arts content, or under the administrative direction of a school of social work;

(b) Schools of social work, for expansion, development, and improvement of programs for the graduate training of professional social work personnel;

(c) Public or nonprofit private colleges and universities which have schools of social work, for the expansion, development, and improvement of combined graduate-undergraduate programs in social work;

(d) Associations of schools of social work and regional education associations, for the purposes described in paragraphs (a), (b), and (c) of this section.

§ 280.4 Matching requirements.

Federal funds will be granted on the basis of project applications, and may pay only part of the cost of the supported activity. The applicant must identify by dollar amount its contribution to the project for the development, expansion or improvement of education for social work.

§ 280.5 Applications.

Any applicant for a grant under this part may file application therefor with Office of Research, Demonstrations and Training, Division of Grants Management, Social and Rehabilitation Service, Department of Health, Education, and

Welfare, Washington, D.C. 20201, on such forms and containing such information as the Service may prescribe. The application shall cover:

(a) The purpose and objectives of the project;

(b) A description of the nature and scope of the activities to be undertaken and methods to be used in accomplishing them;

(c) A proposed budget;

(d) Designation of a project director; and

(e) Such other information as the Service may require.

Applications will be considered by an Advisory Committee which will make recommendations to the Administrator. The Administrator then determines the action to be taken with respect to each application, and informs the applicant accordingly.

§ 280.6 Grant awards.

All grant awards shall be in writing, shall set forth the amount of funds granted, and shall constitute for such amounts the encumbrance of Federal funds available for such purpose on the date of the award. The initial award shall also specify the total period for which support is contemplated if the activity is successfully carried out and Federal funds are available. For continuation support, grantees must make annual separate application in the form and detail required by the Service.

§ 280.7 Criteria in judging applications.

Applications will be considered from a nationwide perspective of the relative need in the regions and States for personnel trained in social work, and with regard to the potential of the educational institutions to contribute increased numbers of qualified individuals to the manpower needs in these areas, by use of these funds. Among relevant factors to be considered, special emphasis will be placed on innovation in curriculum objectives, content and methods.

§ 280.8 Revisions.

A grantee shall request that the project as approved be revised whenever the approved plan of operation or method of financing is materially changed. Revisions originating with the grantee shall be submitted in writing and will be given appropriate review. Revisions of an approved project may be initiated by the Administrator if, on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing these grants.

§ 280.9 Use of funds.

Federal and grantee project funds may be used for.

(a) Salaries, cost of travel, and related expenses of personnel necessary for the project;

(b) Necessary supplies, equipment, and related expenses;

(c) Administrative costs directly related to the project, and indirect costs at a rate prescribed by the Department of Health, Education, and Welfare. Expenditures under the project shall be in connection with the conduct of the project as approved;

(d) Minor improvements to existing facilities of undergraduate or graduate programs in social work.

§ 280.10 Termination.

If for any reason the grantee discontinues an approved project, the grantee shall notify the Administrator in writing, giving the reasons for termination, an accounting of funds granted for the project, and other pertinent information. The grant may be terminated, in whole or in part, at any time at the discretion of the Administrator. The grantee will be given prompt notice of the termination, including the reasons therefor. Such termination shall not affect obligations incurred prior to the termination of the grant. Upon termination of a project, the proportion of unexpended funds attributable to the Federal grant shall be refunded.

§ 280.11 Publications and copyright.

Grantees may publish results of any activity assisted by the grant without prior review by the Service. Any such publication must acknowledge the assistance received under the grant, and copies must be furnished to the Service. Where an approved project results in a book or other copyrightable material, the author is free to copyright the work, but the Service reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity.

§ 280.12 Records and reports.

(a) The grantee shall establish and follow such accounting, budgetary, and other fiscal procedures as are necessary for the proper and efficient administration of the project, and shall maintain fiscal records. Such records shall show for each grant period the amount and disposition by the grantee of Federal funds and the grantee's share, the total cost for the grant period, and such other records as will facilitate an effective audit.

(b) The grantee shall account for all expenditures of project funds by presenting or otherwise making available vouchers or other evidence, satisfactory to the Service, of such expenditures.

(c) The granteee shall provide a progress report with each submission of an application for continuation support. A final report shall be submitted not later than 3 months after the termination of the project.

(d) The grantee shall maintain such other records and make such other reports, in such form and containing such information, as the Service may require.

Effective date: The regulations in this part shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 17, 1969.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: January 19, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1110; Filed, Jan. 27, 1969; 8:48 a.m.]

Chapter IX—Administration on Aging, Social and Rehabilitation Service, Department of Health, Education, and Welfare

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter IX of title 45 is amended as set forth below. The amendments represent technical changes required to comply with the provisions of Public Law 90-42 approved on July 1, 1967; Public Law 90-577 approved on October 16, 1968; and the reorganization of the Department of Health, Education, and Welfare on August 15, 1967 (32 F.R. 12068).

PART 901—GENERAL

1. Section 901.2 (a) and (b) are revised to read as follows:

§ 901.2 Definitions.

(a) "Act" means the Older Americans Act of 1965, as amended (42 U.S.C. 3001, et seq.).

* * * * *

(f) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

PART 903—GRANTS FOR COMMUNITY PLANNING, SERVICES, AND TRAINING

2. Section 903.3 is revised to read as follows:

§ 903.3 Plan approval.

The State plan and all amendments thereto shall be submitted to the Secretary through the Regional Commissioner of the Social and Rehabilitation Service. The Regional Commissioner reviews the plan or amendments and approves them within his delegated authority, or forwards the plan or amendments together with his comments and recommendations to the Administrator, Social and Rehabilitation Service. Any State plan or amendment meeting the requirements of the Act and of this part shall be approved.

3. Section 903.27 is amended to read as follows:

§ 903.27 Reallotments to the States.

The amount of any allotment to a State under § 903.26 for any fiscal year which the State notifies the Secretary will not be required for carrying out the State plan (if any) approved under title III of the Act shall be reallotted from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines * * *

4. Section 903.28 is revised to read as follows:

§ 903.28 Federal financial participation.

The allotment of any State under title III of the Act for any fiscal year shall be available for grants to pay part of the costs of projects in such State described in § 903.1 and approved by such State, in accordance with its approved State plan, prior to the end of such year. To the extent permitted by the State's allotment under this section, payments with respect to any project shall equal 75 per centum of the cost of such project for the first year of the duration of such project, 60 per centum of such cost for the second year of such project, and 50 per centum of such cost for the third year of such project; except that:

(a) At the request of the State such payments may be less than such percentage of the cost of such project stated above, and

(b) Grants may not be made under such title for any such project for more than 3 years or for any period after June 30, 1974.

5. Section 903.30 is revised to read as follows:

§ 903.30 Costs of administration.

From the State's allotment under § 903.26 for a fiscal year, not more than 10 percent of $25,000, whichever is larger, shall be available for paying one-half (or such smaller portion as the State may request) of the costs in administering the approved State plan, including the costs of carrying out the functions referred to in § 903.19.

6. Section 903.31 is revised to read as follows:

§ 903.31 Audit.

All fiscal transactions by the State agency, any other agency (if any) administering part of the plan, and any project grantee under the Act are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

§ 903.32 [Revoked]

7. Section 903.32 is revoked.

PART 904—RESEARCH AND DEVELOPMENT PROJECTS

8. Section 904.1(b), is revised to read as follows:

§ 904.1 Definitions.

* * * * *

(b) The development or demonstration of new approaches, techniques, and methods (including multipurpose centers) which hold promise of substantial contribution toward wholesome and meaningful living for older persons;

* * * * *

9. Section 904.11 is revised to read as follows:

§ 904.11 Interest; other income.

(a) Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), a State, as defined in section 102 of that Act, will not be held accountable for interest earned on grant funds, pending their disbursement for program purposes. A State, as defined in the Intergovernmental Cooperation Act, section 102, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All other grantees must return to the Social and Rehabilitation Service all interest earned on grant funds.

(b) All grantees must return to the Social and Rehabilitation Service a part of any other project income proportionate to the grant contribution to the support of the project.

10. Section 904.12 is revised to read as follows:

§ 904.12 Audits.

All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

PART 905—TRAINING PROJECTS

11. Section 905.11 is revised to read as follows:

§ 905.11 Interest; other income.

(a) Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), a State, as defined in section 102 of that Act, will not be held accountable for interest earned on grant funds, pending their disbursement for program purposes. A State, as defined in the Intergovernmental Cooperation Act, section 102, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All other grantees must return to the Social and Rehabilitation Service all interest earned on grant funds.

(b) All grantees must return to the Social and Rehabilitation Service a part of any other project income proportionate to the grant contribution to the support of the project.

13. Section 905.12 is revised to read as follows:

§ 905.12 Audits.

All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

PART 906—ADVISORY COMMITTEES

14. Section 906.1(a), is revised to read as follows:

§ 906.1 Advisory Committee on Older Americans.

(a) *Appointment and composition.* The Advisory Committee on Older Americans shall consist of the Commissioner, who shall be Chairman, and 15 persons not otherwise regular full-time employees of the United States, appointed by the Secretary without regard to the civil service laws. Members shall be selected from among persons who are experienced in or have demonstrated particular interest in special problems of aging.

* * * * *

15. Section 906.3 is revised to read as follows:

§ 906.3 Per diem payments.

Members of the Advisory Committee on Older Americans, or of any technical advisory committee appointed under § 906.2 who are not regular full-time employees of the United States, shall, while attending meetings or conferences of such committee or otherwise engaged on business of such committee, be entitled to receive compensation at a rate fixed by the Secretary but not exceeding $100 per diem, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government service employed intermittently.

(Secs. 101-603, 79 Stat. 218-226, 81 Stat. 106-108; sec. 203, 82 Stat. 1101; 42 U.S.C. 3001-3053)

Effective date: These amendments are effective on publication in the FEDERAL REGISTER.

Dated: January 17, 1969.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: January 19, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1114; Filed, Jan. 27, 1969; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—AID TO FISHERIES

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

JANUARY 23, 1969.

On page 17920 of the FEDERAL REGISTER of December 3, 1968, there was published a notice and text of a proposed

Part 258. The purpose of the procedures is to govern the administration of section 7 of the Fishermen's Protective Act.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed revision. A number of comments or objections were received and all have been considered. The proposed procedures have been changed so as to include applicable suggested changes and are hereby adopted.

The regulations shall become effective on February 9, 1969.

Sec.
258.1 Definition of terms.
258.2 Purposes of Fishermen's Protective Fund.
258.3 Eligibility.
258.4 Applications.
258.5 Fees.
258.6 Insurance required.
258.7 Approval of applications.
258.8 Payment of claims.
258.9 Records.

AUTHORITY: The provisions of this Part 258 issued under sec. 7 of the Fishermen's Protective Act of 1967 (Public Law 90-482; 22 U.S.C. 1977).

§ 258.1 Definition of terms.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary*. The Secretary of the Interior or his authorized representative.

(b) *Owner*. The registered owner or owners of a commercial fishing vessel, or a bareboat charterer of a commercial fishing vessel.

(c) *Act*. The Fishermen's Protective Act of 1967 (22 U.S.C. 1971-1977, as amended).

(d) *Fishermen's Protective Fund*. The account established in the Treasury of the United States under the provisions of section 7(c) of the Act.

(e) *Commercial fishing vessel*. A vessel licensed or enrolled and licensed as a fishing vessel of the United States engaged in catching, or catching and processing, fish and/or shellfish.

(f) *Seized*. Placed under arrest and detained by a foreign country for alleged illegal fishing.

§ 258.2 Purposes of Fishermen's Protective Fund.

The broad objective of the Fishermen's Protective Fund is to provide for reimbursement of losses and costs (other than fines, license fees, registration fees, and other direct costs which are reimbursable through the Secretary of State) incurred as a result of the seizure of a U.S. commercial fishing vessel by a foreign country on the basis of rights or claims in territorial waters or on the high seas which are not recognized by the United States.

§ 258.3 Eligibility.

Any owner of a commercial fishing vessel documented or certified in the United States is eligible to apply for an agreement with the Secretary providing for a guarantee in accordance with section 7(a) of the Act.

§ 258.4 Applications.

Any Owner desiring to enter into an agreement with the Secretary under the authority of section 7(a) of the Act shall make application to the Director, Bureau of Commercial Fisheries, U.S. Department of the Interior, Washington, D.C. 20240, upon application form furnished by that Bureau. The application shall be accompanied by a fee in the amount prescribed in § 258.5.

§ 258.5 Fees.

(a) The fees during the period ending on June 30, 1970, are established to provide for payment of the administrative costs and one-third of the estimated claims to be paid from the Fund. They will be set based on anticipated losses and prior experience. The fee schedule may be increased or decreased by amendment to this part at any time, if warranted by changed conditions; and if this change takes place prior to the end of a fiscal year it will be applicable to all contracts executed after the effective date of the amendment.

(b) The fees to be paid by an applicant during the fiscal year ending June 30, 1969, shall be as follows:

For each vessel $60 plus $1.80 per gross ton as listed on the vessel's documents. Fractions of a ton are not included.

(c) The fees will cover the guarantee agreement for a fiscal year ending on June 30, or any part of that fiscal year. No return of a fee or portion of a fee will be made after an agreement is executed by the Secretary.

(d) A guarantee agreement may, with the consent of the Secretary, be assigned to a new owner of a vessel if the ownership of the vessel is transferred during the period in which the agreement is in force.

§ 258.6 Insurance required.

In order to qualify for an agreement executed under this part, the vessel must be insured during the period of the agreement with hull and machinery insurance and protection and indemnity insurance in an amount and form satisfactory to the Secretary.

§ 258.7 Approval of applications.

The approval of an application shall be evidenced by the execution of the agreement by the Secretary and the agreement shall be in effect from the time of its effective date.

§ 258.8 Payment of claims.

(a) In case of a cost or loss resulting in a claim under an agreement, the claim shall be filed in duplicate with the Director, Bureau of Commercial Fisheries, U.S. Department of the Interior, Washington, D.C. 20240. The Director will obtain verification of certain essential facts regarding the seizure from the Department of State. Payments shall be made as promptly as practicable but may, at times, be delayed pending appropriation of necessary funds.

(b) The burden of proving all damages shall be upon the guaranteed party.

(c) No payment shall be made on a claim caused by negligence of the owner, captain or crew.

(d) Each claim filed shall contain an authorization to all International, Federal, State, or Local Government agencies to furnish the Bureau of Commerical Fisheries with any data or information relating to the operation of the vessel involved in the claim which the Secretary deems necessary for adjudication of the claim.

(e) No claim shall be paid unless the vessel involved and covered by a guarantee agreement is properly documented as a vessel of the United States at the time of the seizure.

(f) No claim of any crew member who is not a citizen or an alien legally domiciled in the United States will be considered.

(g) In case of the loss or confiscation of a vessel or gear resulting in a claim, the value of the vessel or gear for the purpose of settling the claim shall be the market value as determined by the Secretary.

(h) The value used in determining claims involving the catch of the vessel will be that paid in the port and on the date of the first arrival of the vessel in the United States as determined by the Secretary. If the vessel does not return to a port of the United States, the value used will be determined by the Secretary after consideration of the circumstances involved.

(i) Original documents or certified copies of receipts and other documents required as verification of losses must be provided.

(j) All assureds shall pursue any claim under commercial insurance covering identical loss or losses as the Secretary may determine to be necessary prior to application for payment under this part.

§ 258.9 Records.

The Secretary shall have the right to inspect such books and records of the owner as the Secretary may deem necessary in processing a claim under this part.

H. E. CROWTHER,
Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 69-1118; Filed, Jan. 27, 1969; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 61]

[Docket No. 8614; Reference Notice 67-56]

PERIODIC PILOT FLIGHT INSTRUCTION OR PROFICIENCY CHECKS

Withdrawal of Advance Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 67-56 (32 F.R. 20984; Dec. 29, 1967) in which the FAA solicited comments on amendments, under consideration, to Part 61 of the Federal Aviation Regulations that would require, for pilots in command of airplanes and rotorcraft, periodic flight instruction, or proficiency checks except where the same or substantially equivalent checks are received in other ways.

Of over 1,500 public comments received in response to Notice 67-56, a substantial majority opposed the entire proposal or significant parts thereof. Numerous objections asserted that the program would be too costly and burdensome, and that it would create hardship in many cases. As to the latter, concern was expressed that flight testing 550,000 active pilots in the United States annually would be a gigantic undertaking for the present number of flight instructors and FAA inspectors, and that many general aviation pilots would suffer long delays and the loss of use of their aircraft while waiting for proficiency checks. After further consideration, it is concluded that the present supply and availability of qualified flight instructors, who necessarily would handle the major portion of the program, is insufficient to handle the proposed flight instruction and proficiency checks without undue delays. Also, in areas where flight instructors are few and infrequently available, many pilots would be forced to fly many miles, with additional expense and loss of time, to comply with the requirements.

Other objections to the proposal asserted that the proposed requirements would not improve pilot judgment—a prime consideration as a causal factor in many serious accidents. According to these comments, many serious and fatal accidents are primarily due to exercise of poor judgment (proceeding into adverse weather, etc.) and the pilots' proficiency in flying the aircraft has little or no bearing on the situation. Coupled with this is the fact that there is no conclusive proof that the proposed program would have an appreciable effect upon the general aviation accident rate in these types of accidents.

In addition to the matters discussed by the comments, several other factors support the decision to withdraw Notice 67-56. First, on the basis of the number of active pilots as of December 31, 1967, the flight hours and proportion of simulated or actual IFR operations involved, and the geographical distribution of pilots, a large portion of the operations would be concentrated in terminal areas and the vicinity thereof, with a decided impact on the already serious airspace problems in those areas. Second, it now appears that rules requiring periodic flight instruction or proficiency checks are unnecessary at the present time. This is because of (1) the extensive and growing volume of voluntary training, and proficiency training through general aviation flight clinics; and (2) the emerging effects on safety of the periodic flight instructor renewal program that became effective in September 1965 (but was not completely effective until September 1967), and the companion requirements for increased supervision of student pilot activities, all of which have contributed to the improved general aviation safety record as reflected in a recent National Transportation Safety Board report. In addition, a two-year safety education program labeled "Project 85" was commenced on an experimental basis in two FAA Regions on July 1, 1968, and it has been very well received.

Upon further evaluating the suggestions made in the proposal, in the light of the comments received and related safety considerations, the FAA has determined that rule-making action is not appropriate at the present time, and that Notice 67-56 should be withdrawn. However, the FAA expects to continue to evaluate the results of the various safety programs, and to reconsider the matter within a reasonable period of time to determine whether there is a demonstrated need for rules discussed in the notice.

Withdrawal of this notice constitutes only such action, and does not preclude the FAA from issuing other notices in the future or commit the FAA to any course of action in the future.

In consideration of the foregoing, the advance notice of proposed rule making published in the FEDERAL REGISTER (32 F.R. 20984; Dec. 29, 1967) and circulated as Notice 67-56, entitled "Periodic Pilot Flight Instruction or Proficiency Checks", is hereby withdrawn.

This withdrawal is issued under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 22, 1969.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[F.R. Doc. 69-1090; Filed, Jan. 27, 1969; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 18430, RM-1362; FCC 69-66]

TELEVISION BROADCAST STATIONS; ANNAPOLIS, MD., AND SEAFORD, DEL.

Table of Assignments

1. On October 24, 1968, the Maryland Educational-Cultural Broadcasting Commisison (MECBC) filed a petition requesting that the Commission delete Channel 22 from Seaford, Del., and assign this channel to Annapolis, Md., and in its place assign Channel 38 to Seaford, Del. It also proposes that both channels be reserved for noncommercial educational television stations. MECBC states that it was created to develop, operate, and maintain a system of State and local educational-cultural broadcast facilities, and has developed plans for a seven-station network. It holds a construction permit for WMPB, Channel 67, Baltimore, Md., and has filed an application (BPET-324) for Channel 28 at Salisbury, Md. It is claimed that a station in Annapolis, the State capital, is essential to complete statewide coverage. MECBC also points out that Annapolis in Anne Arundel County is one of the fastest growing areas in the State, and that there is a growing need for an educational-cultural facility in this area. Attached to the petition is a letter from the Delaware Educational Television Network endorsing the proposed channel changes. Also attached is an engineering statement showing that these two channel assignments can be made and will meet all of the Commission's mileage separation requirements. Annapolis at this time has no television channel assignments, either commercial or noncommercial educational.

2. On December 13, 1968, MECBC filed additional comments for rulemaking stating that an educational television assignment to Annapolis, Md., would be in the public interest, is essential to MECBC's long-range plans for an educational network and coverage of the State, and urges the Commission to initiate rule making proceedings as they requested. No other comments have been received at this point.

3. We have examined the assignment possibilities in the Annapolis, Md.-Seaford, Del., area by means of the electronic computer and find that Channel 22 can be assigned to Annapolis in full compliance with the prescribed geographic separations if it is deleted from Seaford without upsetting channel assignments in adjacent areas. The computer study also shows that Channel 66 can be used to replace Channel 22 at Seaford and will provide much greater site flexibility

than Channel 38, proposed by the petitioner. The choice of a transmitter site for Channel 38 at Seaford would be limited in the direction of WOND-TV, Channel 53, at Atlantic City, N.J., to approximately 3.5 miles as shown in the petitioner's engineering statement. Therefore, it is proposed to assign Channel 66 to Seaford instead of Channel 38 as the petitioner proposes.

4. Accordingly, pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Table of Assignments in § 73.606(b) of the Commission's rules by deleting Channel 22 from Seaford, Del., and assigning Channel 66 in its place, and by assigning Channel 22 to Annapolis, Md. Both of these channels would be reserved for noncommercial educational use.

5. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before March 3, 1969, and reply comments on or before March 13, 1969. All submissions by parties to this proceeding, or by persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

6. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted January 22, 1969.

