to recommendations of the Tribal Council and the Commissioner of Indian Affairs, and a finding of the Secretary of the Interior that such action is in the public interest, it is ordered as follows:

The following described lands, ceded by the Kiowa, Comanche, and Apache Tribes of Indians to the United States pursuant to agreement ratified by the Act of June 6, 1900, 31 Stat. 672, 676, having been reserved for use by the Bureau of Indian Affairs for school, agency, cemetery, and administrative purposes and being now not needed for such uses, are hereby restored to tribal ownership for use and benefit of the Kiowa, Comanche, and Apache Tribes of Indians subject to any valid existing rights:

INDIAN MERIDIAN

T. 7 N., R. 10 W.,
Sec. 10, lot 4;
Sec. 15, NE¼NE¼, S½NE¼, and lots 4 and 5 (excepting therefrom that certain parcel of land containing 37.29 acres conveyed to the Anadarko Commercial Club by Patent No. 181778, issued March 7, 1911).

The areas described aggregate 162.46 acres in Caddo County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

JUNE 29, 1972.

[FR Doc.72-10152 Filed 7-3-72;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19161]

PART 73—RADIO BROADCAST SERVICES

Order Extending Time for Filing Responses to Petition for Reconsideration Regarding FM Broadcast Stations in Anamosa and Iowa City, Iowa

In the matter of amendment of § 73.202(b), *Table of assignments*, FM broadcast stations (Anamosa and Iowa City, Iowa), Docket No. 19161, RM-1540.

1. On June 16, 1972, public notice (Report No. 818) was given of a petition for reconsideration, filed by Communicators, Inc., of the Commission's third report and order in Docket No. 19161 (FCC 72-411), released May 12, 1972. The date for filing responses to the above petition is presently June 26, 1972.

2. On June 22, 1972, Vivid Music Enterprises (Vivid Music) filed a request for an extension of time for 2 weeks to file responses to the above petition for reconsideration. Vivid Music states that the petition was accompanied by a lengthy engineering statement and its consulting engineer requires additional time to analyze it and prepare a report thereon.

3. It appears that the requested extension is warranted. *Accordingly, it is ordered*, That the time for filing oppositions to the petition for reconsideration in Docket 19161 is extended to and including July 10, 1972.

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

Adopted: June 26, 1972.

Released: June 27, 1972.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-10204 Filed 7-3-72;8:49 am]

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER F—AID TO FISHERIES

PART 258—FISHERMEN'S PROTECTIVE ACT PROCEDURES

Provision for Fees

JUNE 28, 1972.

Section 7 of the Fishermen's Protective Act, as amended (22 U.S.C. 1977) and Reorganization Plan No. 4 of 1970, among other things, authorize the Secretary of Commerce to set fees to be charged in connection with the execution of a guarantee agreement covering certain losses due to illegal seizures by foreign governments. The Fishermen's Protective Act Procedures (50 CFR Part 258), which became effective February 9, 1969, established fees, based on anticipated losses projected from prior experience, to provide for payment of the administrative costs and at least one-third of the estimated claims to be paid from the Fishermen's Protective Fund.

The existing fee schedule, established by § 258.5 of said Procedures, provides for fees covering the period through June 30, 1972. Therefore, it is now necessary to amend § 258.5, in its entirety, to set forth the fee schedule for the period beginning July 1, 1972, and terminating on February 8, 1973. This amendment is needed to meet the requirements of section 7 of the Act (22 U.S.C. 1977), which will terminate on February 8, 1973, unless extended by legislation.

This amendment relates to matters which are exempt from the rule making requirements of the Administrative Procedures Act (5 U.S.C. 553). The amount of the fee to be paid by an applicant for a guarantee agreement covering his vessel will not change. Furthermore, this amendment makes no substantive change in the conduct of the program. This amendment is hereby adopted and will become effective July 1, 1972.

Section 258.5 is hereby amended by deleting the present section and substituting the following:

§ 258.5 Fees.