Released: January 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-1124; Filed, Jan. 27, 1969; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 18389]

FM BROADCAST STATIONS; TABLE OF ASSIGNMENTS

Order Extending Time for Filing Reply Comments (RM-1339 Only)

In the matter of Amendment of § 73.202 *Table of assignments*, FM Broadcast Stations (Porterville, Calif.; Bottineau, N. Dak.; Rhinelander, Wis.; Scobey, Mont.; and Humboldt, Iowa); RM-1335, RM-1347, RM-1338, RM-1351, RM-1339.

1. In a notice of proposed rule making, released November 29, 1968, in this proceeding (FCC 68-1147), the Commission invited comments on a number of proposals to amend the FM Table of Assignments, including the assignment of Channel 248 to Rhinelander, Wis. The time for filing comments was designated as January 10, 1969, and that for replies as January 20, 1969.

2. On January 16, 1969, Charles F. Duvall, Esquire, counsel for the The Oneida Broadcasting Co., which filed comments opposing the proposal, filed a request for extension of time to February 10, 1969, in which to file reply comments. Mr. Duvall states that the supporting comments filed by the petitioner for the proposed assignment are composed of voluminous economic, statistical, and technical data. He further states that a copy of these comments was not obtained until late afternoon on January 13, 1969. He also asserts that since January 20, 1969, is the expiration date for filing reply comments, only 5 working days remain in view of the Presidential Inauguration. He therefore finds it necessary to request an extension to February 10, 1969. Counsel for Charles K. Heath, the petitioner seeking the assignment, has consented to a grant of this request.

3. We are of the view that additional time is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing reply comments in this proceeding in the matter of RM-1339 only, is extended to and including February 10, 1969.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted: January 16, 1969.

Released: January 22, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] GEORGE S. SMITH,
Chief, Broadcast Bureau.

[F.R. Doc. 69-1125; Filed, Jan. 27, 1969; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 18431; FCC 69-67]

TELEVISION CHANNELS IN WILLIAMSPORT, PA.

Table of Assignments

1. The Commission has received applications from seven applicants desiring to construct and operate UHF television broadcast translator stations in Williamsport, Pa. UHF translators are normally restricted to operation on the upper 14 UHF television channels (70-83 inclusive) or in cases where a channel is assigned to the community but is not occupied by a regular TV broadcast station, the channel may be used by a TV translator.

2. Channels 72, 75, 76, 78, 82, and 83 would comply with all geographic separations if used at Williamsport. However, TV translators are limited to the use of alternate channels to serve the same area and only four of the six channels could actually be used at Williamsport. Channel 66 is assigned to Williamsport and this affects the availability of Channels 70, 71, 73, 80, and 81 in Williamsport. Channels 70, 71, and 74 are also affected by other assignments but removal of Channel 66 from Williamsport would free Channels 73, 80, and 81. Channel 66 is not assigned to any TV broadcast station in Williamsport and there are no pending applications therefor.

3. It has been found that Channel 20 can be assigned to Williamsport as a replacement for Channel 66, in full compliance with the geographic separation requirements of the rules. This will increase the number of channels available for TV translator use from the present four to six. The specific channels would be Channels 20, 72, 76, 78, 80, and 82. The seventh translator could be accommodated on Channel 74 by a waiver of the geographic separation requirement. Channel 74 is approximately 6 miles short of the required 75-mile separation from Channel 59 assigned to Lebanon, Pa. Channel 59 is not in use at Lebanon. Channel 74 also fits the alternate channel pattern of the other available channels. Channel 20 has less geographical flexibility than Channel 66 to the east of Williamsport but more flexibility to the west. This will prevent the gravitation of Channel 20 toward Scranton-Wilkes-Barre which is already well served by existing UHF stations while the area to the west of Williamsport must now rely upon reception of distant TV stations and a new TV broadcast station located in the western side of Williamsport would reach an underserved area.

4. Under the circumstances, it appears that the substitution of Channel 20 for Channel 66 at Williamsport would free several channels above Channel 69 for use by TV broadcast translators in north central Pennsylvania and eliminate the need for extensive deviations from the rules governing that class of station. Accordingly, pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Table of Assignments in § 73.606(b) of the Commission's rules by substituting Channel 20 for Channel 66 at Williamsport, Pa.

5. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before March 3, 1969, and reply comments on or before March 13, 1969. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

6. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

Adopted: January 22, 1969.

Released: January 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-1126; Filed, Jan. 27, 1969; 8:49 a.m.]

[1] Commissioners Wadsworth and H. Rex Lee absent.

[1] Commissioners Wadsworth and H. Rex Lee absent.

FEDERAL RESERVE SYSTEM

[12 CFR Parts 207, 221]

[Regs. G, U]

CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS FOR THE PURPOSE OF PURCHASING OR CARRYING REGISTERED EQUITY SECURITIES; LOANS BY BANKS FOR PURPOSE OF PURCHASING OR CARRYING REGISTERED STOCKS

Notice of Extension of Time for Comments

On December 17, 1968, notice of proposed rulemaking regarding amendments to 12 CFR Part 207 and 12 CFR Part 221, by the Board of Governors, pursuant to the authority contained in the Securities Exchange Act of 1934 (15 U.S.C. 78g), was published in the FEDERAL REGISTER (33 F.R. 18629). The purpose of the proposed changes was to establish that credit to finance programs for the combined purchase of registered equity securities (including securities issued by most investment companies registered pursuant to section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8)) and goods, services, other securities, or investments ("equity funding") is subject to the regulations. In addition, the changes would clarify that credit to purchase or carry securities issued by most investment companies is subject to the regulations, and would eliminate the need for publication of the Board of Governors' "List of Stocks Registered on a National Securities Exchange and of Securities of Certain Investment Companies". Comments were to have been received not later than January 13, 1969.

The Board having determined that it is appropriate for the convenience of the public, the period within which interested persons are invited to submit, in writing, relevant data, views or arguments regarding the proposal to bring "equity funding" plans or programs under the regulations, is hereby extended to the close of business on February 14, 1969.

Time to comment on the proposals that any security issued by an investment company is subject to the regulations unless 95 percent of its assets is invested in "exempted" (chiefly government) securities, and that publication of the Board of Governors' "List of Stocks Registered on a National Securities Exchange and of Securities of Certain Investment Companies" would be discontinued, was not, however, extended beyond January 13, 1969.

In connection with the extension of time in which to comment on the proposal to bring "equity funding" plans or programs under both Regulations G and U, the words "after January 31, 1969" are changed to read "after April 30, 1969" in the proposed amendments to paragraph (d)(2) of § 207.2 and paragraph (b)(3) of § 221.3.

This notice is published pursuant to section 553(b) of title 5, United States Code, and § 262.2(a) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

As before, all comments should be submitted to any Federal Reserve Bank and, under the Board's rules regarding availability of information (12 CFR Part 261), such materials will be made available for inspection and copying to any person upon request unless the person submitting the material requests that it be considered confidential.

Dated at Washington, D.C., this 10th day of January 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69–1079; Filed, Jan. 27, 1969; 8:45 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial Nos. AA-2779, F-955]

ALASKA

Notice of Classification of Lands for Multiple Use Management

1. In F.R. Doc. 15514 appearing on page 19957 and 19958 of the issue of December 28, 1968, the following change should be made: under the description of the Talkeetna-Chugach Mountain Area "Beginning at the northeast corner of projected T. 7 N., R. 1 W., CRM and traveling in a due south direction along the Copper River Meridian to the northwest corner of projected T. 7 N., R. 1 W., CRM and traveling the northern line of said townships; * * *" should be "Beginning at the northeast corner of projected T. 7 N., R. 1 W., CRM and traveling in a due south direction along the Copper River Meridian to the northwest corner of projected T. 4 N., R. 1 E., CRM; thence east along the northern line of said township; * * *"

BURTON W. SILCOCK,
State Director.

JANUARY 20, 1969.

[F.R. Doc. 69-1080; Filed, Jan. 27, 1969; 8:45 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 17, 1969.

The Department of Agriculture has filed an application, Anchorage Serial No. AA-3393, for withdrawal of the lands described herein from location or entry under the mining laws. The lands lie within the boundaries of the South Tongass National Forest and they are needed as recreation sites for use of the general public.

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, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulation, 43 CFR 2311.1-3(c), provides 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 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.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether 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:

REVILLAGIGEDO ISLAND, KETCHIKAN AREA

SOUTH TONGASS NATIONAL FOREST

1. Last Chance Campground (unsurveyed):

Beginning at point A on Forest Highway 39, coordinated 55°26'18" N. latitude, 131° 41' W. longitude, proceed due east, 270' to point B; thence due south, 710' to point C; thence south 55° W., 470' to point D; thence north 55° W., 550' to point E; thence north 20° E., 290' to point F; thence north 50° E., 610' to point of beginning A.

Containing 12 acres.

2. Harriet Hunt Recreation Area (unsurveyed):

Beginning at point A (unnamed 2058-foot peak), 55°29'6" N. latitude, 131°36'59" W. longitude, proceed due north 55 chains to point B; thence due east, 160 chains to point C; thence due south, 70 chains to point D; thence due west, 160 chains to point E; thence due north 15 chains to point of beginning.

Containing 890 land acres and 230 water acres.

3. White River Recreation Area (unsurveyed):

Beginning at point A on mean high water, coordinates 55°28'10" N. latitude, 131°31'55" W. longitude; proceed due west 80 chains to point B; thence south 46° W., 100 chains to point C; thence north 43° W., 40 chains to point D; thence north 46° E., 140 chains to point E; thence due east 87 chains to point F; thence in a southerly direction along MHW, approximately 1 mile to point of beginning.

Containing approximately 900 acres.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 69-1081; Filed, Jan. 27, 1969; 8:45 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

JANUARY 20, 1969.

The Forest Service, U.S. Department of Agriculture, has filed an application, serial No. Sacramento 2190, pursuant to the Acts of February 20, 1925 (43 Stat. 954) and June 22, 1938, as amended, for modification of the Toiyabe National Forest boundaries, in the State of California, by addition of the following described public domain lands, subject to valid existing rights. The proposed modification would facilitate efficient administration of the federally owned lands by inclusion of the isolated tracts within the national forest thereby providing for administration by the Forest Service.

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 modification of the national forest boundary may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2807, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

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 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.

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 included in the national forest 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:

MOUNT DIABLO MERIDIAN

T. 18 N., R. 18 E.,
Sec. 7, lot 13;
Sec. 19, lots 11 and 12.
T. 19 N., R. 18 E.,
Sec. 6, lots 2, 3, 4, and 5 in N½, S½ lot 6 in N½, N½ lot 2 in S½, lot 3 in S½, S½ lot 4 in S½, S½ lot 5 in S½, lot 6 in S½, lots 8, 9, and 10;
Sec. 18, lots 4, 5, and 6 in N½, and lot 6 in S½;
Sec. 30, N½ lot 2 in S½, N½ lot 4 in S½, S½ lot 6 in S½, and lot 9 in S½;
Sec. 31, lot 8 and S½ lot 2 in N½.
T. 20 N., R. 18 E.,
Sec. 6, lots 1 and 4, S½ lot 7, S½ lot 8, lots 11, 12, and 14 through 17, inclusive;
Sec. 18, lots 16 and 17;
Sec. 30, lots 1, 2, and 3, and N½ lot 6.

The areas described aggregate approximately 1,862 acres in Sierra and Nevada Counties.

ELIZABETH H. MIDTBY,
Chief, Lands Adjudication Section.

[F.R. Doc. 69-1101; Filed, Jan. 27, 1969; 8:47 a.m.]

Office of the Secretary

HUGH C. VAN HORN

Report of Appointment and Statement of Financial Interests

JANUARY 22, 1969.

Pursuant to section 302(a) of Executive Order 10647, the following information on a WOC appointee in the Department of the Interior is furnished for publication in the FEDERAL REGISTER:

Name of appointee: Hugh C. Van Horn.

Name of employing agency: Department of the Interior.

The title of the appointee's position: Regional Power Liaison, OEP/OCD Region 3.

The name of the appointee's private employer or employers: Georgia Power Company.

The statement of "financial interests" for the above appointee is enclosed.

STEWART L. UDALL,
Secretary of the Interior.

DECEMBER 18, 1968.

STATEMENT OF FINANCIAL INTERESTS

In accordance with the requirements of section 302(b) of Executive Order 10647, I am filing the following statement for publication in the FEDERAL REGISTER:

(1) Names of any corporations of which I am, or had been within 60 days preceding my appointment, on December 18, 1968, as Regional Power Liaison, OEP/OCD Region 3, Defense Electric Power Administration.

None.

(2) Names of any corporations in which I own, or did own within 60 days preceding my appointment, any stocks, bonds, or other financial interests:

Georgia Power Co. as employee.

(3) Names of any partnerships in which I am associated, or had been associated within 60 days preceding my appointment.

None.

(4) Names of any other businesses which I own, or owned within 60 days preceding my appointment:

Private land surveyor—part time.

HUGH C. VAN HORN.

JANUARY 17, 1969.

[F.R. Doc. 69-1094; Filed, Jan. 27, 1969; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd., has applied for permission for its passenger ships, "President Cleveland," "President Wilson," and "President Roosevelt," to carry cargo between Guam and foreign ports on the Line A-1, Trans-Pacific Passenger-Freight Service (Trade Route No. 29).

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936 as amended, 46 U.S.C. 1175, should, by the close of business on February 10, 1969, notify the Secretary, Maritime Subsidy Board in writing in triplicate, and file petition for leave to intervene in accordance with the rules of practice and procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry in such service, route, or line is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board.

Dated: January 23, 1969.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 69-1132; Filed, Jan. 27, 1969; 8:49 a.m.]

[Dept. Order 85-B, Amdt. 1]

Office of the Secretary

BUREAU OF THE CENSUS

Functions of Office of Associate Director for Data Systems

This material amends the material appearing at 33 F.R. 5376 of April 4, 1968.

Department Order 85-B of March 14, 1968, is hereby amended as follows:

The title of section 7 is changed to read:

SEC. 7. *Functions of the Office of Associate Director for Data Systems.*

Effective date: January 9, 1969.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 69-1092; Filed, Jan. 27, 1969; 8:46 a.m.]

Patent Office

PATENT OFFICE STUDY OF COMPUTER PROGRAM PROTECTION

Extension of Time for Submitting Comments

The deadline set in the FEDERAL REGISTER notice of October 19, 1968 (33 F.R. 15562) for submitting comments in connection with the Patent Office Study on computer program protection is extended from December 15, 1968, to March 15, 1969.

Dated: January 21, 1969.

EDWARD J. BRENNER,
Commissioner of Patents.

Approved: January 21, 1969.

JOHN F. KINCAID,
Assistant Secretary for Science and Technology.

[F.R. Doc. 69-1091; Filed, Jan. 27, 1969; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19525]

ADDITIONAL SERVICE TO SAN ANTONIO AND AUSTIN INVESTIGATION

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on February 24, 1969, at 10 a.m. e.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C. January 21, 1969.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[F.R. Doc. 69-1130; Filed, Jan. 27, 1969; 8:49 a.m.]

[Air Transport Mobilization Order ATM-2]

CERTIFICATED AIR CARRIER

Interim Air Priorities Authorizations and Operations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of January 1969.

Executive Order 11090 dated February 26, 1963 (28 F.R. 1841), directs the Board to prepare emergency plans and to develop preparedness programs covering, inter alia, the establishment of a War Air Service Program (WASP) and the economic regulation of the domestic and international aspects of U.S. air carrier operations in all conditions of national emergency. The Board has accordingly developed a comprehensive CAB-WASP Air Priorities System. In the event of a declared national emergency, it may not be possible to implement immediately that system and an interim emergency plan is needed.

Hence, the Board has concluded that at the onset and during the initial period of a declared national emergency each certificated air carrier should be directed to grant a priority to passengers, cargo and U.S. mail vital to the national interest.[1]

In the formulation of this order, consultations with national Government representatives, and industry representatives have been held and consideration has been given to their recommendations.[2]

Under Section 6 of Executive Order 11090, the power to put emergency plans and programs into effect is reserved by the President. This document is a standby planning order which will become effective by direction of the President or his designee in the exercise of such reserved power. Once this order becomes effective, each certificated air carrier shall grant the following preferences and priorities until otherwise directed by the Civil Aeronautics Board:

SECTION 1. *Applicability.* (a) In its transportation of persons, each certificated air carrier shall give preference and priority to the transportation of priority passengers over all other passengers, and where necessary to accord such preference and priority, shall limit or restrict the numbers of other passengers transported on a nonpriority status: *Provided, however,* That any such air carrier certificated for the carriage of U.S. mail in connection with its transportation of passengers shall likewise give preference and priority to such priority mail over all other nonpriority cargo, except baggage of priority passengers.

(b) In its transportation of cargo on any of its combination or all-cargo aircraft, each certificated air carrier shall give preference and priority over all other cargo traffic to the transportation of (1) U.S. priority mail, and (2) priority cargo. When necessary to accord such preference and priority each certificated air carrier shall limit, restrict or remove nonpriority cargo.

SEC. 2. *Authorized priority traffic*—(a) *General.* Transportation of priority passengers and cargo provided by this section is authorized under documents issued and/or signed by officials of a Federal, State, county, municipal or U.S. territory Government agency who are designated to certify and issue travel and shipping documents. There is no significance in the order of the following listing as all are considered of equal priority and importance.

(b) *Priority passengers.* (1) Military personnel having transportation requests that state "travel by air authorized."

(2) Military personnel having military orders (these may be in the form of a telegram) that state "travel by air authorized."

(3) Federal, State, and other civil personnel having transportation requests or official orders that state "travel by air authorized."

(c) *Priority cargo.* (1) Cargo of the Armed Forces of the United States which is certified on its bill of lading as "shipment by air authorized."

(2) Cargo of government agencies which is certified on its bill of lading as "shipment by air authorized."

(3) Cargo of industry establishments which is certified by governmental authorities on its bill of lading as "shipment by air authorized."

(d) *Priority mail.* Mail which is presented by the U.S. Post Office Department to air carriers for air movement in accordance with the appropriate emergency rules, regulations and/or orders issued by the U.S. Postmaster General.

SEC. 3. *Self certification for priority passenger travel and shipment of priority cargo*—(a) *General.* Under the provisions of this section, air carriers will grant priority preference to passengers and shippers presenting the certificates as provided by this order. The carriers are not required to vertify the entries made by the customers in Part I of the certificates. Carriers will be required to retain the original copy of each completed certificate for the submission of data to the Civil Aeronautics Board when requested.

(b) *Procedure.* Passengers and shippers who do not possess or have the documents or certifications specified in section 2 above, may execute a certificate attesting that priority preference for air transportation is in support of the national emergency. To assist such persons who certify requests for priority preference by the execution of the certificates shown in Attachments A and B to this Order,[3] the following subparagraph (c) to this section lists the priority activities essential to the national emergency. Passengers and shippers presenting a self certification for priority preference will indicate on the certificate the priority activity or activities which the travel or shipment is supporting. Passengers and shippers executing the certificates shown in Attachments A and B will be granted priority preference. The certificates will be presented in duplicate by passengers to carrier ticket agents (Attachment A) and by shippers to carrier cargo agents (Attachment B). In executing the certificates, all required information will be entered in Part I by the passenger or shipper and Part II by the carrier ticket or cargo agent.

(c) *Priority activities essential to the national emergency.* Passengers and shippers will indicate the purpose(s) of travel or shipment supporting one or more of the following activities and shown on the reverse side of each certificate. There is no significance in the order of the listing as all are considered of equal priority and importance.

(1) Military personnel assigned or ordered to military units for immediate defense and retaliatory combat operations.

(2) Military material, equipment and supplies needed for immediate defense and retaliatory combat operations.

(3) Law enforcement/police protection.

(4) Firefighting, rescue and debris clearance.

(5) Restoration and repair of communications installations, systems networks, and equipment.

(6) Radiological detection, monitoring and decontamination.

(7) Shelter/building construction and repair.

(8) Production, distribution, processing and storage of food.

(9) Feeding, clothing, lodging and other welfare services.

(10) Emergency housing and community services.

(11) Emergency health services including medical care, public health and sanitation.

(12) Operation, repair or restoration of facilities essential to water, fuel and power supplies.

(13) Operation, repair and restoration of air, water, rail, pipeline and highway transportation systems, networks and services.

(14) Production, and distribution of supplies, equipment and repair parts to carry out the above activities.

Accordingly, it is ordered:

1. That each United States certificated air carrier be and it hereby is directed to provide air transportation of persons, property and U.S. mail (as provided for in its certificate) on a priority basis.

2. That this order shall become effective upon order of the President or his designee; and

3. That this order may be revoked at any time without prior notice.

This order will be published in the FEDERAL REGISTER and the Code of Emergency Federal Regulations (CEFR).

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-1131; Filed, Jan. 27, 1969; 8:49 a.m.]

[1] When the Board directs that the provisions of the CAB-WASP Air Priorities Manual be implemented, the CAB-WASP Priorities System will replace the interim system specified in this order.

[2] The development of this order has been coordinated with the Office of Emergency Planning, the Office of Emergency Transportation (Department of Transportation), and the CAB Industry Advisory Committee on Aviation Mobilization.

[3] Attachments A and B filed as part of the original document.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18140, etc.; FCC 69-78]

DELAWARE COUNTY CABLE TELEVISION CO. ET AL.

Memorandum Opinion and Order Instituting and Consolidating Hearing

In re petitions by Delaware County Cable Television Co. et al., Docket No. 18140 etc., File No. CATV 100-18 etc.; Bucks County Cable TV, Inc., Fairless Hills, Pa., Docket No. 18432, File No. SR-106811; request for special relief filed pursuant to § 74.1109 of the Commission's rules.