(a) The fees are established to provide for payment of the administrative costs and at least one-third of the estimated claims to be paid from the fund. They are set on the basis of anticipated losses projected from prior experience. The fees may be adjusted from time to time by amendment to this part at any time, after appropriate notice, in order to meet the requirements of the Act.

(b) Fees to be paid by an applicant for guarantee agreements executed on or after July 1, 1972, and covering the period terminating on February 8, 1973, unless extended, 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) No return of a fee or portion of a fee will be made after a guarantee agreement is executed by the Secretary. Failure to pay increased fees within 30 days of adjustment shall constitute a basis for termination of the guarantee agreement.

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

Dated: May 28, 1972.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

[FR Doc.72-10190 Filed 7-3-72;8:48 am]

Title 45—PUBLIC WELFARE

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

PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

Work Incentive Program

Correction

In F.R. Doc. 72-9269 appearing at page 12200 of the issue for Tuesday, June 20, 1972, the amendatory paragraph to Part 234, now numbered "8.", should be numbered "7."

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 35]

EMPEROR VARIETY GRAPES

Grades and Requirements

Notice is hereby given that the Department is considering the proposed amendment of the regulations (7 CFR Part 35), as hereinafter set forth, effective pursuant to the provisions of the Export Grape and Plum Act, as amended (74 Stat. 734; 75 Stat. 220; 7 U.S.C. 591–599), and the authority set forth in section 7 (74 Stat. 734; 7 U.S.C. 597).

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 20th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendment is necessary to bring quality requirements effective for Emperor grapes under the Export Grape and Plum Act into conformity with the recent revision of the U.S. Standards for Grades of Table Grapes (European or Vinifera type). The revised standards, among other things, superseded the U.S. Standards for Sawdust Pack Grapes (European or Vinifera type) on May 1, 1972. It is therefore desirable to delete the reference to U.S. No. 1 Sawdust Pack Grape Grade (based on the now obsolete U.S. Standards for Sawdust Pack Grapes) provided in § 35.11(a) of the regulations of the Export Grape and Plum Act. The proposed minimum grape for export shipments of Emperor grapes in sawdust packs is designed to prescribe quality and packaging requirements comparable to those in the standard that was terminated on May 1, 1972, with the following two exceptions relative to Emperor grapes: (1) The proposed grape requires such grapes to be at least "reasonably well colored" which is a slightly more restrictive color requirement that "fairly well colored" previously required; and (2) maturity requirements are based on the maturity requirement of the State where the grapes are grown. The proposed grade would insure shipment of grapes suitable for export. Minor changes in the citations are also necessary in paragraphs (b) and (c) of § 35.11 to conform to the revised standards for table grapes.

Therefore, it is proposed that the provisions of § 35.11 be amended to read as follows:

§ 35.11 Minimum requirements.

No person shall ship, or offer for shipment, and no carrier shall transport, or receive for transportation, any shipment of Emperor variety grapes to any foreign destination unless:

(a) Such grapes in sawdust packs meet each applicable minimum requirement of the U.S. Fancy Export Grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera type) (§§ 51.880–51.912 of this chapter.)

(b) Such grapes in other than sawdust packs meet each applicable minimum requirement of the U.S. No. 1 Table Grade as specified in the U.S. Standards for Grades of Table Grapes (European or Vinifera type) (§§ 51.880–51.912 of this chapter).

(c) Each package of such grapes, other than consumer sized packages of 5 pounds or less in master containers, is marked plainly and conspicuously with: (1) The name and address of the grower or packer; (2) the variety; and (3) the name of the U.S. grade, as "U.S. Fancy Export" or "U.S. No. 1 Table" or higher grade, if the fruit meets each applicable minimum requirement of such grade.

Dated: June 29, 1972.

JOHN C. BLUM,
Acting Deputy Administrator, Marketing Services.

[FR Doc.72–10209 Filed 7–3–72;8:50 am]

Rural Electrification Administration

[7 CFR Part 1701]

SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Station Carrier Equipment

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a revision of REA Bulletin 345–56 to announce a revision of REA Specification PE–62 for station carrier equipment. On issuance of REA Bulletin 345–56, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revised specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revised REA Specification PE–62 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345–56 announcing the issuance of the revised specification is as follows:

REA BULLETIN 345–56

Subject: REA Specification for Station Carrier Equipment.

I. *Purpose:* To announce a revision of REA Specification PE–62 for Station Carrier Equipment.

II. *General:* The principal changes in the revised Station Carrier Specification involve the addition of three sections. One section specifically states what evidence of compliance must be submitted to REA. Another section covers quality assurance requirements and the third new section covers reliability, accelerated life testing and equipment repair and return procedures.

The revised specification becomes effective on January 1, 1973. All station carrier equipment furnished for REA projects bid or on orders placed by REA borrowers after that date shall comply in all respects with the revised REA Specification PE–62 dated July 1972. This does not preclude the adoption of the revised specification by manufacturers prior to the effective date.

III. *Availability of Specification:* Copies of the revised PE–62 will be furnished by REA upon request.

Dated: June 29, 1972.

E. F. RENSHAW,
Assistant Administrator—Telephone.

[FR Doc.72–10212 Filed 7–3–72;8:50 am]

[7 CFR Part 1701]

SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

Telephone Cable Splicing Connectors

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a revision of REA Bulletin 345–54 to announce a revision of REA Specification PE–52 for telephone cable splicing connectors. On issuance of REA Bulletin 345–54, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revised specification may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made

available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revised REA Specification PE–52 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345–54 announcing the issuance of the revised specification is as follows:

REA BULLETIN 345–54

Subject: Revised Page in REA Specification PE–52:

I. *Purpose:* To announce the revision of Page 1 of REA Specification PE–52 for Telephone Cable Splicing Connectors.

II. *General:* Paragraph 2.11 on Page 1 of PE–52 has been revised to require that mechanical splicing connectors be used only on conductors where stripping of conductor insulation is not required. This revision becomes effective immediately upon issuance of this bulletin.

III. *Availability of Specification:* Copies of the revised page of PE–52 will be furnished by REA upon request.

Dated: June 29, 1972.

E. F. RENSHAW,
Assistant Administrator—Telephone.

[FR Doc.72–10211 Filed 7–3–72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 8]

COLOR ADDITIVE FD & C RED NO. 2

Proposed Limit on Ingestion

Pursuant to the provisions of title II of the Color Additive Amendments of 1960 (74 Stat. 404–407, sec. 203) and under authority delegated to him by the Secretary of Health, Education, and Welfare (21 CFR 2.120), the Commissioner of Food and Drugs is authorized, with respect to particular uses for which color additives are provisionally listed, to provide such temporary tolerance limitations (including limitation at zero level) and other conditions-of-use requirements as in his judgment are necessary to protect the public health pending listing under section 706, as amended, of the Federal Food, Drug, and Cosmetic Act.

On September 11, 1971, the Food and Drug Administration published a notice in the FEDERAL REGISTER (36 F.R. 18336) announcing that preliminary data on reproduction studies of the effects of FD & C Red No. 2 indicate that it may be necessary to lower the aggregate level of use of this color and to allocate the aggregate allowable safe tolerance of the color additive among the prevailing uses. All persons interested in the use of FD & C Red No. 2 were notified to submit data pertaining to the levels of use of the color in foods, ingested drugs, and ingested cosmetics for consideration in the allocation of future usage of the color.

On February 24, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 3896) that the closing dates for the provisional listings of certain color additives was changed to December 31, 1972, except for FD & C Red No. 2 and fustic. This same notice indicated that the provisional listing for FD & C Red No. 2 would be considered in a future notice.

A Food and Drug Administration study was conducted on the effect of FD & C Red No. 2 on pregnant Osborne-Mendel strain rats in which the color was administred once daily by stomach tube on days 0 through 19 of the pregnancy. Dose levels were 7.5, 15, 30, 100, and 200 milligrams of the color per kilogram body-weight per day (mg./kg./day). Early fetal deaths attributable to the administration of FD & C Red No. 2 occurred at all levels except 7.5 mg./kg. Results at the 15 mg./kg. level were not statistically significant. No other evidence of injury either to parents or offspring has been observed except death of the embryo at an early stage of development. There is no permanent effect on the ability of the parents to reproduce.