1. On May 17, 1968, Bucks County Cable TV, Inc., gave notification pursuant to section 74.1105 of the Commission's rules of its intention to commence CATV operation in Falls Township, Bucks County, Pa. On June 18, 1968, WIBF Broadcasting Co., permittee of Station WIBF-TV, Philadelphia, Pa., and U.S. Communications of Philadelphia, Inc., licensee of Station WPHL-TV, Philadelphia, Pa., filed a petition requesting temporary and permanent relief pursuant to § 74.1109 of the rules against carriage of New York signals by Bucks County on its CATV system in Falls Township. This petition is opposed by Bucks County, and WIBF Broadcasting and U.S. Communications have replied.[1]

2. Bucks County proposes to commence operations in Falls Township carrying the following local signals: KYW-TV, WFIL-TV, WCAU-TV, WIBF-TV, WPHL-TV, WUHY-TV, WKBS-TV, Philadelphia, Pa.; WHYY-TV, Wilmington, Del., and WNEW-TV, WOR-TV, WPIX, WNDT, New York, N.Y. WIBF Broadcasting and U.S. Communications urge that the rationale of footnote 69 of the second report and order requires that the New York signals not be carried on Bucks County's system pending hearing.

3. In the second report and order, the Commission determined that CATV systems should generally carry the signals of all local television stations, that is those providing predicted Grade B contours over the systems. See also, Shen-Heights TV Association, FCC 68-168, 11 FCC 2d 814. Footnote 69 recognizes that there may be special circumstances that would justify an exception to this rule when there is predicted Grade B overlap between two major markets.

4. New York is the first major market and Philadelphia is the fourth, according to the 1968 ARB ranking. The carriage of New York signals in the Philadelphia market may interfere with the development of the independent UHF stations in the area. Accordingly, consistent with the rationale of footnote 69, we will explore the question in hearing. Bucks County may operate in the interim carrying the Philadelphia and Wilmington signals.

Accordingly, a hearing is ordered to be consolidated with the hearing in Docket No. 18140-18166 at a time and place to be specified in a further order, upon the following issues:

1. To determine the present and proposed penetration and extent of CATV service in the Philadelphia television market.

2. To determine the effects of current and proposed CATV service in the Philadelphia market upon existing, proposed, and potential television broadcast stations in the market.

3. To determine (a) the present policy and proposed future plans of petitioners with respect to the furnishing of any service other than the relay of the signals of broadcasting stations; (b) the potential for such services; and (c) the impact of such services upon television broadcast stations in the market.

4. To determine whether carriage of predicted grade B or better signals from New York City stations should be authorized.

5. To determine whether the applications and proposals are consistent with the public interest.

Bucks County Cable TV, Inc., WIBF Broadcasting Co., and U.S. Communications of Philadelphia, Inc., are made parties to the proceeding and to participate must comply with the applicable provisions of § 1.221 of the Commission's rules.

It is further ordered, That respondent, Bucks County Cable TV, Inc., has the burden of proceeding and the burden of proof with respect to Issue 1, Issue 2, and Issue 3 insofar as it relates to its own CATV system, and that petitioners have the burden of proceeding and the burden of proof with respect to Issue 4. Issue 5 is conclusory.

Accordingly, petition of WIBF Broadcasting Co. and U.S. Communications of Philadelphia, Inc. is granted to the extent indicated above and is otherwise denied.

We note that Bucks County has filed a complaint and motion for preliminary injunction against the United States and the Federal Communications Commission in the U.S. District Court for the Eastern District of Pennsylvania, Civil Action No. 68-2773. In view of the pendency of that proceeding (in connection with which a motion to dismiss for lack of jurisdiction has been filed by the Commission), we take this action further to make clear our position. We stress the requirement that Bucks County must comply with our rules and policies and emphasize that we intend to take all appropriate steps to bring about such compliance. We also point out that while the matter of the objections to Bucks County's carriage of the New York signals is placed in hearing, the course of such hearing will, of course, be determined by our notice of proposed rule making and notice of inquiry in Docket No. 18397, released December 13, 1968 (see par. 51).

Adopted: January 22, 1969.

Released: January 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-1127; Filed, Jan. 27, 1969; 8:49 a.m.]

[1] On Oct. 23, 1968, Bucks County filed a petition requesting the Commission to permit Bucks County to commence its CATV service with the carriage of stations set out in its notice dated May 17, 1968, pending consideration of the above mentioned petitions. This petition which in effect asks for a waiver of the "mandatory stay" provision of § 74.1105(a) of the rules is denied because Bucks County has made no showing to justify the extraordinary relief requested.

[1] Commissioner Bartley concurring in part and dissenting in part and issuing a statement filed as part of the original document; Commissioners Wadsworth and H. Rex Lee absent.

[Docket Nos. 17886, 17887; FCC 69-37]

OUTER BANKS RADIO CO. AND ONSLOW COUNTY BROADCASTERS

Memorandum Opinion and Order Enlarging Issues

In re applications of Douglas Lystra Craddock and Lacy Phil Wicker doing business as Outer Banks Radio Co., Wanchese, N.C., Docket No. 17886, File No. BP-16917; J. M. Farlow and William D. Mills doing business as Onslow County Broadcasters, Midway Park, N.C., Docket No. 17887, File No. BP-17272; for construction permits.

1. The present matter involves the applications of two intervenors, Seaboard Broadcasting Co.[1] and Onslow Broadcasting Corp.,[2] for review of the Review Board's memorandum opinion and order, released June 11, 1968, 13 FCC 2d 385, which denied their petitions to add a Suburban Community issue against the application for Midway Park, N.C., of Onslow County Broadcasters (hereinafter Onslow).[3]

2. The Review Board found that the intervenors had failed to show: That a city-suburb relationship exists between the larger city, Jacksonville, and Midway Park; that there is an economic relationship to and dependence upon Jacksonville by Midway Park; or that Onslow's proposal would be inconsistent with the Policy Statement on section 307(b). Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190, 6 RR 2d 1901 (1965), as reflected in V.W.B., Inc., 8 FCC 2d 744, 10 RR 2d 563 (1967), and Babcom, Inc., 12 FCC 2d 306, 12 RR 2d 998 (Rev. Bd. 1968).[4] In a concurring statement, Board members Kessler and Slone stated that they would have added a Suburban

[1] Licensee of WLAS, Jacksonville, N.C.

[2] Licensee of WJNC, Jacksonville, N.C.

[3] Applications for review were filed on June 24, 1968, by both WLAS and WJNC. An opposition was filed on July 1, 1968, by Onslow; comments were filed on July 19, 1968, by the Broadcast Bureau; a reply was filed on July 31, 1968, by WLAS; and a reply was filed on August 5, 1968, by WJNC.

[4] This holding was based on the Board's findings that Onslow could have applied for Jacksonville originally without causing prohibited overlap and that Jacksonville was only three times the size of Midway Park rather than 10 to 12 times larger as the population figures submitted by the intervenors assert.

Broadcasters programing issue[5] on the Board's own motion. However, the remaining members of the Board[6] concluded that Onslow's showing had obviated any need for such an issue.

3. The intervenors contend, however that the Review Board erred in its determination that no question exists as to whether Onslow realistically intends to serve Midway Park or Jacksonville, N.C. In support of this contention, the intervenors argue: (a) That Onslow's proposed 1000 w. of power and its antenna height will project its 5 mv/m daytime contour over 79 percent of Jacksonville while 250 w. of power would be sufficient to serve Midway Park; (b) that Onslow could not have applied for Jacksonville without prejudicing its position in this hearing's section 307(b) comparison with the application of Outer Banks Radio Co.,[7] and rendering its own application mutually exclusive with that of 1530 Radio, Inc., BP-17270, for Chapel Hill, N.C.;[8] and (c) that Jacksonville is now 10 to 12 times larger than Midway Park, which is only a military housing area for Camp Lejeune without civic or service organizations, schools, banks, newspapers, or police and fire departments.[9]

4. The intervenors also contend that a city-suburb relationship is not a prerequisite for the designation of a Suburban Community issue but is merely one factor to consider in determining whether a sufficient threshold showing has been made. The intervenors further assert that, contrary to the Board's findings, they have shown that a Midway Park station will have to rely in great part upon Jacksonville for its advertising revenues.[10] The intervenors assert finally that Onslow's programing survey[11] was not sufficient under the standards set forth in Minshall Broadcasting Co., Inc., 11 FCC 2d 796, 12 RR 2d 502 (1968), and thus that a programing issue should also be designated against Onslow.

5. Onslow, in opposition, argues that the threshold showing required to raise a Suburban Community issue was not met by the intervenors. It urges that a failure to designate a Suburban Community issue in this instance is not inconsistent with the interpretation of the 307(b) Policy Statement as reflected in V.W.B., Inc., and Babcom, Inc., because these two cases are clearly distinguishable on their facts. In both of those cases, the applicant specified a small community and proposed power capable of serving a nearby community many times the size of its specified community, while here Jacksonville is only three times the size of Midway Park,[12] Onslow's 5 mv/m daytime contour will cover only 79 percent of Jacksonville, and its transmitter is located on the east side of Midway Park away from Jacksonville.

6. Onslow also asserts that not only is Midway Park not economically dependent upon Jacksonville but that both of these communities are dependent upon Camp Lejeune, which is the most important entity in the area and that there are many businesses that maintain offices outside of Jacksonville. Finally, Onslow contends that the Board was correct in not designating a Suburban Broadcasters programing issue since its showing on this point was sufficient to meet the Commission's requirements.

7. In its comments, the Broadcast Bureau notes that Jacksonville and Jacksonville Township grew 300 percent and 400 percent, respectively, from 1950 to 1960, while White Oak Township, which includes Midway Park grew only 10 percent during this period. The Bureau agrees with the intervenors that a city-suburb relationship is not necessary for the specification of a Suburban Community issue, since other factors such as the amount of proposed power, the proposed programing, use of a directional antenna, and the location of the transmitter may justify the designation of this issue. Nevertheless, the Bureau concludes that an issue should not be added merely because a 5 mv/m signal is placed over a larger community and that the facts of this case do not warrant the addition of a Suburban Community issue.[13]

8. We agree with the Bureau that a Suburban Community issue should not be specified merely because a 5 mv/m signal is projected over a more populous city, but this is not to say that the request for such an issue should be denied simply because it does not appear that the smaller community is an ordinary suburb of the larger city. The relationship of the communities is merely one of the many factors to be considered, and a sufficient showing may be made to warrant an issue even though the smaller community is not a suburb. See, for example, Babcom, Inc., 12 FCC 2d 306, 12 RR 2d 998 (1968), where the Review Board added a Suburban Community issue in spite of the facts that the specified community was located 20 miles from the larger city and that it was claimed to be an entity unto itself. In this proceeding the facts that Midway Park is removed from Jacksonville and that it is a housing development for a military base support the Review Board's conclusion that Midway Park is not a suburb of Jacksonville.

9. Nevertheless, the intervenors have made substantial allegations that Midway Park has no independent existence and that it is dependent upon Jacksonville for civic, social, and business activities. In view of the undisputed assertions that there is only one small business within Midway Park, that there is very little commercial development in the area around Midway Park, other than in Jacksonville Township, and that Onslow's advertising commitments are unverified, there is a serious question as to whether there are sufficient advertising revenues to support Onslow's proposed station without reliance upon advertising revenues from Jacksonville. It must also be noted that there was substantial motivation for Onslow to specify a community without a local transmission service when its application was filed in light of the competing application specifying a first local transmission service for Wanchese, N.C., and the pending application for the same frequency in Chapel Hill, N.C. Under these circumstances, it is entirely unrealistic to assume that Onslow has no interest in serving Jacksonville merely because the application did not specify that city,[14] and, thus, this situation is not unlike the substandard central city proposals which the 307(b) policy statement is designed to uncover.

10. In view of the further facts that Onslow proposes to serve at least 79 percent of Jacksonville with its 5 mv/m contour, that there are substantial questions of fact concerning Midway Park's

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[5] See *Suburban Broadcasters*, 30 FCC 1021, 20 RR 951 (1961).

[6] Board Member Nelson not participating.

[7] Onslow's application is mutually exclusive with that of Outer Banks Radio Co., which proposes a first service for Wanchese, N.C., whereas a number of broadcast stations have already been allocated to Jacksonville.

[8] An application for Jacksonville would not be entitled to the benefit of the provisions of section 73.37(b) of the rules, and the scope of this section 307(b) hearing would have been necessarily expanded to include the Chapel Hill application. See the order designating this proceeding for hearing, FCC 67-1291, released December 19, 1967.

[9] The intervenors claim that Midway Park's population has been reduced to 1,700 persons based on estimates supplied by the housing officer of Camp Lejeune. These estimates were rejected by the Review Board, citing Babcom, Inc., supra, on grounds that unofficial population data should not be considered.

[10] The intervenors claim that Midway Park contains only one small business, that there is very little commercial development in the area around Midway Park other than Jacksonville Township, and that Onslow's advertising commitments are unverified.

[11] The intervenors point out that Onslow claims to have interviewed 50 local residents, but that it has identified only eight, of whom only one lives in Midway Park.

[12] This assertion is based on the 1960 Census Report which showed Jacksonville's population as 13,491 persons and Midway Park's population as 4,164 persons.

[13] Although the Bureau also urges that review should be deferred on this interlocutory matter, citing Bay Broadcasting Co., 10 FCC 2d 331, 11 RR 2d 429 (1967), we are persuaded that the arguments raised by the intervenors are fundamental and that they affect the conduct of the entire proceeding as required by the note to section 1.115(e) of the rules, since the arguments relate to Onslow's basic qualifications and since a further hearing would be required if the Board's refusal to add a Suburban Community issue were reversed after the final decision. Accordingly, review at this time is consistent with the desire expressed in Bay Broadcasting to promote orderly and efficient hearing procedures.

[14] While it may be technically true that Onslow could have applied for Jacksonville, there has been no showing that such an application could have been filed without causing prohibited overlap.

present population[15] and its existence as an independent entity, and that Onslow's programing showing does not give any indication that it was designed to serve the distinct needs of Midway Park, we are convinced that a sufficient threshold showing[16] has been made to warrant a full evidentiary hearing to determine whether Onslow will provide a realistic local transmission service for Midway Park or merely an additional service for Jacksonville. In light of Onslow's minimal showing that its programing proposal is responsive to the needs and interests of the area to be served, we are also persuaded that Onslow has not complied with the standards set forth in Minshall and that a Suburban Broadcasters programing issue should be specified in this proceeding so that Onslow can demonstrate its efforts to ascertain the community needs and interests of the Midway Park area and the manner in which it proposes to meet those needs and interests.

11. *Accordingly, it is ordered:*

A. That the applications for review filed June 24, 1968, by Seaboard Broadcasting Co. and by Onslow Broadcasting Corp. are granted to the extent indicated herein and are denied in all other respects; and

B. That the issues in this proceeding are enlarged as follows:

(i) To determine whether the proposal of Onslow County Broadcasters will realistically provide a local transmission facility for its specified station location or for another larger community, in light of all the relevant evidence, including, but not necessarily limited to, the showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programing needs;

(b) The extent to which the needs of the specified station location are being met by existing standard broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specific, unsatisfied programing needs of the specified station location; and

(d) The extent to which the projected sources of the applicant's advertising revenues within the specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(ii) To determine the efforts made by Onslow County Broadcasters to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

Adopted: January 15, 1969.

Released: January 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[17]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 69-1128; Filed, Jan. 27, 1969; 8:49 a.m.]

[Dockets Nos. 17605, etc.; FCC 69R-35]

VIRGINIA BROADCASTERS ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Kenneth S. Bradby and Gilbert L. Granger doing business as Virginia Broadcasters, Williamsburg, Va., Docket No. 17605, File No. BP-16829; Rosa Mae Springer, doing business as Suffolk Broadcasters, Suffolk, Va., Docket No. 17606, File No. BP-17274; James River Broadcasting Corporation, Norfolk, Va., Docket No. 18375, File No. BP-17268; for construction permits.

1. This proceeding involves the mutually exclusive applications of Kenneth S. Bradby and Gilbert L. Granger doing business as Virginia Broadcasters (Virginia), Rosa Mae Springer, doing business as Suffolk Broadcasters (Suffolk),[1] and James River Broadcasting Corp. (James River), seeking construction permits for a new standard broadcast station at Williamsburg, Suffolk, and Norfolk, Va., respectively. These applications were designated for consolidated hearing on a financial issue against Virginia; financial and Suburban issues against James River; and areas and populations, section 307(b) and contingent comparative issues.[2] Presently before the Review Board is a petition to enlarge issues, filed on December 2, 1968, by James River, which seeks the addition of financial and Rule 1.65 issues against Suffolk, and Suburban issues against both of the competing applicants.[3]

The surburban issues. 2. James River contends that its program showing is "infinitely better" than that of either Virginia or Suffolk; and since a Suburban issue was specified against James River, similar issues "must perforce" be added against the other two applicants. Petitioner argues that Virginia's application, originally filed July 21, 1965, on unrevised Form 301, contains no information which indicates that the applicant conducted a program survey of any kind. With respect to the Suffolk application, James River submits that the persons allegedly contacted by this applicant are, for the most part, unidentified, and that the application does not contain any indication of the information derived from these contacts or the method by which such information was evaluated. The Broadcast Bureau supports the addition of the requested issues on the basis of the argument outlined above.

3. In opposition, Virginia avers that the instant petition does not contain adequate allegations of fact or controlling case precedent which would require the addition of the requested issue. Virginia contends that its application was filed when the old programing form, section IV, FCC Form 301 was in use and that it therefore has no obligation to furnish the data required by the Commission's Policy Statement on Ascertainment of Community Needs, FCC 68-847, 13 RR 2d 1903, and Minshall Broadcasting Company, 11 FCC 2d 796, 12 RR 2d 502 (1968). Nevertheless, Virginia submits with its opposition an affidavit designed to amplify the program exhibit in its application. In this supplementary data, Virginia alleges that the programing needs and tastes of its specified station location were ascertained (1) through personal contacts with various community leaders and residents during the normal course of its principals' business and personal lives, and (2) through the personal knowledge and observations of its principals, who are longtime residents of the area. Virginia submits a list of 27 persons allegedly contacted during the last 4 years; however, due to the lapse of time, Virginia explains that it is difficult "to decipher just what suggestions and comments were offered by a particular person from the records that remain." The applicant also lists the community activities in which its principals have been involved and the various awards which they have received during their residence.

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[15] The Review Board cited Babcom, Inc., supra, in rejecting the intervenors' estimates of Midway Park's present population. Babcom involved a claim that the larger community had an actual population in excess of 50,000 persons and that the presumption of the 307(b) policy statement should be invoked automatically, but the Review Board refused to consider such speculative data for that purpose. While we agree with the Board that census data is the most objective measurement in determining the application of the policy statement, we are persuaded that the estimates in this proceeding, which were made by the military housing officer, are sufficient to raise a question of fact as to the present population of Midway Park and to the disparity between its population and that of Jacksonville.

[16] In the 307(b) policy statement, we stated that the presumption of service to a larger city could be invoked, even though the larger community, as here, lacks the required population, if a sufficient threshold showing were made. See also V.W.B., Inc., 8 FCC 2d 744, 10 RR 2d 563.

[17] Commissioner Robert E. Lee dissenting in part and concurring in part and issuing a statement filed as part of the original document; Commissioner Wadsworth dissenting.

[1] Suffolk was originally a partnership consisting of Charles and Rosa Mae Springer. This partnership was dissolved upon the death of Charles E. Springer, leaving Rosa Mae Springer as the sole surviving partner of the applicant. An amendment reflecting this change in ownership was accepted by the Examiner in an order, FCC 67M-1613, released September 28, 1967.

[2] By Memorandum Opinion and Order, FCC 67-850, released July 31, 1967, the Commission designated the Suffolk and Virginia applications for hearing, and returned the James River application as unacceptable for filing. Subsequently, the James River application was accepted for filing and was designated for hearing in this consolidated proceeding. (Memorandum Opinion and Order, FCC 68-1097, released November 15, 1968.)

[3] Also under Board consideration are: (a) Comments, filed December 16, 1968, by the Broadcast Bureau; (b) opposition, filed December 17, 1968, by Suffolk; (c) partial opposition (Virginia supports the request for issues against Suffolk), filed December 23, 1968, by Virginia; (d) reply, filed December 26, 1968, by James River; and (e) supplement to opposition, filed January 7, 1969, by Suffolk.

4. In its opposition, Suffolk concedes that its present programing showing is based on earlier Commission programing criteria. In an effort to update its application, Suffolk avers that it has recently reassessed the needs and interests of the Suffolk area. A copy of an amendment which reflects such reassessment is submitted with the opposition, and the applicant argues that acceptance of this amendment would moot the instant request for a Suburban issue. The amendment lists six community leaders allegedly contacted by Suffolk, their suggestions, the applicant's evaluation of such suggestions, and the programs proposed to satisfy these expressed programing needs and interests. In reply, James River argues that Suffolk's survey data is inadequate (in that only six community leaders were contacted) and fails to identify the specific proponent of any of the suggestions received.

5. A Suburban issue will be specified against Virginia. Initially, the Board rejects Virginia's contention that it should not be held to the Minshall standard because it filed its application on the unrevised form. In Risner Broadcasting, Inc., 13 FCC 2d 781, 13 RR 2d 912 (1968), the Board specified a Suburban issue against an applicant who failed to meet the requirements set forth in the Minshall case, supra, even though that applicant initially utilized the unrevised form.[4] Virginia's affidavit, designed to "amplify" the programing exhibit filed with its application,[5] does not obviate the need for the requested issue. Thus, further information regarding the local residence of the Virginia principals and their involvement in community activities does not constitute a satisfactory Suburban showing. In Andy Valley Broadcasting System, Inc., 12 FCC 2d 3, 12 RR 2d 691 (1968), the Commission stated that "applicants, despite long residence in the area, may no longer be considered, ipso facto, familiar with the programing needs and interests of the community." In addition, although the applicant lists 27 individuals allegedly contacted during the preceding 4 years, Virginia concedes that these contacts were not part of any specific program survey, and that Virginia is presently unable to determine what suggestions and comments were specifically offered by particular persons. Finally, the affidavit submitted with the opposition concedes that this applicant is unable to describe the "mental processes * * * which went into formulating the program proposal submitted with the application." Under these circumstances, Virginia has failed to demonstrate that it has complied with the requisite Commission standards enunciated in Minshall Broadcasting Company, Inc., supra, and Public Notice, FCC 68-847, 13 RR 2d 1903, released August 22, 1968, entitled Ascertainment of Community Needs by Broadcast Applicants. A Suburban issue will therefore be specified.

6. Suffolk properly recognizes that the programing portion of its application is based on earlier Commission criteria, and that it therefore suffers from many of the same infirmities previously described with respect to the Virginia showing, i.e., although a list of community leaders is submitted, Suffolk has not reported the specific suggestions offered by these individuals, the applicant's evaluation of these suggestions, and the specific programs designed to satisfy these expressed community needs. In an effort to conform to present standards, the applicant on December 17, 1968, filed an amendment to its application reflecting a reassessment of community needs and interests. The petition for leave to amend has not been acted upon by the Examiner. However, even if that amendment is ultimately accepted, the questions raised by the instant petition would remain substantially unresolved. Suffolk's new survey consists of interviews with six community leaders, each of whom appears to be either a Government official or Government employee.[6] While Suffolk evaluated their suggestions, and the programs proposed seem responsive to their suggestions, the individuals contacted do not, in the Board's view, represent the cross-section of community leadership contemplated by the Commission's public notice, FCC 68-847, supra. Therein, the Commission stated that the revised requirements call for "consultation with leaders in community life—public officials, educators, religious, the entertainment media, agriculture, business, labor, professional and eleemosynary organizations, and others who bespeak the interests which make up the community." Inasmuch as the 1960 population of Suffolk, Va., was 12,609, and Suffolk's application reveals the existence of various commercial, social, educational, and religious institutions in the area, the Board is not persuaded that Suffolk has adequately demonstrated that the six individuals contacted represent the full spectrum of Suffolk community life. Cf. Sundial Broadcasting Co., Inc., FCC 68-1082, 15 FCC 2d 58. Therefore, a Suburban issue will be also added against this applicant.

The financial issue. 7. While James River does not challenge Suffolk's cost estimates, petitioner avers that this applicant will require $81,373 in order to construct and operate the proposed station for 1 year; that the balance sheet submitted by the late Charles Springer shows current assets of only $80,000, or $1,373 less than required to meet the station's expenses; and that no balance sheet for Rosa Mae Springer has been furnished which establishes her ability to meet the expenses of the Suffolk proposal. A financial issue is therefore requested by petitioner and recommended by the Broadcast Bureau. In opposition, Suffolk relies on a January 2, 1969, balance sheet of Rosa Mae Springer which is contained in a supplement to the December 17th petition for leave to amend. Suffolk argues that this data demonstrates that the applicant is financially qualified to construct and operate the proposed station.

8. It is clear that, absent the financial amendment filed by Suffolk, it would not be possible to determine whether this applicant is financially qualified inasmuch as no data had been furnished regarding the financial competence of the sole surviving Suffolk partner—Rosa Mae Springer. However, even if the amendment is accepted, it would not resolve all questions as to this applicant's financial qualifications. While Mrs. Springer's January 1969, balance sheet reflects readily identifiable liquid assets of $80,000 (cash on deposit), the liquidity of her remaining assets has not been demonstrated and the various stock and property valuations have not been substantiated.[7] Mrs. Springer's "liquid" assets would therefore be inadequate to meet Suffolk cost estimates. Furthermore, Suffolk has neither identified Mrs. Springer's current liabilities nor is there any balance sheet reference to Mrs. Springer's financial obligation to Station WEEW, Washington, N.C. (see paragraph 9, infra.). A limited financial issue will therefore be specified.

Rule 1.65 Issue. 9. James River requests an issue to determine whether Suffolk has complied with the provisions of Rule 1.65, which requires an applicant to amend its application within 30 days when the information contained therein is no longer substantially accurate and complete in all significant respects. James River avers that on October 8, 1968, Mrs. Springer filed an application to acquire a 49.7 percent stock interest in standard broadcast Station WEEW, Washington, N.C.;[8] and that the application to date, has not been amended. Petitioner argues that this new broadcast obligation bears on the applicant's financial qualifications in the instant proceeding,[9] and the failure to report such interest requires the addition of a Rule 1.65 issue. In opposition, Suffolk

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[4] *Cf. North American Broadcasting Company, Inc.*, FCC 68R-531, ------ FCC 2d ------, released Dec. 23, 1968, where the Board held that it would not delete a Suburban issue because the petitioner's application was filed several months before the Minshall opinion was adopted.

[5] Exhibit No. 7 of Virginia's application is a four-sentence, general statement apparently designed to explain the manner in which its program schedule was formulated. After briefly indicating the residence and professional experience of its two principals, the remainder of Virginia's statement reads:

The programing plans and proposals are based upon their (the Virginia principals) knowledge of the needs of the area acquired as the result of their being residents of the area and having been in constant contact with the people in the area by virtue of their respective professions.

[6] The individuals allegedly contacted were: The City Manager; Captain, Rescue Squad; Chief, Police Department; Chief, Fire Department; Chief, Probation and Parole Officer; and Superintendent, Welfare Department.

[7] The January 1969, balance sheet fails to itemize and identify the shares of stock presently owned by Mrs. Springer. The Board is therefore unable to verify the valuation submitted.

[8] Mrs. Springer already owns 49.7 percent of the licensee of Station WEEW, and therefore would own 99.4 percent of the stock if the application is granted.

[9] The agreement to purchase the stock of WEEW provides that Mrs. Springer will pay a total of $10,000 for this stock interest.

recognizes that this interest should have been reported, but argues that on October 23, 1968, the Commission advised Mrs. Springer that her "short form" application was unacceptable and that it would be necessary to submit Form 315 for said transfer. Suffolk alleges that this "long form" application is in preparation and will be filed shortly, and that therefore James River's request is "premature." In reply, James River argues that Mrs. Springer's original application is on file and has not been returned, and that she has failed to update this application as required. The Bureau supports the addition of an issue.

10. As noted above, on October 8, 1968, an application was filed with the Commission requesting approval of Mrs. Springer's acquisition of a controlling stock interest in Station WEEW, Washington, N.C. The executed agreement which contemplates the transfer of said interest was submitted with the application, and is dated September 11, 1968. Contrary to Suffolk's implications, this transfer application was not returned by the Commission as unacceptable for filing. The Commission's letter of October 23, 1968, indicated that "in order to process the application * * *" additional information, required by FCC Form 315, would be necessary; the Commission requested that the filing of the additional information be given the applicant's "prompt attention." To date, further information has not been submitted, and an amendment reflecting the Station WEEW transaction was not submitted until December 17, 1968. Inasmuch as Mrs. Springer's monetary obligation to Station WEEW could potentially affect Suffolk's financial qualifications herein, the applicant's failure to inform the Commission of these transactions becomes increasingly significant, and a Rule 1.65 issue, relevant to this applicant's requisite and comparative qualifications, will therefore be specified. Radio Stations KNND and KRKT, 11 FCC 2d 364, 12 RR 2d 91 (1968).

11. *Accordingly, it is ordered,* That the petition to enlarge issues, filed December 2, 1968, by James River Broadcasting Corp., is granted; and

12. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

(1) To determine the efforts made by Kenneth S. Bradby and Gilbert L. Granger, doing business as Virginia Broadcasters and Rosa Mae Springer, doing business as Suffolk Broadcasters to ascertain the community needs and interests of the areas to be served by such applicants and the means by which such applicants propose to meet those needs and interests;

(2) To determine with respect to the application of Rosa Mae Springer, doing business as Suffolk Broadcasters: (a) Whether Rosa Mae Springer will have the necessary net available current liquid assets to meet her obligations to the applicant;

(b) Whether, in light of the evidence adduced, pursuant to subpart (a) of this issue, the applicant is financially qualified;

(3) (a) To determine whether Rosa Mae Springer, doing business as Suffolk Broadcasters, failed to amend or attempted to amend her application within 30 days after substantial changes were made, as required by Rule 1.65;

(b) To determine the effect of the facts adduced pursuant to subpart (a) of this issue on this applicant's requisite and comparative qualifications to receive a grant of its application.

13. *It it further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof on the issues added herein shall be upon Kenneth S. Bradby and Gilbert L. Granger, doing business as Virginia Broadcasters and Rosa Mae Springer, doing business as Suffolk Broadcasters, respectively.

Adopted: January 21, 1969.

Released: January 23, 1969.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-1129; Filed, Jan. 27, 1969; 8:49 a.m.]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 15]

LINCOLN CONSOLIDATED, INC.

Notice of Receipt of Application for Permission To Acquire Control of Benjamin Franklin Savings Assn.

JANUARY 23, 1969.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Lincoln Consolidated, Inc., Houston, Tex., for permission to acquire control of Benjamin Franklin Savings Association, Houston, Tex., under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(a)) and § 584.4 of the regulations for Savings and Loan Holding Companies (12 CFR 584.4). The proposed acquisition of control is to be effected by the acquisition of at least 30 percent of the outstanding capital stock of Benjamin Franklin Savings Association by Lincoln Consolidated, Inc. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20052, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,
Secretary,
Federal Home Loan Bank Board.

[F.R. Doc. 69-1099; Filed, Jan. 27, 1969; 8:47 a.m.]

[H. C. No. 16]

8.8 CORP.

Notice of Receipt of Application for Permission To Acquire Control of Fort Worth Savings and Loan Assn.

JANUARY 23, 1969.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from The 8.8 Corporation, Dallas, Tex., on behalf of itself and its parent company, Oak Cliff Savings and Loan Association, Dallas, Tex., for permission to acquire control of the Fort Worth Savings and Loan Association, Fort Worth, Tex., under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(a)) and § 584.4 of the regulations for Savings and Loan Holding Companies (12 CFR 584.4). The proposed acquisition of control is to be effected by the purchase of approximately 95 percent of the outstanding permanent stock of Fort Worth Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20052, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,
Secretary,
Federal Home Loan Bank Board.

[F.R. Doc. 69-1100; Filed, Jan. 27, 1969; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

BALTIMORE AND OHIO RAILROAD CO. AND EASTALCO ALUMINUM CO.

Notice of Agreements 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, 1405 I Street NW., Room 1202, or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. 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 10 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. Frederick W. Doolittle, Jr., General Solicitor, The Baltimore and Ohio Railroad Co., Law Department, Baltimore, Md. 21201.

Agreement No. T-2265 is a sublease agreement between the Baltimore and Ohio Railroad Co. (Railroad) and Eastalco Aluminum Co. (Eastalco), whereby Railroad is subleasing to Eastalco certain port facilities at Baltimore, Md., which the Railroad leases from the Maryland Port Authority (Authority). The facilities are to be used for the handling of general or bulk cargo for Eastalco and other users on a nondiscriminatory scheduling basis. Eastalco agrees that rates charged at the facility will be comparable to those for similar facilities in the Port of Baltimore, and will be subject to Authority's approval to assure comparability. Rental for the facility is a flat annual sum, to be paid in quarterly installments.

Agreement No. T-2265-A, between Eastalco and Authority is a sub-sublease by Authority from Eastalco of a portion of the land described in Agreement No. T—2265. Eastalco will retain the approximately 10-acre portion of useable industrial land, the pier, and facilities thereon. Authority shall have the right, without Eastalco's consent, to further sublet or assign any of the sub-subleased premises. Rental is a token annual sum.

Agreement No. T-2265-B, between Authority and Eastalco provides that if the sublease (T-2265) is renewed to July 2009, as provided therein, Authority will grant Eastalco the option to extend its occupancy for two additional 10-year periods.

By the terms of Agreement No. T-2265-C, between Authority, Railroad, and Eastalco the parties make certain provisions among themselves in the event that the State Roads Commission of Maryland exercises a purchase option for part of the premises described in the agreements above.

By order of the Federal Maritime Commission.

Dated: January 22, 1969.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-1075; Filed, Jan. 27, 1969; 8:45 a.m.]

EAST COAST COLOMBIA CONFERENCE

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has 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 at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. 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. C. D. Marshall, Chairman, East Coast Colombia Conference, 11 Broadway, New York, N.Y. 10004.

Agreement No. 7590-16, between the member lines of the East Coast Colombia Conference modifies the basic agreement by the addition of Article 1(a) which provides:

No provision of this Agreement shall be deemed to prohibit the Conference from agreeing to, and establishing, through rates by arrangement with other modes of transportation; or to prohibit the publication and filing of through rates by the Conference, in conformity with any such rate agreement; or to prohibit the issuance by the member lines of through bills of lading pursuant to a published Conference tariff embodying through rates or the adoption by the member lines of any uniform through bill of lading which may be agreed upon, and formally adopted, by the Conference. However, no member line, either individually or in concert with any other member line or lines or any nonmember line or lines, may negotiate, establish, publish, file, or operate under any through intermodal transportation rates or issue any through bills of lading otherwise than pursuant to the formal action and authorization of the Conference.

Other changes are made in the conference rules and regulations in order to remove any inconsistencies with the above paragraph.

Dated: January 22, 1969.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 69-1076; Filed, Jan. 27, 1969; 8:45 a.m.]

[Independent Ocean Freight Forwarder License No. 797]

HAMMOND, SNYDER & CO.

Order of Revocation

By letter dated December 18, 1968, Oscar L. Peterson, doing business as Hammond, Snyder & Co., 218 Chamber of Commerce Building, Baltimore, Md. 21202, advised the Commission that it sold the good will, assets, liabilities, etc., of its business to William H. Masson, Inc., FMC License No. 506, and has voluntarily requested the cancellation of its Independent Ocean Freight Forwarder License No. 797.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order 201.1, § 6.03.

It is ordered, That the Independent Ocean Freight Forwarder License No. 797 of Oscar L. Peterson, doing business as Hammond, Snyder & Co., be and is hereby revoked effective January 14, 1969.

It is further ordered, That this cancellation is without prejudice to reapplication at a later date.

It is further ordered, That the Independent Ocean Freight Forwarder License No. 797 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon the licensee.

LEROY F. FULLER,
Director,
Bureau of Domestic Regulation.

[F.R. Doc. 69-1077; Filed, Jan. 27, 1969; 8:45 a.m.]

FEDERAL TRADE COMMISSION

ADVERTISEMENT REGARDING TUITION REFUNDED IF NO JOB OFFERED WITHIN 90 DAYS

Legality

The Commission advised that it could not rule on advertising for a school which would offer a refund of all charges for tuition, registration, and incidental fees to its graduates who do not receive an offer of employment within 90 days after graduation.

The offer will be subject to the following three qualifications:

1. It will not be made to students eligible for imminent draft into the armed forces.

2. The student must use the placement service of the school and must be available for interviews.

3. The student must work at placement through other sources.

Although the advertising did not so state, the offer of employment would not be considered valid by the school unless the offer is limited to the geographic area specified in the student's application form.

Because the proposed plan may be subject to such a wide variety of interpretations, and also depending upon the manner and extent of its implementation, the Commission expressed the view that it was not in a position to rule upon the legality of the plan.

Issued: January 27, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-1074; Filed, Jan. 27, 1969; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Dockets Nos. RI69-471 etc.]

COASTAL STATES GAS PRODUCING CO. ET AL.

Order Accepting Contract Agreements, Providing for Hearings on and Suspension of Proposed Changes in Rates, Permitting Increased Rate Filing To Be Withdrawn and Terminating Related Proceeding [1]

JANUARY 17, 1969.

The above-named respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are designated as follows:

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-471..	Coastal States Gas Producing Co., Post Office Box 521, Corpus Christi, Tex. 78403, Attention: Mr. Clinton B. Fawcett.	52	1	Transcontinental Gas Pipe Line Corp. (Dilworth Dome Field, McMullen County, Tex.) (RR. District No. 1).	$7,399	12-24-68	[2] 1-24-69	6-24-69	[4] [6] 14.189	[3] [4] [5] 15.2025	
RI69-472..	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001, Attention: R. D. Haworth, Esq.	332	5	Natural Gas Pipeline Co. of America (Lundell Field, Duval County, Tex.) (RR. District No. 4).	20,465	12-24-68	[2] 1-24-69	6-24-69	[4] [7] 16.0	[3] [4] [5] 17.0	
	do	310	4	Colorado Interstate Gas Co. (Moonne Field, Beaver County, Okla.) (Panhandle Area).	552	12-24-68	[2] 1-24-69	6-24-69	[4] [7] 18.494	[3] [4] [5] [8] 19.582	
	do	389	3	Michigan Wisconsin Pipe Line Co. (Northwest Quinlan Field, Woodward County, Okla.) (Panhandle Area).	511	12-24-68	[2] 1-24-69	6-24-69	[4] [7] 18.007	[4] [5] [8] [9] 19.013	
RI69-473..	H. H. Weinert Estate et al., Post Office Box 231, Seguin, Tex. 78155, Attention: Edgar Engelke, Esq.	3	[10] 11	United Gas Pipe Line Co.	.....	12-27-68	[10] 1-27-69	(Accepted)	.....	.....	
		3	12	(Burnell-North Pettus Field, Karnes, Bee, and Goliad Counties, Tex.) (RR. District No. 2).	11,334	12-27-68	[10] 1-27-69	6-27-69	[11] 14.0	[4] [5] [11] 16.0	
RI69-474..	Texaco, Inc., Post Office Box 2420, Tulsa, Okla. 74102.	72	[12] 11	Northern Natural Gas Co. (Hugoton Field, Haskell County, Kans.).	.....	12-20-68	[10] 1-20-69	(Accepted)	.....	.....	
					1,681	12-20-68	[10] 1-20-69	6-20-69	[4] [12] 12.0025	[4] [10] [12] [13] 13.0025	RI67-244.
RI69-475..	W. G. Haun and Elva Armer et al., c/o Merle Britting, 300 North Main, Wichita, Kans. 67202.	1	7	Zenith Natural Gas Co. (Aetna Gas Field, Barber County, Kans.).	909	12-20-68	[2] 2- 1-69	7- 2-69	13.0	[4] [6] 14.0	RI6-0388.
RI69-476..	Mobil Oil Corp. (Operator) et al.	322	15	Michigan Wisconsin Pipe Line Co. (Cedardale Field, Woodward County, Okla. (Panhandle Area) and Major and Dewey Counties, Okla.) (Oklahoma "Other" Area).	$4,204	12-24-68	[2] 1-24-69	6-24-69	[4] [11] [14] 17.394 [4] [13] [14] 17.410	[4] [5] [11] [14] 18.415 [4] [5] [11] [14] 18.415	RI68-565. RI68-565.
RI69-477..	Northern Natural Gas Producing Co., Post Office Box 1774, Houston, Tex. 77001.	24	2	Northern Natural Gas Co. (North Harper Ranch Field, Clark County, Kans.).	3,891	12-24-68	[2] 1-24-69	6-24-69	[4] 16.087	[3] [4] 17.093	

[2] The stated effective date is the effective date requested by Respondent.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Subject to a downward B.t.u. adjustment.
[6] Initial rate.
[7] Rate provided by settlement order issued June 5, 1964, in Dockets Nos. G-12193 et al. Moratorium on filing increases expired on Jan. 1, 1967.
[8] Letter agreement dated Oct. 3, 1968, which provides, among other things, for a 16-cent rate for the 5-year period beginning Oct. 1, 1968 with 1-cent increases every 5 years thereafter, deletes redetermination provisions and provides for B.t.u. adjustment and seller's right to file for any higher applicable area rate established by the Commission.
[9] The stated effective date is the first day after expiration of the statutory notice.
[10] Renegotiated rate increase.
[11] Rate increase to 15.485 cents suspended in Docket No. RI66-145, but was not made effective subject to refund. Seller requests such increase be withdrawn and proceeding terminated.
[12] Letter agreement dated Sept. 5, 1968, which provides for 13 cent base price from Jan. 1, 1969 to Dec. 31, 1974, and that such price shall be subject to a proportional upward and downward B.t.u. adjustment from 975 B.t.u.
[13] Includes 0.0025 cent tax reimbursement.
[14] Subject to upward and downward B.t.u. adjustment.
[15] Pressure base is 14.73 p.s.i.a.
[16] Includes base rate of 18.098 cents plus upward B.t.u. adjustment.
[17] Includes base rate of 17.093 cents plus upward B.t.u. adjustment.
[18] "Fractured" rate increase. Contractually due a base rate of 19.606 cents.
[19] "Fractured" rate increase. Contractually due a base rate of 22.120 cents.
[20] Includes base rate of 18.098 cents plus upward B.t.u. adjustment and tax reimbursement.
[21] Woodward County production.
[22] Includes base rate of 17.093 cents plus upward B.t.u. adjustment.
[23] Major and Dewey County production.
[24] Includes base rate of 17.093 cents plus upward B.t.u. adjustment and tax reimbursement.

H. H. Weinert Estate et al. (Weinert) request an effective date of October 1, 1968, for their proposed rate increase. Texaco, Inc. (Texaco) requests an effective date of December 20, 1968, for its proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Weinert and Texaco's rate filings and such requests are denied.

Weinert are proposing a renegotiated rate increase from 14 cents to 16 cents per Mcf as provided by the related letter agreement dated October 3, 1968, for gas sold to United Gas Pipe Line Co. from the Burnell-North Pettus Field, Karnes, Bee, and Goliad Counties, Tex. (RR. District No. 2). A prior increase from 14 cents to 15.485 cents per Mcf contained in Supplement No. 10 to Weinert's FPC Gas Rate Schedule No. 3, was suspended by the Commission's order issued November 3, 1965, in Docket No. RI66-145, until April 4, 1966, and thereafter until made effective in the manner prescribed by the

Natural Gas Act. The increased rate has not been made effective pursuant to section 4(e) of the Natural Gas Act and no monies have been collected subject to refund under the rate schedule involved. Weinert has requested that the rate proceeding in Docket No. RI66-145 be terminated and the related rate filing be permitted to be withdrawn. Since the suspended 15.485-cents rate contained in Supplement No. 10 to Weinert's FPC Gas Rate Schedule No. 3 has not been made effective pursuant to section 4(e) of the Natural Gas Act and no monies have been collected subject to refund under the rate schedule involved, we believe that it would be in the public interest to grant Weinert's request to withdraw their aforementioned rate supplement and to terminate the related suspension proceeding in Docket No. RI66-145.