More recent Food and Drug Administration data from continuing multigeneration reproduction feeding studies have become available which confirm the earlier studies with respect to the fetal toxicity produced by FD & C Red No. 2. However, animal intakes of 20 mg./kg./day and below were without effect in these reproduction studies. On this basis the 15 mg./kg./day which was considered earlier to be an equivocal effect level when given by gavage is now considered by the Food and Drug Administration scientists to be the no-effect level.

The Food and Drug Administration also has available data from other laboratories in the rat and other species. While none of these studies followed the exact protocol used in the Food and Drug Administration work, they were similar and directed toward the study of teratogenic potential. None of these studies were as unequivocally positive as the Food and Drug Administration study, and some were completely negative.

On February 10, 1972, an ad hoc Subcommittee on the Evaluation of FD & C Red No. 2, of the Committee on Food Protection of the Food and Nutrition Board, NAS–NRC, which had been convened at the request of the Food and Drug Administration met with members of both the Food and Drug Administration and industry to receive data and comments bearing on the safe use of the color. The results of the subcommittee deliberations were received by the Food and Drug Administration on June 13, 1972, as the "Report of the Ad Hoc Subcommittee on the Evaluation of Red No. 2." The subcommittee reviewed and assessed the available toxicological data provided by the Food and Drug Administration as well as reports of studies on teratogenesis provided by representatives of the interindustry color committee. The conclusions of the subcommittee after reviewing the data relative to reproductive effects, mutagenesis, and teratogenesis were:

> The sum of these three sets of observations remains inconclusive. Patently, none is so conclusive or convincing that it can be extrapolated to health hazard in adults, pregnant woman, or children. None warrants the conclusion that Red No. 2 in normal usage constitutes a hazard to human health or reproduction.

On this basis the subcommittee considered that there was insufficient reason at this time to take measures to reduce the present extent of human exposure to FD & C Red No. 2, a coloring agent which has been in widespread use since the early years of this century without the suggestion of harmful effect on human health. The subcommittee further urged that high priority be given to more complete and definitive studies, especially that the multigeneration study be completed.

The Commissioner appreciates the efforts of the NAS/NRC subcommittee on behalf of the Food and Drug Administration concerning the evaluation of the scientific data upon which the subcommittee report was based. In accordance with the subcommittee recommendation, high priority is being given to the multigeneration studies in rats.

Notwithstanding the subcommittee's view that restrictions on the usage of FD & C Red No. 2 are not warranted at this time, the evidence at hand is such that on the basis of currently available toxicological information and pertinent data, including an evaluation of the use data submitted in response to the September 11, 1971, notice and estimated consumption projections, the Commissioner concludes that it is prudent to reduce permissible levels of the color, so that safe intake levels estimated on the basis of animal tests will not be exceeded under normal conditions of consumption. Applying a 10 to 1 safety factor, the no-effect level of 15 milligrams of FD & C Red No. 2 per kilogram of animal weight per day results in an estimated safe level for man of 1.5 milligrams per kilogram of body weight per day. This is equivalent to consumption of 90 milligrams per day for a 60 kilogram (132 pounds) human. Estimation of the safe level based upon the application of a 10-fold safety factor is considered reasonable at this time in view of the subcommittee's recommendations and since there is much human experience with use of the color.

Accordingly, the Commissioner proposes to amend the provisional regulations for color additives to establish interim tolerances for FD & C Red No. 2 until December 31, 1972, as follows:

§ 8.501 [Amended]

1. In § 8.501(a) add "§ 8.503" under the "Restrictions" column on the line for FD & C Red No. 2, and insert "December 31, 1972" as the closing date.

2. The following new paragraph (d) is added to § 8.503 *Temporary tolerances:*

§ 8.503 Temporary tolerances.