Concurrently with the filing of their rate increases, Weinert submitted a letter agreement dated October 3, 1968;[1] and Texaco submitted a letter agreement dated September 5, 1968,[2] which provide the basis for Weinert and Texaco's rate increases. We believe that it would be in the public interest to accept for filing Weinert and Texaco's contract agreements to become effective on January 27, 1969 (Weinert) and January 20, 1969 (Texaco), the expiration dates of the statutory notice, but not the proposed rates contained therein which are suspended as hereinafter ordered.

All of the producer's proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists for permitting the withdrawal of Supplement No. 10 to Weinert's FPC Gas Rate Schedule No. 3 and for terminating the related suspension proceeding in Docket No. RI66-145.

(2) Good cause has been shown for accepting for filing the contract agreements filed by Weinert and Texaco, as set forth above, and for permitting such supplements to become effective on January 27, 1969 (Weinert) and January 20, 1969 (Texaco), the dates of expiration of the statutory notice.

(3) Except for the supplements set forth in paragarph (2) above, it is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the proposed changes, and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Supplement No. 10 to Weinert's FPC Gas Rate Schedule No. 3 is permitted to be withdrawn and the suspension proceeding in Docket No. RI66-145 is terminated.

(B) Weinert and Texaco's contract agreements, designated as Supplement No. 11 to Weinert's FPC Gas Rate Schedule No. 3, and Supplement No. 11 to Texaco's FPC Gas Rate Schedule No. 72, are accepted for filing and permitted to become effective on January 27, 1969 (Weinert) and January 20, 1969 (Texaco).

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in the above-designated supplements (except the supplements set forth in paragraph (B) above).

(D) Pending hearings and decisions thereon, the above-designated rate supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Date Suspended Until" column, and thereafter until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(E) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(F) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 3, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 69-1014; Filed, Jan. 27, 1969; 8:45 a.m.]

[1] Designated as Supplement No. 11 to Weinert's FPC Gas Rate Schedule No. 3.

[2] Designated as Supplement No. 11 to Texaco's FPC Gas Rate Schedule No. 72.

[Docket Nos. RI69-453, etc.]

CHAMBERS & KENNEDY ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JANUARY 15, 1969.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 3, 1969.

By the Commission.

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

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate Schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI69-453..	Chambers & Kennedy, 607 Midland National Bank Bldg., Midland, Tex. 79701.	2	4	West Texas Gathering Co. (Kermit and South Kermit Fields, Winkler County, Tex.). (RR. District No. 8).	$3,961	12-16-68	[2] 1-16-69	6-16-69	[3] 16.39	[3] [4] 18.0	
RI69-454..	Cabot Corp. (SW), Post Office Box 1101, Pampa, Tex. 79065, Attention: William C. Charlton, esq.	23	9	El Paso Natural Gas Co. (Denton Gas Plant, Lea County, N. Mex.).	335	12-17-68	[2] 1-1-69	7-1-69	[3] 14.51	[4] [7] 18.0	
	do	50	5	El Paso Natural Gas Co., (Spraberry and Zulette-Fusselman Fields, Reagan County, Tex.) (RR. District No. 7-C).	3,818	12-17-68	[2] 1-1-69	7-1-69	[3] 14.5	[4] [7] 18.2430	
RI69-455..	Capot Corp. (SW) (Operator).	44	6	Transwestern Pipeline Co. (Estes Gasoline Plant, Ward County, Tex.) (RR. District No. 8).	23,556	12-17-68	[2] 1-1-69	7-1-69	[9] [11] 17.0	[4] [8] 18.0	
	do	49	4	Transwestern Pipeline Co. (Walton Gasoline Plant, Winkler County, Tex.) (RR. District No. 8).	236,280	12-17-68	[2] 1-1-69	7-1-69	[9] [11] 16.27	[4] [8] 18.0	
RI69-456..	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017	96	3	Natural Gas Pipeline Co. of America (Indian Basin Field, Eddy County, N. Mex.).	15,310	12-18-68	[5] 1-26-69	6-26-69	[10] 16.608	[4] [10] [13] 17.046	
RI69-457..	Sinclair Oil Corp., Post Office Box 521, Tulsa, Okla. 74102, Attention: P. T. Davis, Manager FPC Activity.	391	2	Natural Gas Pipeline Co. of America (Lochridge Area, Ward and Reeves Counties, Tex.) (RR. District No. 8).	198,000	12-18-68	[5] 1-18-69	6-18-69	[10] 16.4	[4] [7] 17.5	
	do	392	1	Natural Gas Pipeline Co. of America (Crittendan Field, Winkler County, Tex.) (RR. District No. 8).	41,580	12-18-68	[5] 1-18-69	6-18-69	[10] 16.4	[4] [7] 17.5	

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Previous rate of 17 cents effective subject to refund in Docket No. RI64-564.
[6] The stated effective date is the effective date requested by Respondent.
[7] Increase from applicable area ceiling rate to contract rate.
[8] Previous rate reduced to applicable area ceiling rate by order issued Aug. 9, 1968, implementing Opinions Nos. 468 and 468-A.
[9] "Fractured" increase from applicable area ceiling rate to rate less than contract rate—contract provides for 21.8 cents per Mcf.
[10] Previous rate reduced to applicable area ceiling rate by order issued Aug. 9, 1968, implementing Opinions Nos. 468 and 468-A.
[11] Applicable to residue not derived from new gas-well gas.
[12] Applicable to residue derived from new gas-well gas.
[13] "Fractured" increase from applicable area ceiling rate to rate less than contract rate—contract provides for 20.8 cents per Mcf.
[14] Increase from authorized initial rate up to contract rate.
[15] Includes 0.646 cent upward B.t.u. adjustment for 1,038 B.t.u. gas.
[16] Initial rate.

Chambers & Kennedy request waiver of the statutory notice to permit an effective date of December 16, 1968, for their proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Chambers & Kennedy's rate filing and such request is denied.

All of the producers' proposed increased rates and charges relate to sales in the Permian Basin Area and exceed the just and reasonable rates established by the Commission in Opinion No. 468, as amended, and should be suspended for 5 months as ordered herein.

[F.R. Doc. 69-1015; Filed, Jan. 27, 1969; 8:45 a.m.]

[Docket No. RI69-478]

GULF OIL CORP.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JANUARY 17, 1969.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplement to the rate schedule filed by Respondent shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondent shall execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder, accompanied by a certificate showing service of a copy thereof upon the purchaser under the rate schedule involved. Unless Respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 3, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
R169-478...	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	[1] 266	1	Cities Service Gas Co. (North Nardin Field, Grant County, Okla.) (Oklahoma "Other" Area).	$4,500	12-30-68	[2] 2-1-69	[3] 2-2-69	[4] 13.0	[5] [6] 14.0	

[1] Contract dated after Sept. 28, 1960, the date of issuance of general policy statement No. 61-1, and proposed rate does not exceed the initial service ceiling of 15 cents per Mcf.
[2] The stated effective date is the effective date requested by Respondent.
[3] The suspension period is limited to 1 day.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] Subject to a downward B.t.u. adjustment.

The contract related to the rate filing of Gulf Oil Corp. (Gulf) was executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed increased rate of 14 cents per Mcf exceeds the area increased rate ceiling of 11 cents per Mcf for the Oklahoma "Other" Area, but does not exceed the initial service ceiling established for the area involved. We believe, in this situation, Gulf's proposed rate filing should be suspended for 1 day from February 1, 1969, the proposed effective date.

[F.R. Doc. 69-1016; Filed, Jan. 27, 1969; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BANK SECURITIES, INC. (NSL)

Order Approving Application Under Bank Holding Company Act

In the matter of the application of Bank Securities, Inc. (NSL), Alamogordo, N. Mex., for approval of action to become a bank holding company through the acquisition of 91.47 percent or more of the voting shares of Security Bank and Trust, Alamogordo, N. Mex., and 74.59 percent or more of the voting shares of Citizens State Bank, Vaughn, N. Mex.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Bank Securities, Inc. (NSL), Alamogordo, N. Mex., for the Board's prior approval of action whereby Applicant, which presently owns a majority of the voting shares of The First State Bank, Cuba, N. Mex., would become a bank holding company through the acquisition of 91.47 percent or more of the voting shares of Security Bank and Trust, Alamogordo, N. Mex., and 74.59 percent or more of the voting shares of Citizens State Bank, Vaughn, N. Mex.

As required by section 3(b) of the Act, the Board notified the New Mexico Commissioner of Banking of receipt of the application and requested his views and recommendation. The Commissioner responded that he had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 10, 1968 (33 F.R. 9920), which provided an opportunity for interested persons to submit comments and views with respect to the proposed acquisition. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. The time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

Dated at Washington, D.C., this 15th day of January, 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-1078; Filed, Jan. 27, 1969; 8:45 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

FLORIDA

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Florida, dated November 12, 1968, and published November 20, 1968 (33 F.R. 17216) is hereby amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 7, 1968:

Sumter.

Dated: January 22, 1969.

MORDECAI M. MERKER,
Acting Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-1082; Filed, Jan. 27, 1969; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Dallas.

[2] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Martin.

SECURITIES AND EXCHANGE COMMISSION

[70-4711]

GREAT LAKES GAS TRANSMISSION CO. AND AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale by Subsidiary Company of Common Stock To Holding Company and of Notes To Banks

JANUARY 22, 1969.

Notice is hereby given that American Natural Gas Co. ("American Natural"), 30 Rockefeller Plaza, New York, N.Y. 10020, a registered holding company, and its subsidiary company, Great Lakes Gas Transmission Co. ("Great Lakes"), 1 Woodward Avenue, Detroit, Mich. 48826, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9, 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Great Lakes proposes to issue and sell to American Natural, and American Natural proposes to acquire, an additional 30,000 shares of Great Lakes' common stock, par value $100 per share, at the aggregate par value thereof of $3 million. Great Lakes also proposes to issue and sell a like amount of shares, at par value thereof, to Trans-Canada Pipe Lines Limited ("Trans-Canada"). Trans-Canada and American Natural each hold 50 percent of Great Lakes' outstanding common stock. The proposed sale will

increase Great Lakes' equity capital to 400,000 shares of common stock.

Great Lakes also proposes to issue and sell to banks, pursuant to an Amendment to Bank Loan Agreement ("Agreement") with five banks dated as of January 6, 1969, up to $20 million in additional promissory notes. The banks and their respective original and increased commitments are as follows:

	Original commitment	Increased commitment
First National City Bank, New York, N.Y.	$50,000,000	$55,200,000
Canadian Imperial Bank of Commerce, Toronto, Canada	47,500,000	52,500,000
The Royal Bank of Canada, Toronto, Canada	47,500,000	52,500,000
Morgan Guaranty Trust Company of New York, N.Y.	27,000,000	29,800,000
National Bank of Detroit, Mich.	18,000,000	20,000,000
Total	190,000,000	210,000,000

The terms and conditions of the additional loans and the form of notes are the same as provided in the original agreement dated September 29, 1967. The agreement provides for the payment of a commitment fee of one-fourth of 1 percent per annum on the average daily unused balance of each bank's commitment. This fee also will apply to the increased commitment from the date of the granting of the order by this Commission. The notes will be unsecured, will mature on December 31, 1970, and will bear interest at the rate of one-half of 1 percent per annum above the best rate on short-term commercial loans of First National City Bank in effect at the date of each borrowing, adjusted to the rate in effect at the beginning of each subsequent calendar quarter.

The authority granted Great Lakes in November 27, 1967 (Holding Company Act Release No. 15906), was to issue $190 million of its promissory notes to the five banks and 340,000 shares of its common stock, par value $100 per share, to American Natural and Trans-Canada in order to finance the second phase of its pipeline project, to pay $30 million of outstanding bank loans at maturity and to provide working capital. Since the issuance of this Commission's order, Great Lakes has completed the second phase of its pipeline project. The issuance of additional bank notes and common stock are required to enable Great Lakes to refinance the $10 million of temporary notes maturing April 30, 1969; to finance Great Lakes' 1969 capital expenditures program and to provide necessary working capital. Great Lakes' 1969 construction program, estimated to cost approximately $10 million, involves principally the construction of two new compressor stations and additions to two existing stations, which are required to enable Great Lakes to meet its increased contract commitments commencing November 1, 1969.

The fees and expenses to be incurred by the applicants in connection with the proposed transactions are estimated at $12,000, including fees of counsel for Great Lakes of $1,000, and fees of counsel for the banks of $500. The application states that it is the opinion of counsel that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed issue and sale of common stock and notes. However, the Michigan Public Service Commission has asserted jurisdiction over the issuance of securities by Great Lakes, which issue has not yet been finally resolved. Accordingly, Great Lakes is filing concurrently herewith an application to the Michigan Public Service Commission requesting authorization of the issuance of an additional 60,000 shares of common stock of Great Lakes, par value $100 per share, and the additional promissory notes for which authorization is required under Michigan statutes, if applicable. A copy of the Michigan Public Service Commission response to this application will be filed by amendment.

Notice is further given that any interested person may, not later than February 5, 1969, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-1083; Filed, Jan. 27, 1969; 8:46 a.m.]

[File No. 7-3021]

INDIAN HEAD, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 22, 1969.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Indian Head, Inc., File No. 7-3021.

Upon receipt of a request, on or before February 6, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-1084; Filed, Jan. 27, 1969; 8:46 a.m.]

[File No. 7-3022]

LIGGETT & MEYERS, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 22, 1969.

In the matter of application of the Detroit Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Liggett & Myers, Inc., File No. 7-3022.

Upon receipt of a request, on or before February 6, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of

a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-1085; Filed, Jan. 27, 1969; 8:46 a.m.]

[54-239, 59-112]

PENNZOIL CO. AND UNITED GAS CORP.

Notice of Filing Regarding Request for Extension of Time To Comply With Order of the Commission

JANUARY 22, 1969.

Notice is hereby given that Pennzoil United, Inc. ("Pennzoil United"), Houston, Tex., successor by consolidation to Pennzoil Co. ("Pennzoil") and United Gas Corp. ("United"), Shreveport, La., has requested this Commission to extend for an additional period of 1 year the time for compliance with a provision of this Commission's order of February 7, 1968, requiring disposition by Pennzoil and United of their indirect and direct interest in all of the gas utility properties owned by United and has designated sections 11 (b) and (c) as applicable to the request.

Pennzoil United has set forth in its request all action heretofore taken and proposed to be taken in compliance with said order and asserts that it will be unable in the exercise of due diligence to comply with such order within the 1-year period provided by section 11(c) and that a 1 year extension of such period is necessary or appropriate in the public interest or for the protection of investors or consumers. All interested persons are referred to the application for a complete statement of the action taken and proposed to be taken by Pennzoil United which are summarized as follows: (1) In June 1968 Pennzoil completed a $215 million refinancing over which this Commission had reserved jurisdiction; (2) in June 1968 Pennzoil filed a preliminary application with this Commission (File No. 70-4649, Administrative Proceeding File No. 3-1832) proposing the transfer of its gas utility properties, with the exception of those located in certain cities in Louisiana and Florida, to a new corporation whose stock would be offered to applicant's stockholders under a rights offering; (3) Pennzoil has taken action to obtain release of the gas utility properties from the lien of United's General Mortgage and on November 27 and December 5, 1968 it obtained release of such properties located in Louisiana and on December 31, 1968, it filed application for release of such properties located in Mississippi. The properties in Florida are not subject to the mortgage lien; (4) in October 1968 Pennzoil invited bids for its gas utility properties located in Florida and on December 18, 1968, an application was filed with this Commission proposing the sale of such properties to the successful bidder; (5) Pennzoil has been engaged in lengthy negotiations looking toward the sale of its gas utility properties in Monroe, La., to that city. These negotiations are continuing; (6) the gas utility properties in five Louisiana municipalities have been expropriated and expropriation proceedings by another Louisiana municipality are in progress; and (7) it is expected that hearings before this Commission on the proposed rights offering mentioned in item (2) above will commence in the first half of 1969.

Notice is further given that any interested person may, not later than February 6, 1969, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-1086; Filed, Jan. 27, 1969; 8:46 a.m.]

[File No. 7-3023]

SANTA FE INDUSTRIES, INC. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 22, 1969.

In the matter of application of the Pittsburgh Stock Exchange for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Santa Fe Industries, Inc. (Delaware), File No. 7-3023.

Upon receipt of a request, on or before February 6, 1969, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-1087; Filed, Jan. 27, 1969; 8:46 a.m.]

TOP NOTCH URANIUM AND MINING CORP.

Order Suspending Trading

JANUARY 22, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Top Notch Uranium and Mining Corp., a Utah corporation, and all other securities of Top Notch Uranium and Mining Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period January 23, 1969 through February 1, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-1088; Filed, Jan. 27, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FLOYD A. MECHLING

Statement of Changes in Financial Interests

Pursuant to subsection 302(c), Part III, Executive Order 10647 (20 F.R. 8769) "Providing for the Appointment of Certain Persons under the Defense Production Act of 1950, as amended," I hereby furnish for filing with the Division of the Federal Register for publication in the FEDERAL REGISTER the following information showing any changes in my financial interests and business connections as heretofore reported and published (22 F.R. 996, 6584; 23 F.R. 1062, 6730; 24 F.R. 552, 6251, 9699; 25 F.R. 109; 26 F.R. 1693, 6463; 27 F.R. 684, 6409; 28 F.R. 1093, 7060; 29 F.R. 1861, 9813; 30 F.R. 769, 8765; 31 F.R. 493, 9432; 32 F.R. 769, 10277; 33 F.R. 523 and 10545, for the period from July 26, 1968, through January 25, 1969.

No change.

F. A. MECHLING,

JANUARY 20, 1969.

[F.R. Doc. 69-1119; Filed, Jan. 27, 1969; 8:48 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 23, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41546—*Newsprint paper to Bay City, Mich.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2932), for interested rail carriers. Rates on newsprint paper, in carloads, as described in the application, from specified points in Quebec, Canada, to Bay City, Mich.

Grounds for relief—Water competition.

Tariffs—Supplement 29 to Canadian National Railways tariff ICC E.543, and supplement 61 to Canadian Pacific Railway Co. tariff ICC E.2631.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-1120; Filed, Jan. 27, 1969; 8:48 a.m.]

[No. 35061]

IOWA INTRASTATE FREIGHT RATES AND CHARGES

1968

JANUARY 15, 1969.

Notice is hereby given that the common carriers by railroad shown below have, through their attorneys, filed a petition with the Interstate Commerce Commission, pursuant to sections 13 and 15a of the Interstate Commerce Act, seeking an order of the Interstate Commerce Commission establishing increases in certain Iowa intrastate rates and charges corresponding to interstate general rate increases published in master tariffs X-223 and X-256 in accord with Ex Parte No. 223, Increased Freight Rates, 1960, 311 ICC 373, and Ex Parte No. 256, Increased Freight Rates, 1967, 332 ICC 280, respectively. No increases are sought on grain, grain products, seeds and related articles as listed in Generic Grain Tariff 330 Series, Western Trunk Line Committee, agent, to the extent that grain rates are made applicable to such products, seeds and articles by the aforementioned tariff. The petitioners are Cedar Rapids and Iowa City Railway Co.; Chicago and North Western Railway Co.; Chicago, Burlington and Quincy Railroad Co.; Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Chicago, Rock Island, and Pacific Railroad Co.; Davenport, Rock Island, and North Western Railway Co.; Des Moines and Central Iowa Railway Co.; Des Moines Union Railway Co.; Fort Dodge, Des Moines, and Southern Railway Co.; Great Northern Railway Co.; Illinois Central Railroad Co.; Norfolk and Western Railway Co.; The Atchison, Topeka, and Santa Fe Railway Co.; Sioux City Terminal Railway Co.; Union Pacific Railroad Co., and Waterloo Railroad Co.

Any persons interested in any of the matters in the petition may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition, supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies upon Mr. Don McDevitt, Commerce Counsel, Chicago, Rock Island, and Pacific Railroad Co., 139 West Van Buren Street, Chicago, Ill. 60605.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-1121; Filed, Jan. 27, 1969; 8:48 a.m.]

[Notice 766]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 22, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 340) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representatives, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2017 (Sub-No. 4 TA), filed January 14, 1969. Applicant: BROWN'S TRUCKING CO., a corporation, 357 Pennsylvania Avenue, Beverly, N.J. 08010. Applicant's representative: Raymond A. Thistle, Jr., Suite 1710, 1500 Walnut Street, Philadelphia, Pa. 19102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from the plantsite of Hanscom Bros., Inc., located in Upper Merion Township, Montgomery County, Pa., to points in that part of New Jersey north of New Jersey Highway 33, Trenton, N.J., and New York, N.Y., and *refused, rejected, or damaged frozen bakery products*, on return; for 150 days. Supporting shipper: Hanscom Bros., Inc., 35 North 52d Street, Philadelphia, Pa. 19139. Attention: Walter C. Purdy. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 64932 (Sub-No. 463 TA), filed January 13, 1969. Applicant: ROGERS CARTAGE CO., 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: W. F. Farrell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tallow or grease*, inedible, in bulk, in tank vehicles, from the plantsite of the Wayne Soap Co., Detroit, Mich., to the plantsite of Central Soya Co., Inc., Decatur, Ind., for 120 days. Supporting shipper: The Wayne Soap Co., 700 Leigh Avenue, Detroit, Mich. 48217. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 64932 (Sub-No. 464 TA), filed January 13, 1969. Applicant: ROGERS CARTAGE CO., 1439 West 103d Street, Chicago, Ill. 60643. Applicant's representative: W. F. Farrell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Helium*, in bulk, in Government owned trailers, from Speedway, Ind., to Newark (Heath), Ohio, for 150 days. Supporting shipper: Department of Defense, Military Traffic Management & Terminal Service, Washington, D.C. 20315. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 103494 (Sub-No. 14 TA), filed January 13, 1969. Applicant: EASLEY HAULING SERVICE, INC., 902 North First Avenue, Yakima, Wash. 98902. Applicant's representative: Norman Richardson (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Freezing and canning machinery and supplies*, from points in Multnomah County, Oreg., to Salem, Oreg., for 90 days. NOTE: Applicant intends to tack with its existing authority. Supporting shipper: Paul Porton, Manager Transportation & Warehousing Department, Libby, McNeil & Libby, 520 South El Camino Real, San Mateo, Calif. 94402. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 104123 (Sub-No. 72 TA), filed January 10, 1969. Applicant: JOHN SCHUTT JR., INC., 4361 River Road, Post Office Station B, Town of Tonawanda, N.Y. 14207. Applicant's representative: Robert G. Gawley, Post Office Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum chloride*, in bulk, in sealed tank vehicles with pneumatic unloading device, from Elberta and Lockport, N.Y., to Ashtabula, Ohio, for 150 days. Supporting shippers: Vanchlor Co., Inc., Lockport, N.Y. 14094; Allied Chemical Corp., 40 Rector Street, New York, N.Y. 10006. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 111594 (Sub-No. 41 TA), filed January 13, 1969. Applicant: C W TRANSPORT, INC., 610 Highway Street, Post Office Box 200, Wisconsin Rapids, Wis. 54494. Applicant's representative: G. R. Richmond, 1970 South Broadway, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry facings*, in bulk, from Cicero, Ill., to points in Iowa, Indiana, Michigan, and Wisconsin, for 180 days. Supporting shipper: The Hill & Griffith Co., 4606 West 16th Street, Chicago, Ill. 60650. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 444 West Main Street, Room 11, Madison, Wis. 53703.