* * * * *

(d) FD & C Red No. 2 may be safely used or intended for use during the transitional period in foods, ingested drugs, pet foods, and lipsticks as a colorant in accordance with the following provisions:

(1) The colorant meets the specifications of § 9.61 of this chapter;

(2) When used as a colorant in food and ingested drugs, it is used only in amounts not exceeding 30 parts per million;

(3) When used as a colorant in lipstick at levels not to exceed 1,000 p.p.m. by weight of lipstick exclusive of case or package;

(4) When used in pet foods and animal feeds in amounts not exceeding 30 p.p.m.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: June 30, 1972.

SHERWIN GARDNER,
Deputy Commissioner of Food and Drugs.

[FR Doc.72-10354 Filed 7-3-72;10:06 am]

[21 CFR Parts 141a, 146, 146a, 149e]

SODIUM OXACILLIN

Proposed Certification of Penicillin and Penicillin-Containing Drugs; Tests and Methods of Assay

Correction

In F.R. Doc. 72-9465 appearing at page 12398 of the issue for Friday, June 23, 1972, three corrections are to be made:

1. The second line of the amendatory language to Part 146 should read "amended in § 146.2 by adding a new sen-" instead of "amended by revoking §§ 141a.104, 141a.-".

2. The first boldface section heading in Part 149e should read "§ 149e.1 Sodium oxacillin." instead of "§ 149c.1 Sodium oxacillin."

3. Section 149e.2(a)(1)(vii) should read "Its sodium oxacillin content is not less than 90 percent and not more than 105 percent."

Public Health Service

[42 CFR Part 51]

PROJECT GRANTS FOR AREAWIDE HEALTH PLANNING

Notice of Proposed Rule Making

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of Health, Education, and Welfare, proposes to issue a new Subpart C of Part 51 of Title 42, CFR, to govern project grants for areawide health planning under section 314(b) of the Public Health Service Act (42 U.S.C. 246(b)), as set out below.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed 42 CFR Part 51, Subpart C, to the Comprehensive Health Planning Service, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20852, within 30 days after the publication of this notice in the FEDERAL REGISTER. Comments received will be available for public inspection at Room 7-43, Parklawn Building, between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

It is proposed to issue a new Subpart C of Part 51 as set out below.

Dated: March 13, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: June 25, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Part 51 of title 42 is amended by adding a new Subpart C to read as follows:

Subpart C—Project Grants for Areawide Health Planning

Sec.

AUTHORITY: The provisions of this Subpart C issued under secs. 215, 314 of the Public Health Service Act as amended; 58 Stat. 690; 84 Stat. 1304; 42 U.S.C. 216, 246.

Subpart C—Project Grants for Areawide Health Planning

§ 51.201 Applicability.

The regulations of this subpart apply to project grants to assist public or nonprofit private agencies and organizations in comprehensive and continuing planning for coordination of existing and planned health services, including the facilities and persons required for provision of such services, in regional, metropolitan, and other local areas, as authorized pursuant to section 314(b) of the Public Health Service Act, as amended.

§ 51.202 Definitions.

All terms not defined herein shall have the same meanings as given them in the Act. As used in this subpart:

(a) "Act" means section 314 of the Public Health Service Act, as amended (42 U.S.C. 246).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(c) "State agency" means the single State agency which has been designated in the State program under section 314(a) of the Act for administering or supervising the administration of the State's health planning functions.

§ 51.203 Eligibility.

To be eligible for a grant under this subpart, the applicant must be a public or nonprofit private agency or organization: *Provided*, That, the Secretary may make a grant to a State agency with respect to a particular region or area only if

(a) The Secretary determines that no application for a grant which meets the requirements of the Act and the regulations of this subpart with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and

(b) The State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file an approvable application therefor.

§ 51.204 Application.

(a) An application for a grant under this subpart shall be submitted to the Secretary in such form and manner and at such time as the Secretary may prescribe.

(b) Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) In addition to other pertinent information which the Secretary may require, the application shall contain a description of the planning program in sufficient detail to identify clearly the nature, need, purpose, plan, and methods of the program, the geographic area with respect to which the grant is sought, and the justification, supported by a budget or other data, for the amount of funds requested.

§ 51.205 Approval of application and grant award.

(a) An application for a grant under this subpart may be approved by the Secretary only if he makes each of the following determinations:

(1) That the application has been approved by the State agency for the State in which the area with respect to which the grant is sought is located, or, where such area includes parts of more than one State, by the State agency for each such State;

(2) That the application contains or is supported by reasonable assurances that there has been established or will, within a specified period approved by the Secretary, be established, in or for the area with respect to which the grant is sought, an areawide health planning council which meets the requirements set forth in § 51.206;

(3) That the application contains or is supported by reasonable assurances that the applicant has made provision for assisting health care facilities in the area with respect to which the grant is sought to develop a program for capital expenditures in accordance with § 51.207(c)(5); and

(4) That the area (which may include parts of more than one State, but may in no instance be solely the entire area of a single State) to be covered by comprehensive health planning under the grant has a population of sufficient size to justify having a reasonably full range of physical, mental, and environmental health services, facilities, and manpower: *Provided*, That, with respect to any area which is found by the Secretary to have a population of insufficient size to meet the requirements of this subparagraph (4), the Secretary may award a grant under this subpart to a State agency in which all or part of such area is located, where (i) he finds that the other requirements of this paragraph (a) are satisfied, and (ii) he makes the findings required under § 51.203 (a) and (b).

(5) That (i) where a State has established, through formal designation or other recognition, State planning and development districts as appropriate areas for planning under State law or Federal requirements, the boundaries of the area to be covered by comprehensive health planning under the grant conform to the boundaries of such State planning and development districts, except where the Secretary finds that such conformance is not justified under the circumstances of the particular grant; or (ii) where a State has not established such State planning and development districts, units of general local government and Federal agencies administering related programs[1] in the area to be covered by comprehensive health planning under the grant have been consulted and have been provided a reasonable opportunity to comment with respect to the boundaries of such area, so as to assure consistency with planning areas or districts, if any, which have been established through local agreement or under related Federal programs;

(6) That the applicant has established or will within a specified period approved by the Secretary establish arrangements to assure coordination of planning activities being carried on under related Federal, State, and local programs in the areas to be covered by comprehensive health planning. Such arrangements shall include the following:

(i) Identification of related Federal, State, and local planning activities being carried on within such area;

(ii) Descriptions of explicit organizational or procedural arrangements that have been or will be established by the applicant to assure such coordination of planning activities;

(iii) Descriptions of cooperative arrangements that have been or will be made by the applicant with respect to joint or common use of planning resources such as funds, personnel, facilities, and services;

(iv) Evidence satisfactory to the Secretary that comprehensive health planning in the area will proceed from base data, statistics, projections, and assumptions that are common to or consistent with those being employed for related planning activities being carried on within such area;

(7) That the applicant is generally recognized by providers of health services, local government and citizen groups representative of consumers of health services as the single organization responsible or to be responsible for the conduct of comprehensive health planning in the area.

(b) Within the limits of funds available for such purpose, the Secretary may award grants to those applicants whose projects will in his judgment best promote the purpose of the Act.

(c) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion, of the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary: *Provided, however*, That no grant shall be made for an amount which exceeds 75 percent of the total cost as found necessary by the Secretary for the carrying out of the project. In determining the grantee's share of the project costs, costs for which Federal grants from other sources have been or may be claimed or received or costs used to match other Federal grants except as may be otherwise provided by law, or costs to be met from the Federal share of grant-related income (except as may be permitted by Chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual[2]) may not be included.

(d) Except as may otherwise be provided by the regulations of this subpart, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in accordance with the applicable principles set forth in Chapters 1–76, 2–65, 2–66, and 5–60 of the Department of Health, Education, and Welfare Grants Administration Manual.

(e) All grant awards shall be in writing, and shall set forth the amount of funds granted and the period for which support is recommended.

(f) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually at such times and in such form as the Secretary may direct.

§ 51.206 Areawide health planning councils.

Each grant awarded under this subpart is subject to the condition that there has been or will be established in or for the area with respect to which the grant is made an areawide health planning council (hereinafter termed "council"), whose membership may consist of the membership or the board of directors of the grantee organization, and which meets the requirements of this section.