No. MC 111960 (Sub-No. 3 TA), filed January 14, 1969. Applicant: WILKES TRANSPORTATION CO., INC., Post Office Box 1022, Cherry Station, North Wilkesboro, N.C. 28659. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Winston-Salem, N.C., and Morgantown, N.C., from Winston-Salem over North Carolina Highway 67 via East Bend and Booneville, N.C., to Elkin, N.C., thence over North Carolina Highway 268 via Ronda and Roaring River, N.C., to North Wilkesboro, N.C., and thence over North Carolina Highway 18 via Moravian Falls, Boomer, and Lenoir, N.C., to Morgantown, and return over the same route, serving all intermediate points, for 150 days. Supporting shippers: Southern Greyhound Lines, Division of Greyhound Lines, Inc., Lexington, Ky. 40507; Wilkes Chamber of Commerce, Post Office Box 727, North Wilkesboro, N.C. 28659; Lowe's Companies, Inc., Box 1111, North Wilkesboro, N.C. 28659; Lineberry Foundry & Machine Co., Inc., North Wilkesboro, N.C. 28659; Mrs. Clifton Waddell, North Wilkesboro, N.C. 28659; Miss Jane Oliver, North Wilkesboro, N.C. 28659; Bryant Johnson, Box 140, Route No. 2, Wilkesboro, N.C. 28659; Meadows Mill Co., North Wilkesboro, N.C. 28659; and Holly Farms Poultry Industry, Inc., Wilkesboro, N.C. 28697. NOTE: Applicant states it plans to interchange with other carriers at Morgantown and Winston-Salem, N.C. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, N.C. 28202.

No. MC 112989 (Sub-No. 13 TA) (Correction), filed December 4, 1968, published in the FEDERAL REGISTER, issues of December 13, 1968, and January 10, 1969, and republished as corrected, this issue. Applicant: JOHNSON TRUCK SERVICE, INC., Post Office Box 668, Coos Bay, Oreg. 97420. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash, blood extender, and glue ingredients* in sacks and *steel strapping* in rolls, from points in Alameda, Contra Costa, Marin, Monterey, Santa Clara, San Mateo, Sonoma, San Francisco, Kern, and San Bernardino Counties, Calif., to points in Coos, Curry, Linn, Josephine, and Douglas Counties, Oreg., and Mapleton and Springfield, Oreg., for 180 days. Supporting shippers: U.S. Plywood-Champion Papers, Inc., Post Office Box 1650, Eugene, Oreg. 97401; Vancouver Plywood Co., Post Office Box 338, Albany, Oreg. 97321. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204. NOTE: The purpose of this republication is to correct a portion of the commodity description as pertains to *glue ingredients* which was erroneously shown as "blue" ingredients in the previous publication of January 10, 1969, and to include the name of Vancouver Plywood Co., as a supporting shipper inadvertently omitted in the same previous publication.

No. MC 127681 (Sub-No. 3 TA), filed January 6, 1969. Applicant: JOE JONES, JR., doing business as JOE JONES TRUCKING COMPANY, 2340 Bankhead Highway NW., Atlanta, Ga. 30318. Applicant's representative: Joe Jones, Jr. (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry chemicals, packaged in paper bags and drums*, from the plantsites of Oxford Chemical Corp., Chamblee, Ga., to customers of Oxford Chemical Corp., located at points in the United States (excluding Alaska and Hawaii); and *Defective, rejected or repossessed chemical products* manufactured by Oxford Chemical Corp., from customers of Oxford Chemical Corp., located at points in the United States (excluding points in Alaska and Hawaii), to the plantsites of Oxford Chemical Corp., Chamblee, Ga.; (2) *dry chemicals, manufactured, packaged in paper bags and drums*, from suppliers in Massachusetts, Connecticut, New Jersey, New York, Delaware, Maryland, West Virginia, Texas, Indiana, Illinois, Missouri, and Louisiana, to the plantsite of Oxford Chemical Corp., Chamblee, Ga., and to customers of Oxford Chemical Corp., located at points in the United States (excluding Alaska and Hawaii), for 180 days. Supporting shipper: Oxford Chemicals, a division of Consolidated Foods Corp., Post Office Box 80202, Atlanta, Ga. 30005. Send protests to: William L. Scroggs, District Supervisior, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 127915 (Sub-No. 6 TA), filed January 14, 1969. Applicant: C & W TRUCKING INC., 946 Metropolitan Building, Denver, Colo. 80202. Applicant's representative: Herbert M. Boyle, 946 Metropolitan Building, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and counter covering and all related products*, from Archer, Carterville, Dalton, and La Fayette, Ga.; Chattanooga, Tenn.; Dallas and Houston, Tex.; Shelbyville, Miss.; Santa Monica and Sacramento, Calif.; and Sparks, Nev., to Denver, Colo., and points in Nevada, Idaho, Montana, North Dakota, South Dakota, Utah, Wyoming, Nebraska, and New Mexico for 180 days. Supporting shipper: Larson Distributing Co., 400 Quivas, Denver, Colo. 80204. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 133294 (Sub-No. 1 TA), filed January 9, 1969. Applicant: ECONOLINE EXPRESS, INC., 70 North Montgomery Street, San Jose, Calif. 95110. Applicant's representative: John G. Lyons, 1418 Mills Tower, 220 Bush Street, San Francisco, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts and supplies used or useful* in manufacture or sale of automobiles or parts thereof between San Francisco International Airport, South San Francisco, Calif., on the one hand, and, on the other, Fremont, Calif., restricted to shipments having an immediately prior or subsequent movement by air, and restricted to shipments weighing not in excess of 5,000 pounds, for 180 days. Supporting shipper: General

Motors Corp. (Central Office), GM Assembly Division, General Motors Building, Detroit, Mich. 48202. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 133359 (Sub-No. 1 TA), filed January 14, 1969. Applicant: DWAYNE W. HIBBARD, doing business as HIBBARD MOVING AND STORAGE COMPANY, 1452 Veterans Boulevard, Redwood City, Calif. 94063. Applicant's representative: George M. Carr, 351 California Street, Suite 1215, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points requested, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points and places in Marin, Contra Costa, Alameda, San Mateo, Santa Clara, and San Francisco Counties, Calif., for 150 days. Supporting shippers: Trans-American World Transit, Inc., 7540 South Western Avenue, Chicago, Ill. 60620; Richardson Transfer & Storage Co., Inc., Post Office Box 2430, Wilmington, Calif. 90744. Send protests to: Claude W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 133360 (Sub-No. 1 TA), filed January 9, 1969. Applicant: UNION TRACTOR COMPANY, INC., Post Office Box 1426, Havre, Mont. 59501. Applicant's representative: G. Robert Crotty, Jr., 333 Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Repair, maintenance, and replacement parts, and equipment for heavy construction and agricultural machinery*, from Torrance, Calif.; Cleveland, Ohio; Defiance, Ohio; Bucyrus, Ohio; Chicago, Ill.; Oklahoma City, Okla.; and Fort Worth, Tex.; to the port of entry located on the international boundary between the United States and Canada at or near Sweetgrass, Mont., for 120 days. Supporting shipper: Union Tractor Ltd., Post Office Box 248, Edmonton, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 133373 TA (Correction), filed January 3, 1969, published in the FEDERAL REGISTER, issue January 17, 1969, and republished as corrected, this issue. Applicant: A. G. BRIGGS, doing business as BRIGGS TRUCK LINE, Sidney, Iowa 51652. Applicant's representative: Robert Leonard, Sidney, Iowa 51652. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude oil* in bulk, in tank vehicles, (1) from Falls City, Nebr., and (2) from oil well storage tanks located in Richardson County, Nebr., and Brown and Nemaha Counties, Kans., to points in Missouri, Nebraska, Kansas, South Dakota and Iowa, for 150 days. Supporting shipper: Carter-Waters, 2440 Pennway, Kansas City, Mo. 64108. Send protests to: K. P. Kohrs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102. NOTE: The purpose of this republication is to add the words "in bulk, in tank vehicles" to the commodity description, inadvertently omitted in the previous publication.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-1122; Filed, Jan. 27, 1969; 8:49 a.m.]

[Notice 281]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 23, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70873. By order of January 15, 1969, the Transfer Board approved the transfer to Allen Motor Express, Inc., Bedford, Ind., of the operating rights in permits Nos. MC-126158 and MC-126158 (Sub-No. 3) issued February 24, 1965, and May 3, 1966, respectively, to Otho Smith, doing business as Smithway, 33 Oolitic Road, Bedford, Ind. 47421, authorizing the transportation, over irregular routes, of corrugated pipe and fittings from the plantsite of the Kaiser Aluminum & Chemical Corp., Bedford, Ind., to points in Illinois, Kentucky, Michigan, Ohio, West Virginia, and Wisconsin, and those in Missouri within the St. Louis, Mo.-East St. Louis, Ill., commercial zone, and aluminum sheet from Ravenswood, W. Va., to the said plantsite at Bedford, Ind., with certain restrictions. Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204, attorney for transferee.

No. MC-FC-70931. By order of January 15, 1969, the Transfer Board approved the transfer to Central States Trucking, Inc., Donnellson, Iowa, of the certificates Nos. MC-127170, MC-127170 (Sub-No. 2), MC-127170 (Sub-No. 3), and MC-127170 (Sub-No. 4), issued April 13, 1967, August 18, 1967, October 3, 1967, and January 9, 1969, respectively, from Myrl D. Crowe, doing business as Truck Rental Co., Donnellson, Iowa, authorizing the transportation of: Fertilizers, insecticides, and related products and accessories from specified points in Illinois, Iowa, and Missouri to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin. Thomas F. Kilroy, 1341 G Street NW., Washington, D.C. 20005, attorney for applicant.

No. MC-FC-70949. By order of January 15, 1969, the Transfer Board approved the transfer to Haynes, Inc., Boise, Idaho, of the operating rights in certificate No. MC-123565 issued August 15, 1967, to W. D. Wills, doing business as W. D. Wills & Sons, Garland, Nebr., authorizing the transportation of animal, poultry, and fish feed ingredients from points in Iowa and Nebraska and points in described portions of Minnesota and Wisconsin to Buhl and Twin Falls, Idaho. Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701, attorney for applicants.

No. MC-FC-71013. By order of January 15, 1969, the Transfer Board approved the transfer to Wales Transportation, Inc., Dallas, Tex., of the certificates Nos. MC-83835, MC-83835 (Sub-No. 30), MC-83835 (Sub-No. 34), MC-83835 (Sub-No. 37), MC-83835 (Sub-No. 38), MC-83835 (Sub-No. 39), MC-83835 (Sub-No. 40), MC-83835 (Sub-No. 43), MC-83835 (Sub-No. 44), MC-83835 (Sub-No. 45), MC-83835 (Sub-No. 47), and MC-83835 (Sub-No. 50), issued December 23, 1953, February 3, 1954, February 2, 1956, December 31, 1958, October 5, 1960, August 4, 1960, November 7, 1961, December 28, 1962, September 5, 1967, January 11, 1965, July 28, 1965, June 23, 1967, and July 24, 1967 respectively to Wales Trucking Co., a Texas corporation, Dallas, Tex., authorizing the transportation of: Various commodities, the transportation of which because of size or weight require the use of special equipment from, to and between points in the States of Alaska, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, West Virginia, and Wyoming. James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-1123; Filed, Jan. 27, 1969; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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

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FEDERAL REGISTER

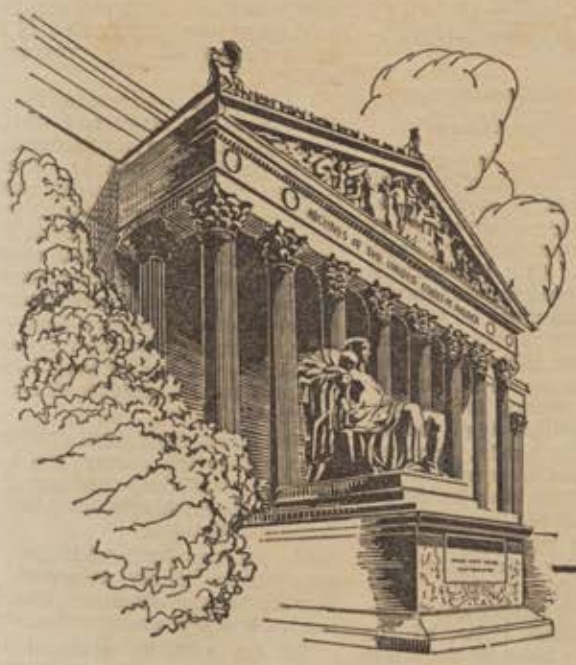
VOLUME 34 • NUMBER 18

Tuesday, January 28, 1969 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Social and Rehabilitation Service



Service Programs for Families and Children

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV PARTS A AND B OF SOCIAL SECURITY ACT

Interim Policy Statement No. 1, setting forth the regulations for the Work Incentive Program under part A of title IV of the Social Security Act, was published in the FEDERAL REGISTER of July 12, 1968 (33 F.R. 10026).

Interim Policy Statement No. 8, setting forth the regulations regarding State plan requirements for service programs for children and families under parts A and B of title IV of the Act, was published in the FEDERAL REGISTER of July 17, 1968 (33 F.R. 10234).

After consideration of the views presented by interested persons, certain changes were made and the regulations as so amended are hereby codified by adding a new Part 220 to Chapter II of Title 45 of the Code of Federal Regulations to read as follows.

Subpart A—Mandatory Provisions

Sec.

AUTHORITY: The provisions of this Part 220 issued under sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

Subpart A—Mandatory Provisions

§ 220.1 General.

The State plans for AFDC and CWS pursuant to title IV, parts A and B of the Social Security Act must, with respect to the administration of the service programs for families and children,

(a) Contain provisions committing the State to meet the requirements in this subpart;

(b) Contain provisions committing the State to progress in the extension and improvement of services;

(c) Indicate the steps to be taken to meet the requirements; and

(d) Provide for the submission of such implementation and progress reports as may be specified.

ORGANIZATION AND ADMINISTRATION

§ 220.2 Single organizational unit.

(a) There must be a single organizational unit, within the single State agency, at the State level and also at the local level to provide or supervise all services to families and children included in the State plan for title IV, parts A and B. Within the single organizational unit the same subunits must be responsible for setting service policies and furnishing services for both AFDC and CWS cases. Specific services may be delegated within the agency for services common to other groups (e.g., homemaker service for the aged), provided that this does not tend to create differences in the quality of services for AFDC and CWS cases. (This requirement does not apply to States where the AFDC and CWS programs were administered by separate agencies on Jan. 2, 1968.)

(b) Such unit must, under the direction of its chief officer (who, at the State level, is not the head of the State agency), be responsible for:

(1) Development of policy and the maintenance of policy control for all parts of the service program.

(2) Direct program supervision of the local agency or otherwise be in a position to assure proper program implementation.

(c) The State plan must also include the structure of such unit and show its place in the overall welfare agency and the distribution of responsibilities among the major divisions within the unit.

§ 220.3 Full-time staff for services.

(a) The functions of arranging or providing services to individuals should, to the maximum extent feasible, be performed by persons other than those who determine eligibility for financial and medical assistance and provide financial assistance.

(b) There must be adequate numbers of full-time staff assigned to service functions at all levels of agency operations and, to this end, there must be progress toward the objective of relieving all staff of nonservice functions. (This does not exclude service at intake, i.e., providing information, screening and referral within the agency and community for all families and children seeking agency help; and determining need for specific services.)

§ 220.4 Advisory committees.

(a) An advisory committee on AFDC and CWS programs must be established at the State level and at local levels where the programs are locally administered, except that in local jurisdictions with small caseloads alternate procedures for securing similar participation may be established. The State plan must show that the advisory committee will:

(1) Advise the principal policy setting and administrative officials of the agency and have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the agency.

(2) Include representatives of other State agencies concerned with services, representatives of professional, civic or other public or private organizations, private citizens interested and experienced in service programs, and recipients of assistance or services or their representatives who shall constitute at least one-third of the membership. Such recipients or their representatives must be selected in a manner that will assure the participation of the recipients in the selection process and that they are representative of recipients of assistance or services.

(3) Be provided such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations.

(4) Be provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee structure.

(b) An advisory committee on day care services must be established at the

State level, either as a separate committee, or all or a part of the advisory committee on AFDC and CWS programs may be assigned this function. In either event, the committee must have at least one-third of its membership drawn from recipients or their representatives; and include representatives of agencies and groups concerned with day care or related services, i.e., other State agencies, professional or civic or other public or nonprofit private agencies, organizations or groups.

(c) The State plan must also show the structure and functions of the State and local committees for AFDC and CWS programs and for day care services; their relationship to other boards and committees associated with the State and local agencies; the system for selecting recipients or their representatives; and assure that the State committee for AFDC and CWS programs will be established no later than 90 days after plan approval.

§ 220.5 Use of professional staff.

(a) There must be adequate numbers and suitable qualifications for personnel drawn from social work and other appropriate disciplines to plan, develop and supervise services and to provide specialized services to families and children; and there must be an adequate system of career development and progression for such individuals.

(b) The State plan must also include:

(1) The staffing pattern for professional positions carrying out the service functions.

(2) An explanation of how the quantity and quality of services will be maintained in instances where the number of professional personnel performing eligibility and service functions results in a caseload or workload higher than that in effect during fiscal year 1968.

§ 220.6 Use of subprofessional personnel.

(a) No later than July 1, 1969 provision must be made for the training and effective use of subprofessional staff in the programs of services to families and children, including part-time or full-time employment of recipients and other persons of low income. (The term "subprofessional," as used here, means persons with less than college education, a high school graduate or a person with little or no formal education.)

(b) The State plan must also include:

(1) The methods of recruitment and selection, as will offer opportunities for employment of such persons.

(2) A career service plan that permits such persons to enter employment at the subprofessional level and progress to positions of increasing responsibility and remuneration.

(3) An organized training program, supervision and supportive assistance for such staff.

(4) Annual progression in the utilization of increasing numbers of such staff until there is optimal use of subprofessional staff in achieving the service goals for families and children.

§ 220.7 Use of volunteers.

(a) No later than July 1, 1969, provision must be made for the training and effective use of nonpaid or partially paid volunteers representing various age groups, specifically including senior citizens and young persons, in the service programs for families and children and assisting related advisory committees.

(b) The State plan must also include:

(1) The methods of recruitment and selection which will assure participation of volunteers of all income levels.

(2) A program for organized training and supervision of such volunteers.

(3) Assignment to a specific position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions.

(4) Provision for meeting the costs incident to volunteer service.

(5) Annual progression in the utilization of volunteers until such use is sufficient for the achievement of the service goals for families and children.

§ 220.8 Relationship and use of other agencies.

(a) There must be maximum utilization of and coordination with other public and voluntary agencies, including with respect to the latter their experience as well as their facilities, providing services similar or related to the services provided under the plan, where such services are available without additional cost.

(b) Consideration must be given to the appropriate use of other public and voluntary agencies as sources for the purchase of care and services and such use must be based on a determination that required program standards will be met, a comparison of the effectiveness with which the services are likely to be rendered and the anticipated costs thereof.

(c) The State plan must show ways in which public and voluntary agencies will be used, including types of services to be purchased.

§ 220.9 Delivery and utilization of services.

(a) There must be progress in achieving organizational patterns and simplified administrative procedures that assure effective delivery and utilization of services.

(b) The State plan must also provide for continued assessment and necessary adaptations to achieve this requirement.

§ 220.10 Staff development.

There must be staff development on a continuing, progressive and comprehensive basis for all staff responsible for the development and provision of services. Such staff development shall include orientation, in-service training and educational leave. Provision shall be made for increasing each year the number of educational leaves for professional training to assure an adequate number of professional staff for these service programs.

§ 220.11 Appeals, fair hearings and grievances.

(a) There must be provision for a fair hearing, under which applicants and recipients may appeal denial of or exclusion from a service program, failure to take account of recipient choice of service or a determination that the individuals must participate in the service program. The results of appeals must be formally recorded and made available to the State advisory committee and all applicants and recipients must be advised of their right to appeal and the procedures for such appeal.

(b) There must be a system through which recipients may present grievances about the operation of the service program.

(c) The State plan must also describe the system for appeals and grievances and the methods of informing recipients of their right to appeal.

MANDATORY SERVICES APPLICABLE TO TITLE IV, PART A

§ 220.15 General.