(a) The membership of the council shall include representatives of public and nonprofit private agencies, institutions, and organizations concerned with health. Such representatives shall include representation of the regional medical programs established under title IX of the Public Health Service Act which are included in whole or in part within the area and representatives of the interests of local government, of the interests of hospitals and other health care facilities and practicing physicians serving the area, and of consumers of health services. A majority of the council members must be consumer representatives whose major career occupation is neither the organization, financing, or delivery of health services, nor the teaching of or research in health sciences.

(b) The membership of the council shall be generally representative of all geographic portions and socioeconomic groups, including minority groups, of the area.

(c) Members of the council shall be appointed for definite terms which shall

[1] A list of Federal agencies administering related programs in a particular area may be obtained from the Federal Regional Council for the region in which the area is located.

[2] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' Information Centers listed in 45 CFR 5.31, and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

not exceed 4 years, so staggered as to assure that the terms of not more than one-third of the members will expire in any calendar year. No member shall serve continuously for more than two terms.

(d) The council shall meet as often as necessary, but not less often than four times per year, for the purpose of considering and, as appropriate, consulting with and advising the grantee with respect to:

(1) The scope of planning activities to be undertaken by the grantee;

(2) The recommendations to be made by the grantee as a result of such activities; and

(3) Necessary review and modifications of the grantee's planning program.

(e) All policies and recommendations of the council with respect to the grantee's comprehensive health planning activities shall be made public.

§ 51.207 Program requirements.

(a) The applicant shall:

(1) Include on its staff a full-time director of comprehensive health planning activities: *Provided,* That the Secretary may, in particular cases, approve other arrangements for administering or supervising the administration of the applicant's planning activities where he finds that such other arrangements will result in the effective administration of such activities; and

(2) Provide, either on its staff or by use of consultants or arrangements with other organizations, professional competence in both health and planning.

(b) Activities conducted under the project shall not include the provision of health services.

(c) Activities conducted under the project shall include:

(1) Health planning that is comprehensive in nature and conducted in the interest of the general population of the area, and not directed toward the particular interest of any organization, institution, or profession;

(2) Promulgating policies and recommendations directed toward improving the physical, mental, and environmental health status of the population of the planning area.

(3) Continuing maintenance of relationships with other agencies and organizations in the area concerned with health, and with the general public, including the provision of information and interpretations concerning project activities;

(4) Establishment and continuing assessment of methods and principles for local review of projects required by other Federal legislation;

(5) Assisting health care facilities in the area with respect to which the grant is made to develop a program for capital expenditures for replacement, modernization, and expansion which is consistent with such overall State plan as has been developed in accordance with criteria established by the Secretary pursuant to section 314(a)(2)(I) of the Act and which will meet the needs of the area for health care facilities, equipment, and services without duplication and otherwise in the most efficient and economical manner.

(i) The assistance and review required under this paragraph may be provided by the applicant itself, or, under the applicant's control and supervision, by another local public or nonprofit private agency or organization: *Provided,* That the final responsibility for the conduct of such review and assistance shall in all cases rest with the grantee.

(ii) For purposes of this subparagraph, the term "health care facility" includes all hospitals, sanitoriums, nursing homes, and other facilities for the inpatient care of the sick, mentally ill, injured, or disabled, which are licensed or formally approved for such purposes by an officially designated State standard-setting authority, and all public or private nonprofit clinics, health centers, and other facilities a major purpose of which is to provide diagnostic, preventive or therapeutic outpatient health care by or under the supervision of doctors of medicine, osteopathy, or dentistry: *Provided,* That such term shall not include facilities operated by religious groups relying solely on spiritual means through prayer and healing and in which health care by or under the supervision of doctors of medicine, osteopathy, or dentistry is not provided.

§ 51.211 Nondiscrimination.

Attention is called to the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 78 Stat. 252) 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. A regulation implementing such title VI, which is applicable to grants made under this subpart, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80).

§ 51.212 Publications and copyright.