The State plan:

(a) Must assure that responsibility is assumed for the provision of services to all appropriate persons receiving aid and others in the home whose needs were considered in determining eligibility for such aid, as called for under each of the requirements in §§ 220.16–220.25; and

(b) Must be specific in its identification of the services to be provided or purchased and the families and children to whom they will be available.

§ 220.16 Service plan.

(a) A service plan must be developed and maintained on a continuous basis for each family and child who requires service to maintain and strengthen family life, foster child development and achieve permanent and adequately compensated employment.

(b) By January 1, 1970, a service plan must be developed for each family and child in the current caseload and, within 1 year following approval for financial assistance for those added to the caseload after March 31, 1969.

(c) Such plans must be developed in cooperation with the family and must be responsive to the needs of each individual within the family, while taking account of the relation of individual needs to the functioning of the family as a whole. Families shall have the right to accept or reject such plans. (See sec. 220.35 of this part for special provisions on refusal without good cause under the WIN program and referral of Unemployed Fathers to the WIN program.)

(d) Service plans must, as a minimum, include the objectives and content of the service requirements in sections 220.15–220.25.

(e) Each service plan must be reviewed as often as necessary, but at least annually, to assure that it is practically related to needs and is being effectively implemented.

§ 220.17 Employment objectives.

(a) Services must be provided to assist all appropriate persons to achieve employment and self sufficiency.

(b) Priority must be given to screening the entire caseload, and new cases as added, to identify those persons who are immediately referrable for training and employment and developing service plans for them.

(c) With respect to employment objectives, there must be as a minimum:

(1) Identification of individuals currently ready or with potentials for employment or training.

(2) Determination of the individuals appropriate for referral to programs offering training and employment services and referral of such individuals. (See section 220.35 of this subpart for policies governing referrals to the Work Incentive Program.)

(3) General and specialized diagnostic assessments (e.g., vocational, rehabilitation, education, medical, and psychological) of health, learning, and other limitations that prevent involvement in employment or training.

(4) Plans to insure that training and employment lead to stability of employment in jobs which take full advantage of the individual's potential.

(5) Provision of services necessary to deal with personal and family barriers which prevent or limit individuals in their use of training and in their achievement of stable employment.

(6) Provision for utilization of public and voluntary agencies in the fields of vocational rehabilitation, health, vocational, and other education, including special attention to the capabilities of rehabilitation centers and workshops, community action agencies, neighborhood centers, and similar organizations.

§ 220.18 Child care services.

(a) Child care services, including in-home and out-of-home services, must be available or provided to all persons referred to and enrolled in the Work Incentive Program and to other persons for whom the agency has required training or employment. Such care must be suitable for the individual child, and the parents must be involved and agree to the type of care to be provided. Such services must be maintained until the person is reasonably able to make other satisfactory child care arrangements.

(b) Progress must be made in developing varied child care resources with the aim of affording parents a choice in the care of their children.

(c) All child care services must meet the following standards:

(1) *In-home care.* (i) Homemaker service under agency auspices must meet the standards established by the State agency which must be reasonably in accord with the recommended standards of related national standard setting organizations, such as the Child Welfare League of America and the National Council for Homemaker Services.

(ii) Child care provided by relatives, friends, or neighbors must meet standards established by the State agency that, as a minimum, cover age, physical and emotional health, capacity and time of the caretaker to provide adequate care; hours of care; maximum number of children to be cared for; feeding and health care of the children.

(2) *Out-of-home care.* Day care facilities, used for the care of children, must be licensed by the State or approved as meeting the standards for such licensing and day care facilities and services must comply with the standards of the Federal Interagency Day Care Requirements and the requirements of section 422(a)(1) of the Social Security Act (see § 220.56).

(d) Both in-home and out-of-home child care provided for persons referred to the WIN program must be a service cost rather than an assistance cost.

§ 220.19 Foster care services.

Effective July 1, 1969, services must be provided for children receiving aid in the form of foster care under title IV—part A, to:

(a) Assure placement appropriate to the needs of each child.

(b) Assure that the child receives proper care in such placement.

(c) Determine continued appropriateness of and need for placement through periodic reviews, at least annually.

(d) Improve the conditions in the home from which the child was removed, so that the child may be returned to his own home, or otherwise plan for the placement of the child in the home of other relatives, adoptive home or continued foster care, as appropriate.

(e) Work with other public agencies that have responsibility for the placement and care of any such children to assure that these agencies carry out their responsibilities in accordance with their agreement with the State agency administering or supervising the administration of AFDC.

§ 220.20 Prevention or reduction of births out-of-wedlock.

There must be a program to prevent or reduce the incidence of births out-of-wedlock and to otherwise strengthen family life. Services to prevent and reduce births out-of-wedlock must be extended progressively to all appropriate adults and youths, with initial priority for mothers who have had children born out-of-wedlock within the 2 preceding years or who are currently pregnant out-of-wedlock and for youths living in conditions immediately conducive to births out-of-wedlock. Services must be provided for fathers of such children.

§ 220.21 Family planning services.

Family planning services must be offered and provided to those individuals wishing such services, specifically including medical contraceptive services (diagnosis, treatment, supplies, and followup), social services and educational services. Such services must be available without regard to marital status, age, or parenthood. Individuals must be assured choice of method and there must be arrangements with varied medical resources so that individuals can be assured choice of source of service. Acceptance of any services must be voluntary on the part of the individual and may not be a prerequisite or impediment to eligibility for the receipt of any other service or aid under the plan. Medical services must be provided in accordance with the standards of other State programs providing medical services for family planning (e.g., maternal and child health services).

§ 220.22 Services to meet particular needs of families and children.

Services must be provided to families and children as follows:

(a) Assist children to obtain education in accordance with their capacities.

(b) Improve family living through assisting parents to overcome homemaking and housing problems.

(c) Assist in reuniting families.

(d) Assist parents in money management, including consumer education.

(e) Assist parent in child rearing.

(f) Offer education for family living.

(g) Evaluate the need for, and in appropriate cases provide for, protective and vendor payments and related services.

§ 220.23 Protective services and cooperation with courts.

(a) Protective services must be provided to children receiving aid who are found to be in danger of or subject to neglect, abuse or exploitation.

(b) There must be a specific plan whereby the State or local agency will bring cases of child abuse, neglect or exploitation to the attention of appropriate courts or law enforcement agencies. The same criteria for referral to courts or law enforcement agencies must be used as are used by the State or local agency for all other parents and children. There must be continued cooperation with such courts and officials to assist in planning for the child to serve his best interests.

§ 220.24 Services related to health needs.

Services must be provided to families and children with health needs through identifying needs for preventive and remedial medical services; locating organizations or individuals who are willing to provide quality services on a dignified basis and helping to solve any problems which may prevent them from obtaining needed medical services and from making optimum use of the services available.

§ 220.25 Legal services.

(a) Legal services must be made available to families who desire the assistance of lawyers at fair hearings and appropriate fee schedules or other methods must be established to assure legal representation when desired.

(b) Attorneys on the staff of the welfare agency may not be used to represent the claimant at fair hearings. States are not required to pay to the extent that adequate services are available without cost to the agency.

REQUIREMENTS APPLICABLE TO THE WORK INCENTIVE PROGRAM UNDER TITLE IV, PART A

§ 220.35 Work incentive program.

(a) *State plan requirements.* Effective July 1, 1968, unless a State is prevented from complying on that date by State statute, and then no later than July 1, 1969, a State plan for AFDC under part A of title IV of the Social Security Act must provide that:

(1) Except as qualified in subparagraph (2) of this paragraph, prompt referral (see subdivision (iii) of this subparagraph) of the following will be made to the manpower agency designated by the Secretary of Labor (hereinafter referred to as the Manpower Agency) operating a Work Incentive Program under part C of title IV of such Act, for participation in such program:

(i) Each appropriate individual (see subdivision (iv) of this subparagraph), age 16 or over, who is receiving AFDC or who lives in the same household as an AFDC recipient and whose needs are taken into account in determining the assistance payment.

(ii) Any other individual receiving aid under the program who is not appropriate under the State plan and who, after being informed of the Work Incentive Program, requests such referral unless the State agency determines, subject to criteria established in the State plan, that participation therein will be inimical to the welfare of such individual or the family.

(iii) A referral is the transmission of notice in writing by the State or local agency to the Manpower Agency to the effect that an individual described in subdivision (i) or (ii) of this subparagraph (1) has been determined to meet the criteria for referral, in an area where a Work Incentive Program is operated, and has been directed by the welfare agency to appear in person at an office of the Manpower Agency, when notified. Referrals of such individuals shall be made promptly after such determination, in an orderly manner, and will not be deferred by reason of the fact that there is no project activity under the Work Incentive Program to which such individual can be assigned.

(iv) Except as qualified in subparagraph (2) of this paragraph (a), appropriate individuals, under subdivision (i) of this subparagraph (1) must include (*a*) unemployed fathers, and (*b*) dependent children and essential persons age 16 or over who are not in school, at work, or in training, and for whom there are no educational plans under consideration for implementation within the next three months. Any State which refers only these groups will have complied fully with Federal requirements for referring appropriate individuals. A State, at its option, may refer under such subdivision (i) of this subparagraph (1), other individuals who are determined to be appropriate for referral subject to criteria which are established in the State plan and which are consistent with the provisions of this section.

(2) No referral will be made to the Manpower Agency for participation under a Work Incentive Program of an individual described in subparagraph (1) (i) of this paragraph (a) if he is:

(i) A person with illness, incapacity, or advanced age;

(ii) A person so remote from any project under the Work Incentive Program that he cannot effectively participate therein;

(iii) A child attending school full-time;

(iv) A person whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household; or

(v) A person whose presence in the home is required because adequate child-care services cannot be furnished.

(3) Determinations as to whether individuals shall be referred under subparagraph (1) (i) and (ii) of this paragraph (a) for participation under a Work Incentive Program, will be made in the following order of priority:

(i) (*a*) Unemployed fathers currently participating in a Work Experience and Training Program under title V of the Economic Opportunity Act or who have participated in a Community Work and Training Program under section 409 of the Social Security Act;

(*b*) Other unemployed fathers.

(ii) Mothers and other caretaker relatives and essential persons who volunteer and are currently participating in a Title V Work Experience and Training Program or have participated in a Community Work and Training Program.

(iii) Dependent children and essential persons age 16 or over who are not in school, at work, or in training, and for whom there are no educational plans under consideration for implementation within the next 3 months.

(iv) Mothers and others who volunteer but are not currently involved in a Work Experience and Training program and who have no preschool children.

(v) Mothers and others who volunteer and have preschool children.

(vi) Any others determined by the State to be appropriate for referral.

(4) If the plan includes dependent children of unemployed fathers, referral of such fathers who are appropriate will be made to the Manpower Agency, for participation under a Work Incentive Program, within 30 days after receipt of aid with respect to such children.

(5) AFDC will not be denied because of a referral to the Work Incentive Program or because of an individual's participation on a project under a program of institutional and work experience training or of special work projects under part C of title IV of the Social Security Act.

(6) (i) If and for so long as an individual described in and referred pursuant to subparagraph (1) (i) of this paragraph (a) has been determined by the Manpower Agency to have refused without good cause to participate in the Work Incentive Program or to accept a bona fide offer of employment in which he is able to engage:

(*a*) If such individual is a relative receiving AFDC, his needs will not be taken into account in determining the family's need for assistance, and assistance in the form of protective or vendor payments or of foster care will be made;

(*b*) If such individual is the only dependent child in the family, assistance for the family will be denied;

(*c*) If such individual is one of several dependent children in the family, assistance for such child will be denied and his needs will not be taken into account in determining the family's need for assistance; and

(*d*) If such individual is not a recipient, his needs will not be taken into account in determining the family's need for assistance.

(ii) If an individual referred on a voluntary basis pursuant to subparagraph (1) (ii) of this paragraph (a) discontinues participation in the Work Incentive Program, he and his family are not subject to the provisions of subdivision (i) of this subparagraph (6).

(7) Each individual described in subparagraph (6) (i) of this paragraph (a) will, for a period of 60 days, be provided counseling or other services aimed at persuading him to participate in the Work Incentive Program or take employment in which he is able to engage.

(8) With respect to each individual described in subparagraph (6) (i) of this paragraph (a), the actions specified therein shall not be taken during the period of 60 days in which he is being provided the services referred to in subparagraph (7) of this paragraph, except that in the case of the individual described in subparagraph (6) (i) (*a*) of this paragraph (a), assistance in the form of protective or vendor payments will be made in behalf of him and his family.

(9) In the determination of need for assistance, the following will be included in the State agency's policies for participation in the Work Incentive Program:

(i) The $30 monthly incentive payment made by the Manpower Agency to any participant in a program of institutional and work experience training will be disregarded.

(ii) The wages paid to an individual for his employment or participation in a special work project will be supplemented as provided in subparagraph (13) (ii) of this paragraph (a); and net earnings (i.e., gross earnings minus wage deductions over which the individual has no control, such as social security and income taxes, and other work-related expenses, such as for transportation, grooming, extra food, etc.), will be used in determining whether the income of the individual employed in a special project will be supplemented by an assistance payment.

(iii) Such incentive payments or wages of participants will not be taken into consideration in determining the need of any other individual.

(10) Additional expenses reasonably attributable to an individual's participation in a program of institutional and

work experience training will be paid to the family by the agency.

(11) All persons referred to the Work Incentive Program will be provided a prereferral medical examination to determine the individual's condition for participating in work and training activities, unless adequate information for this purpose is already available. States are urged to provide restorative medical services directly related to the participant's employability utilizing all available resources such as the vocational rehabilitation and title XIX programs. Such services include the provisions of items such as eyeglasses, hearing aids, cosmetic dentistry, and similar services.

(12) (i) Arrangements will be made by the State agency to assure a non-Federal contribution (see paragraph (b) of this section) to the Manpower Agency for 20 percent of the cost of operation of the Work Incentive Program.

(ii) There will be joint planning between the State agency and the Manpower Agency on projects, project costs, in-kind resources including facilities, equipment, and personnel (for purposes of the non-Federal contribution), and methods of exchange of information concerning wage rates and earnings.

(13) The State agency will make:

(i) Payments each month into the account(s) established by the Manpower Agency for participants in special work projects equal to the money payment which would otherwise be made to or on behalf of the individual (and his family), or 80 percent of the individual's gross earnings, whichever is lesser; and

(ii) Supplemental payments of assistance to the individual participating in a special work project, in an amount which, when added to his net earnings, will equal the money payment he would have received for himself and his family if he were not in the project, plus 20 percent of his gross earnings from the special work project.

(14) The State agency will make arrangements with the Manpower Agency for the return of unexpended payments described in subparagraph (13) (i) of this paragraph (a); and will make adjustments in overpayments resulting from the return of such unexpended payments at the end of the fiscal year or such other periods as may be determined.

(15) After planning with the individual for his participation in a Work Incentive Program, the welfare agency will notify the individual in writing that he has been referred to the Work Incentive Program and that he has a right to a fair hearing before the State agency with respect to a determination regarding the appropriateness of such referral, the amount of payments, or the denial of assistance.

(16) In the event an individual who has been referred to the Work Incentive Program refuses to accept employment which is offered to him by an employer, whether directly or through the employment service or the welfare agency, the determination as to whether the offer was bone fide or there was good cause to refuse the offer will be made only by the Manpower Agency (after providing opportunity for fair hearing) and will be binding on the welfare agency.

(b) *Non-Federal contribution.* For purposes of paragraph (a) (12) (i) of this section:

(1) Except as specifically authorized by Federal statute, a non-Federal contribution may not include funds or expenditures which are used to meet the Federal or State share of other programs receiving Federal financial assistance.

(2) The non-Federal contribution may be in cash or in-kind. A contribution in-kind may be made in the form of the provision of services, staff, space, equipment, or any other goods or services of value essential to the operation of the Work Incentive Program or any project under such program. Where such contribution is in-kind, the amount thereof will be determined on the basis of its reasonable value as established by suitable documentation.

(3) The costs of operation of the Work Incentive Program which may be met by the non-Federal contribution may include the costs of training, supervision, materials, administration, incentive payments, transportation, and other items as are authorized by the Manpower Agency, but may not include any reimbursement for time spent by participants in work, training, or other participation in such program.

(4) If the State welfare agency fails to make arrangements for the non-Federal contribution of 20 percent of the total Statewide Work Incentive Program costs of operation, the Secretary of Health, Education, and Welfare may withhold under the conditions specified in the law the equivalent of amounts to be paid from the grants to the State agency for the public assistance titles.

(c) *Referral to the manpower agency.* (1) To refer a client to the Work Incentive Program (see paragraph (a) (1) of this section), the welfare agency will complete section 1 of the Referral and Enrollment Form and send it, accompanied by a resume on the applicant's history, to the local Manpower Agency office. When such office notifies the client of a date for a personal interview, it will also notify the welfare agency of this date. It is then the obligation of the agency to follow through with the client and offer assistance, if needed, to help him keep his appointment. If something in the client's situation arises that prevents the client from keeping his appointment, another appointment will be made. In some cases, it may be necessary for a caseworker or someone else known to the client to accompany him on his interview. If the client so referred does not keep his scheduled interview, the welfare agency will work with the client to arrange another appointment and will advise the Manpower Agency of the outcome.

(2) When an individual referred to the Work Incentive Program refuses without good cause to accept employment in which he is able to engage or participate in a Work Incentive Program project, the Manpower Agency shall (after providing opportunity for fair hearing) notify the welfare agency and submit all the information on the refusal. Provision is made for special help for such an individual. The welfare agency is to provide intensive counseling and services for up to 60 days with a view to persuading the client to take employment in which he is able to engage or participate in the Work Incentive Program. (For related provisions, see paragraph (a) (6) of this section.)

(3) In the event an individual referred to the Manpower Agency should need to be referred back to the welfare agency as having good cause for not continuing on a training plan or a job, the welfare agency shall promptly restore the assistance payment to the individual or make other necessary payment adjustments.

MANDATORY SERVICES APPLICABLE TO TITLE IV, PART B

§ 220.40 Child welfare services.

(a) The State plan must assure progressive extension of child welfare services so that such services will be available in all political subdivisions by July 1, 1975, for all children in need of them; including annual progress in one or more of the following dimensions:

(1) Covering additional political subdivisions;

(2) Reaching additional children in need of services;

(3) Expanding the range of services provided;

(4) Improving the quality of services through additional trained child welfare personnel.

(b) The State plan must provide that:

(1) As a basis for giving priority in extending the provision of child welfare services to communities with the greatest need for such services, there will be a reasonable and objective method for assessing this need, taking into consideration their relative financial need.

(2) As a minimum, there will be child welfare services to children in their own homes and the provision of foster care of children.

(3) There will be a case plan, including diagnostic evaluation and plan for treatment, when a child is accepted for child welfare services; and periodic review of such plan.

(4) Child welfare services will be available on the basis of need for services and shall not be denied on the basis of financial need, legal residence, social status or religion.

(5) Child welfare services will not be limited to AFDC cases.

OTHER REQUIREMENTS APPLICABLE TO TITLE IV, PARTS A AND B, AS INDICATED

§ 220.45 Community planning (applicable to IV–A and B).

(a) There must be progress in developing State and local agency leadership for participation in community affairs which will result in the development of community resources necessary to achieve program objectives of title IV, parts A and B.

(b) The State plan must also show the steps to be taken to achieve this objective, including the staffing for this function.

§ 220.46 Reports and evaluations (applicable to IV–A and B).

Such reports and evaluations must be furnished to the Secretary as he may specify, showing the scope, results and costs of services for families and children.

§ 220.47 Implementation; local agencies and service contractors (applicable to IV–A and B).

(a) The State agency must have methods of assuring that local agencies are meeting the plan requirements, and where services are purchased, of monitoring local agencies and service contractors to insure that the plan requirements are being met and funds are being appropriately and effectively used. See separate SRS policy governing purchase of services.

(b) The State plan must also describe the methods to be used to carry out this requirement.

§ 220.48 Establishing paternity and securing support for children receiving aid (applicable to IV–A).

(a) There must be a program for establishing paternity for children born out-of-wedlock and for securing financial support for them and for all other children receiving AFDC who have been deserted by their parents or other legally liable persons. Efforts must be made to locate putative and absent parents and there must be a determination of their potential to provide financial support. There must be provision for the utilization of reciprocal arrangements with other States to obtain or enforce court orders for support. There must be a single staff unit in the State agency and in large local agencies to administer this program. (The files of the Social Security Administration are available to the State agencies when other efforts have failed to provide the necessary information on the address of a parent.)

(b) There must be a plan of cooperation with courts and law enforcement officials and pertinent information must be provided them when their assistance is needed in locating putative or deserting fathers, establishing paternity and securing support.

(c) In developing plans for cooperation with courts and law enforcement officials, there must be agreement that the information provided by the State or local agency will be used only for the purpose intended. There must be provision for financial arrangement to reimburse courts and law enforcement officials when it is found necessary for them to undertake services beyond those usually provided in such cases.

(d) There must be cooperation with other State welfare agencies administering AFDC in locating parents of an AFDC child against whom a support petition has been filed in another State and in attempting to secure compliance by a parent now residing in the agency's own State.

(e) Clearance procedures established with the Internal Revenue Service will be used in respect to any parents of AFDC children whose location is unknown and who are failing to comply with existing court orders for support payments or against whom petitions for orders have been filed. (See separate issuance related to these procedures.)

§ 220.49 Other plan requirements for child welfare services under title IV–B (Other regulations in 42 CFR Part 201 still pertain).

(a) *Single State agency.* (1) (i) The State plan shall designate a State agency as the single agency for the administration of the plan or for supervision of the administration of part of the plan by local agencies.

(ii) Effective July 1, 1969, the State plan must provide that the State agency responsible for the State plan approved under title IV–A will also administer or supervise the administration of the plan under title IV–B, except that

(*a*) if on January 2, 1968 the State agency administering the plan under title IV–B is different from the State agency responsible for the State plan approved under title IV–A, the requirement in this subdivision (ii) shall not apply so long as such agencies are different;

(*b*) if on January 2, 1968 the local agency administering the plan approved under title IV–B is different from the local agency administering the plan approved under title IV–A, the requirement in this subdivision (ii) shall not apply with respect to such local agencies so long as such agencies are different.

(2) The State plan shall set forth the authority of the State agency under State law for the administration of the program. Where there is administration by local agencies, the plan shall set forth the legal basis for such administration or for the supervision of such administration by the State agency. Citations to all directly pertinent laws and copies of all interpretations of such laws by appropriate State officials, and citations to all directly pertinent interpretations of laws by courts, shall be furnished as part of the plan.

(b) *Organization for administration.* The State plan shall describe the organization of the State agency for the administration of the plan and of any local agencies engaged in such administration. It shall also describe the methods of administration utilized by the State agency in the administration of the plan and by any local agencies engaged in such administration. Where there is administration by local agencies, the State plan shall describe the nature and extent of the supervision exercised by the State agency.

(c) *Personnel standards.* There shall be, with respect to the employees of the State agency and those of local agencies, personnel administration on a merit basis which shall be in accordance with current Federal Standards for a Merit System of Personnel Administration in 45 CFR Part 70. The State plan shall contain necessary materials relating to personnel administration to permit evaluation for compliance with the said Standards for a Merit System of Personnel Administration.

(d) *Coordination with services under AFDC.* There shall be coordination between child welfare services and services in AFDC with a view to provision of welfare and related services which will best promote the welfare of such children and their families.

(e) *Reports.* The State plan shall provide that the State agency will make such reports with respect to any and all phases of the State program of child welfare services in such form and containing such information as the Bureau may find necessary to assure the correctness and verification of such reports.

Subpart B—Optional Provisions

§ 220.50 General.

If a State elects under title IV–A to provide services for additional groups of families and children, i.e., current applicants or former or potential applicants and recipients of public assistance, the State plan:

(a) Must identify such group or groups and specify the services to be made available to such group;

(b) Contain provisions committing the State to meet the requirements in this subpart;

(c) Indicate the steps to be taken to meet those requirements; and

(d) Provide for the submission of such implementation and progress reports as may be specified.

SERVICES IN AID TO FAMILIES WITH DEPENDENT CHILDREN

§ 220.51 Range of optional services.

(a) The Social Security Act (sec. 406(d)) defines the full range of family services in AFDC as follows: "* * * services to a family or any member thereof for the purpose of preserving, rehabilitating, reuniting, or strengthening the family, and such other services as will assist members of a family to attain or retain capability for the maximum self-support and personal independence."

(b) The full range of or selected family services, and child welfare services as defined in this subpart, may be included except for those services excluded in § 220.61.

(c) Following are types of selected services:

(1) *Child care services.* Child care services provided to families other than those required in § 220.15, must meet the standards required in that section.

(2) *Emergency assistance—services.* Emergency assistance in the form of services to needy families with children, including migrants, may be provided. Such services must be planned and staffed, so as to assure immediate accessibility and prompt response, and separate policy instructions relating to emergency assistance must apply. (These separate policies do not apply to use of title IV–B funds.)

(3) *Educational and training services.* Educational and training services may be included where the Work Incentive Program has not been initiated in a local jurisdiction or is inadequate in scope or size to meet the needs of recipients; or where the Work Incentive Program has been initiated and there is an agreement with representatives of the Labor Department that these services are not available to recipients. Full use must be made of services available through the Employment Service.

(4) *Legal services.* Legal services, in addition to those required in § 220.25, may be included for families desiring the help of lawyers with their legal problems (see separate policies governing the provision of such services).

§ 220.52 Coverage of optional groups for services.

(a) The agency may elect to provide services to all or to reasonably classified subgroups of the following:

(1) Families and children who are current applicants for financial assistance.

(2) Families and children who are former applicants or recipients of financial assistance.

(3) Families and children who are likely to become applicants for or recipients of financial assistance, i.e., those who:

(i) Are eligible for medical assistance, as medically needy persons, under the State's title XIX plan.

(ii) Would be eligible for financial assistance if the earnings exemption granted to recipients applied to them.

(iii) Are likely, within 5 years, to become recipients of financial assistance.

(iv) Are at or near dependency level, including those in low-income neighborhoods and among other groups that might otherwise include more AFDC cases, where services are provided on a group basis.

(4) All other families and children for information and referral service only.

(b) All families and children in the above groups, or a selected reasonable classification of families and children with common problems or common service needs, may be included.

CHILD WELFARE SERVICES

§ 220.55 Range of optional services and groups to be served.

(a) The Social Security Act (sec. 425) defines the full range of child welfare services as follows: "* * * public social services which supplement, or substitute for, (1) parental care and supervision for the purpose of preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day care or other child care facilities."

§ 220.56 Day care services.

(a) If day care services are included under title IV–B, they must meet the standards required in § 220.18(c)(2), and in addition, the State plan must indicate compliance with the following:

(1) Cooperative arrangements with State health and education agencies to assure maximum utilization of such agencies in the provision of health and education services for children in day care.

(2) An advisory committee on day care services as set forth in § 220.4(b).

(3) A reasonable and objective method for determining the priorities of need, as a basis for giving priority, in determining the existence of need for day care, to members of low-income or other groups in the population and to geographical areas which have the greatest relative need for the extension of day care.

(4) Specific criteria for determining the need of each child for care and protection through day care services.

(5) Determination that day care is in the best interests of the child and the family.

(6) Provision for determining, on an objective basis, the ability of families to pay for part or all of the cost of day care and for payment of reasonable fees by families able to pay.

(7) Provision for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the child and the improvement of his health and development.

(8) Provision of day care only in facilities (including private homes) which are licensed by the State or approved as meeting the standards for such licensing.

Subpart C—Federal Financial Participation

§ 220.60 General.

The regulations in this subpart deal separately with Federal financial participation in the costs of services under the AFDC and Child Welfare Services programs because these programs have different legal provisions governing the extent of Federal funding. However, in general there are no differences in the kinds of services or methods of providing services under these two programs.

§ 220.61 Federal financial participation; AFDC.

(a) *General.* Federal financial participation is available in expenditures, as found necessary by the Secretary

(1) For the proper and efficient administration of the plan;

(2) For the costs of providing the services for the groups of families and children;

(3) For carrying out the activities described in subparts A and B of these regulations that are included in the approved State plan. Such participation will be at the rates prescribed in this subpart.

(b) *Persons eligible for service.* Federal financial participation is available under this section only for services provided to:

(1) A child or relative who is receiving aid under the plan and to any essential person living in the same household as such relative and child.

(2) The groups defined in § 220.52: current applicants for aid, former and potential applicants or recipients and other individuals requesting information and referral service only. In respect to any child or relative who has formerly been an applicant for or recipient of aid, counseling and casework services may be provided. Other services may be provided only to those children or relatives who have received aid within the previous 2 years or who qualify under the definition of potential applicants or recipients.

(c) *Sources for furnishing services.* Federal financial participation is available under this section for services furnished:

(1) By State or local agency staff, i.e., full- or part-time employed staff; and volunteers, or

(2) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

(d) *Provisions governing costs of certain services.* (1) Medical and assistance costs. Federal financial participation under this section will not be available in expenditures for subsistence and other assistance items or for medical or remedial care or services, except

(i) For subsistence and medical care when they are provided as essential components of a comprehensive service program of a facility and their costs are not separately identifiable, such as, in a rehabilitation center, a day care facility or a maternity home;

(ii) For medical and remedial care and services as part of family planning services;

(iii) For required medical examinations for persons caring for children under agency auspices, when not otherwise available or not included in purchase arrangements;

(iv) For identifying medical problems of children in child care facilities; or

(v) For medical diagnosis and consultation when necessary to carry out service responsibilities, e.g., for recipients under consideration for referral to training and employment programs.

(2) Vocational rehabilitation services. Federal financial participation is not available in the costs of providing services for the disabled as defined in the Vocational Rehabilitation Act except pursuant to an agreement with the State agency administering the vocational rehabilitation program. This applies to provision of services by staff of the agency and purchase.

(3) Federal financial participation is available in the costs of the following:

(i) Staff in providing services related to foster care, i.e., recruitment, study, and approval of foster family homes, services to children in foster care and

their parents, and work with foster parents and staff of child-caring institutions. Vendor payments for foster care are assistance payments and are, therefore, not subject to the service rate of Federal financial participation.

(ii) Work related to child care resources to be used by the agency, i.e., the costs of staff engaged in the development, recruitment, study, approval, and subsequent evaluation of out-of-home child care resources, except the costs of staff primarily engaged in the issuance of licenses or in the enforcement of standards; study, approval, and subsequent evaluation of in-home care arrangements; and in the provision of technical assistance to improve the quality of child care.

(iii) Services provided in behalf of families and children, e.g., community planning, assuring accessibility to entitled service resources; and studies of service needs and results.

(iv) Certain services to assist individuals to achieve employment and self-sufficiency:

(*a*) Payments for additional expenses of individuals that are attributable to their participation in training or work experience projects, e.g., transportation, lunches, uniforms. (Not applicable to assistance recipients earning wages, including employment or on-the-job training, or on special work projects under Work Incentive Program, since such expenses will be deducted in determining net income.)

(*b*) Medical examinations that are necessary to determine physical and mental health conditions for training or employment.

(*c*) Education and training as provided in § 220.51(c)(3).

(v) Agency staff engaged in locating and planning with deserting or putative fathers; assessing potentials and determining appropriate actions; developing voluntary support; assisting relatives to file petitions for the establishment of paternity; reuniting families; and cooperative planning with appropriate courts and law enforcement officials.

(e) *Kinds of expenses for which Federal financial participation is available.* (1) Salary and travel costs of service workers and their supervisors giving full-time to services and for staff entirely engaged (either at State or local level) in developing, planning, and evaluating services. Where a full-time service worker also carries services under the adult categories, the portion applicable to AFDC (IV–A) is at AFDC rates.

(2) Salary costs of service-related staff such as, supervisors, clerks, secretaries, and stenographers, which represent that portion of the time spent in supporting full-time service staff.

(3) Related expenses of staff performing service or service-related work under subparagraph (1) or (2) of this paragraph (e) in proportion to their time spent on services, such as communications, equipment, supplies and office space.

(4) Definitions: Applicable to staff performing service functions.

(i) *Full-time service work.* (*a*) Persons performing full time on functions related to the provisions of service means persons assigned on a full-time basis to such functions (services under the adult categories may also be carried).

(*b*) It is not necessary to maintain daily time records for this purpose but it is expected that States will check periodically to assure that persons assigned on a full-time basis are performing substantially on this basis.

(*c*) A full-time service worker can be expected to receive questions from recipients (and former or potential) related to eligibility and the amount of payment or medical benefits and to make this information available to staff responsible for eligibility and related functions. Such workers may not carry the responsibility for securing information or taking the actions in respect to determining initial and continuing eligibility for financial or medical assistance or to change the amount of financial assistance being provided.

(ii) *Meaning and illustrations of service work.* Service work means activity of staff in providing the services and carrying out the related responsibilities specified in subparts A and B. This includes activities of such staff as caseworkers, homemakers, child care personnel, Work Incentive Program coordinators, and community planning staff.

(iii) *Meaning and illustrations of service-related work.* Service-related work means activity of staff other than service workers which is necessary to administer a service program fully. This includes secretaries, stenographers and clerks serving service staff, supervisors of service workers and their supervisors, staff responsible for developing and evaluating service policies, and staff collecting and summarizing financial and statistical data on services, either at the State or local level.

(iv) *Staff.* Staff performing service or service related work includes professional, subprofessional (e.g., recipients and other workers of low income), and volunteer staff.

(5) Other expenses related to the provision of service in support of full-time service staff, including a portion of the salary costs of any agency person (except the service worker who must be on a full-time basis) who is working part time on service functions (either at the State or local agency level). Such expenses include the portion of salary costs of supervisors related to supervision of service work, a portion of fiscal costs related to services, a portion of research costs related to services, a portion of salary costs of field staff, etc.

(6) Costs of services purchased.

(7) Travel and related costs for children and parents to obtain consultation, medical, and other services.

(8) Costs of State and local advisory committees including expenses of attending meetings, supportive staff and other technical assistance.

(9) Costs of administrative and supervisory staff attending meetings pertinent to the development or implementation of Federal or State service policies and programs.

(10) Costs of operation of agency facilities, used solely for the provision of services. Costs may include expenditures for staff; space, including minor remodeling, heat, utilities, and cleaning furnishings; program supplies, equipment and materials; food and food preparation; and liability and other insurance protection. Costs of construction and major renovations are not matchable as services. Appropriate distribution of costs is necessary when other agencies use such facilities for the provision of their services, such as in comprehensive neighborhood service centers.

(11) Child care expenditures for WIN participants must be charged as a service expenditure and separately identified since Federal funds for this purpose come from a separate appropriation. Child care expenditures for other AFDC cases may be charged as a service expenditure or included as a financial assistance expenditure subject to matching under the title IV–A formula, depending on how the State plan specifies. Where child care is provided as a service the payment may be made either to the vendor of the service directly or to the recipient for payment by him. In either case documentation is needed in the form of statements of the type and quantity of services rendered for each recipient (receipted by vendor when the service payment is made directly to the recipient) to establish the fact that the expenditure was for services.

(f) *Rates of Federal financial participation.* (1) (i) Federal financial participation at the rate of 85 percent for the fiscal year ending June 30, 1969, and at the 75 percent rate for subsequent fiscal years is available for the service costs identified in paragraphs (d) and (e) of this section; and at the rate of 75 percent for all expenses related to emergency services, and training and staff development.

(ii) With respect to Puerto Rico, the Virgin Islands, and Guam, the Federal share:

(*a*) For services and training and staff development for the fiscal year ending June 30, 1969, and subsequent years, is 60 percent, except 75 percent for emergency assistance in the form of services.

(*b*) For family planning services and referral for participation under the Work Incentive Program for any fiscal year beginning on or after July 1, 1967 to:

(*1*) Puerto Rico shall not exceed $2 million.

(*2*) The Virgin Islands shall not exceed $65,000.

(*3*) Guam shall not exceed $90,000.

(2) Time limited rates are applicable to certain service costs. The total costs of salaries and travel of workers carrying responsibility for both services and eligibility functions and supervisory costs related to such workers, and all or part of the salaries of supporting secretarial, stenographic, or clerical staff

depending on whether they work full-time or part-time for the workers specified in this subparagraph (2), are subject to the following rates of Federal financial participation:

(i) 75 percent for the fiscal year ending June 30, 1969 (57 percent for Puerto Rico, the Virgin Islands, and Guam).

(ii) 60 percent for the fiscal year ending June 30, 1970 (54 percent for Puerto Rico, the Virgin Islands, and Guam).

(iii) 50 percent for all subsequent years.

(3) For the period January 1, 1968, through June 30, 1968, Federal financial participation is available at the 75 percent rate for expenditures for services included in a State plan approved under the service policies previously in effect, except that the rate of 85 percent is applicable to expenditures for services furnished under an approved plan pursuant to section 402(a) (14) and (15) of the Social Security Act. However, Federal financial participation is not available for the purchase of service prior to June 10, 1968 from sources other than State agencies.

(4) Federal financial participation at the 50 percent rate is available in the costs of the following activities that are separate from but relevant to the costs of services:

(i) Salaries and travel of staff primarily engaged in determining eligibility and their supervisors and supporting staff (clerks, secretaries, stenographers, etc.).

(ii) Salaries and travel of staff primarily engaged in developing eligibility provisions and the determination processes (either at the State or local agency level).

(iii) Expenses related to such staff, and for staff specified in paragraph (f) (2) of this section, such as for communications, equipment, supplies and office space.

(iv) Costs of State or local staff engaged in the collection of support and accounting for such funds and determining the effect of support funds on eligibility or assistance payments. No Federal financial participation is available in the costs of agency staff engaged in apprehension, arrests, or enforcement activities.

(v) Costs of reimbursing courts and law enforcement officials for their increased effort or additional staff time in assisting the State or local agency in respect to its program to secure support and establish paternity. Such reimbursement is for costs that are specific to carrying out any of the following activities which the State agency believes will contribute to optimum results in securing support and establishing paternity:

(*a*) Consultation to State and local agencies on appropriateness of cases for court action to secure support or establish paternity.

(*b*) Consultation to State and local agencies on the development of evidence for court hearings.

(*c*) Developing information as to the location of parents and other legally liable persons, when all location efforts of the State or local agency have failed.

(*d*) Consultation and participation in the development of support on a voluntary basis; and followup services on court orders for support.

(*e*) Costs in presenting support and paternity actions to the court.

(*f*) Necessary fees for court judicial actions, when these are not waived.

(*g*) Costs of court and other officials providing training to public welfare staff may be included as staff development costs.

(*h*) Costs of the judiciary system, apprehension and arrest are not included.

(vi) Other expenses of administration not specified at the 75 percent (85 percent) rate for services.

(g) Federal financial participation in Work Incentive Program.

(1) Federal financial participation in expenditures for any services furnished by the State agency relating to the Work Incentive Program, including additional expenses attributable to an individual's participation in a program of institutional and work experience training under the Work Incentive Program, and the costs of prereferral medical examinations for all participants, as found necessary by the Secretary for the proper and efficient administration of the plan, is subject to the service rate of matching for which the State qualifies.

(2) Any amounts included in the assistance grants of participants, such as the supplementation of earnings on special work projects under the Work Incentive Program are matchable under the assistance formula. Payments into the account referred to in § 220.35(a) (13) (i) are also matchable as assistance.

(3) Any refund from such account to the State welfare agency will be regarded as an overpayment to the State and the Federal share thereof must be adjusted. This may be reflected in the State agency's claim for Federal financial participation for the month in which the money is received.

§ 220.62 Federal financial participation; CWS.

(a) *Federal share.* The Federal share of service programs under title IV–B shall be at the rate specified in or promulgated pursuant to section 423 of the Act.

(b) *Persons eligible for service.* (1) Federal financial participation under title IV–B is available to serve all families and children in need of child welfare services without respect to whether they are receiving AFDC.

(2) Expenditures for care of children in foster family homes, group homes, institutions, family day care homes or day care centers, or for care of unmarried mothers in foster family homes, group homes, institutions, or independent or other living situations, shall be for those children or unmarried mothers for whom the public welfare agency, through its child welfare services program, accepts responsibility for providing or purchasing such care. This responsibility includes: determining the need for such care and that the type of care is in the best interest of the child and his family or of the unmarried mother; determining the ability of the family to contribute to the cost of care; and developing a plan for continuing supervision of the child or unmarried mother in care.

(c) *Sources of services.* Federal financial participation is available under this section for services furnished:

(1) By State or local agency staff, i.e., full- or part-time employed staff, and volunteers, or

(2) By purchase, contract, or other cooperative arrangements with public or private agencies or individuals, provided that such services are not available without cost from such sources.

(d) *Kinds of expenses included.* Federal financial participation is available for expenditures for the following purposes: personnel services; professional education; institutes, conferences and short-term courses; foster care of children; care of unmarried mothers; day care of children; purchase of homemaker services; specialized services; return of runaway children; research and special facilitative services; merit system costs; advisory committees; membership fees; supplies, equipment and communication; and occupancy and maintenance of space.

§ 220.63 Relationship of costs under parts A and B of title IV.

(a) There must be methods of allocating the costs of providing services under the child welfare services program and providing services under the AFDC program.

(b) Service expenses that jointly benefit title IV–A and B programs may be allocated between them using any reasonable basis or may be charged entirely to IV–A or B if they are considered to be of primary benefit to such program. The title IV–A program may be considered to be primarily benefited if the number of AFDC children served represents at least 85 percent of the total children served. The 85 percent computation may be based on local agency totals or on statewide totals.

(c) The one exception to the policy expressed above in paragraph (b) of this section pertains to educational leave. States can elect to charge educational leave totally either to AFDC under title IV–A or child welfare services under title IV–B, without regard to the proportion of time devoted to either program before or after educational leave. The only condition to be met is that the person returning from educational leave be employed in the single organizational unit supervising or providing all services for families and children under title IV–A and/or title IV–B of the Social Security Act, as amended. Where a single organization unit has not been established an allocation of costs must be made in accordance with existing policy.

§ 220.64 Provisions common to title IV–A and B.

(a) Expenditures for certain functions under both parts A and B of title IV shall be in accordance with the other provisions governing:

(1) Employee benefit costs; as described in "Federal Participation in Costs of Employee Benefit Systems."

(2) Organization memberships; as described in "Federal Participation in Costs of State Agency Memberships in Organizations."

(3) Occupancy or maintenance of space; as described in "Expenditures by State of Granted Funds for Occupancy and Maintenance of Space."

(b) (1) Donated private funds for services may be considered as State funds in claiming Federal reimbursement where such funds are:

(i) Transferred to the State or local agency and under its administrative control; and

(ii) Donated on a unrestricted basis (except that funds donated to support a particular kind of activity, e.g., day care, or to support a particular kind of activity in a named community, are acceptable provided the donating organization is not the sponsor or operator of the activity being funded).

(2) Donated private funds for services may not be considered as State funds in claiming Federal reimbursement where such funds are:

(i) Contributed funds which revert to the donor's facility or use.

(ii) Donated funds which are earmarked for a particular individual or for members of a particular organization.

§ 220.65 Amount of Federal funding.

(a) The amount of Federal funds available for services under title IV–A is dependent upon the availability of and extent of matching State funds, except as stated in § 220.61(f), for Puerto Rico, Virgin Islands, and Guam.

(b) The amount of Federal funds under title IV–B may not exceed the amount available under the allotment formula prescribed by law. The availability of these funds is dependent upon matching State funds determined according to the formula prescribed by law.

Effective date. The regulations in this part shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 18, 1969.

JOSEPH H. MEYERS,
Acting Administrator,
Social and Rehabilitation Service.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-977; Filed, Jan. 27, 1969; 8:45 a.m.]