Except as may be otherwise provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject, however, to a royalty-free, non-exclusive, and irrevocable license or right in the Federal Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

§ 51.213 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other grant funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect costs was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred.

(b) *Accounting for equipment.* As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in chapter 1–410–50 of the Department of Health, Education, and Welfare Grants Administration Manual shall be identified and reported by the grantee in accordance with such procedures, and, accounted for by one or a combination of the following methods, as determined by the Secretary:

(1) *Retention of equipment for other health planning projects.* Equipment may be used, without adjustment of accounts, on other grant-supported projects within the scope of section 314(b) of the Act, and no other accounting for such equipment shall be required: *Provided, however,* That (i) during such period of use no charge for depreciation, amortization or other use of the equipment shall be made against any existing or future Federal grant or contract, and (ii) if within the period of its useful life material is transferred by sale or otherwise for use outside the scope of section 314(b) of the Act, the Federal share of the fair market value at the time of transfer shall be refunded to the Federal Government.

(2) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of the sale credited to the grant account for project use, or it may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased with grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(3) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants Administration Manual, may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

(c) *Accounting for grant-related income*—(1) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest

earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any 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 a State. All grantees other than a State, as so defined, must return all interest earned on grant funds to the Federal Government.

(2) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant funds expended to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in subparagraph (3) of this paragraph.

(3) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in Chapter 1–420 of the Department of Health, Education, and Welfare Grants Administration Manual as determined by the Secretary in the grant award.

(d) *Grant closeout*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for material on hand as provided in paragraph (b) of this section;

(iii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iv) Any other settlements required pursuant to paragraph (c) (2) and (3) of this section.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by set-off or other action as provided by law.

§ 51.214 Records, reports, inspection.

(a) *Records and reports.* Each grant awarded pursuant to this part shall be subject to the condition that the grantee shall maintain such progress and accounting records, identifiable by grant number, and file with the Secretary such progress and fiscal reports relating to the use of grant funds, as the Secretary may find necessary to carry out the purposes of the Act and the regulations. All records shall be retained for 3 years after the close of the budget period. Such records may be destroyed at the end of such 3-year period if the applicant has been notified of the completion of the Federal audit by such time. If the applicant has not been so notified by the end of such 3-year period, such records shall be retained (1) for 5 years after the close of the budget period or (2) until the grantee is notified of the completion of the Federal audit, whichever comes first. In all cases where audit questions have arisen before the expiration of such 5-year period, records shall be retained until resolution of all such questions.

(b) *Inspection and audit.* Any application for a grant under this subpart shall constitute the consent of the applicant to inspections at reasonable times by persons designated by the Secretary of the facilities, equipment and other resources of the applicant and to interviews with principal staff members to the extent that such resources and personnel are, or will be, involved in the project. In addition, the acceptance of any grant under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

§ 51.215 Additional conditions.

The Secretary may, with respect to any grant award, impose additional conditions prior to or at the time of such award when in his judgment such conditions are necessary to assure or protect the advancement of the project, the interests of public health, or the conservation of grant funds.

§ 51.216 Early termination of grant or withholding of payments.

Whenever the Secretary finds that a grantee has failed in a material respect to comply with the Act or with the terms of the grant, including the regulations of this subpart, he may, on reasonable notice to the grantee, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the Act and the regulations. Noncancellable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner (Federal Housing Administration)

[24 CFR Part 203]

[Docket No. R-72-197]

MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Maximum Charges, Fees or Discounts

Pursuant to section 701 of the Emergency Home Finance Act of 1970, 12 U.S.C. 1430 note, 84 Stat. 450, 464, the Secretary of Housing and Urban Development is authorized to establish standards governing the amounts of settlement costs allowable in connection with HUD insured mortgage transactions. Such standards are to be based on the Secretary's determination of a reasonable charge for necessary services.

Pursuant to this directive, it is proposed that § 203.27 of the regulations of the Assistant Secretary for Housing Production and Mortgage Credit be revised as set forth below. The maximum standards will be established by the Secretary for specific areas where the Secretary determines that excessive fees and charges are being collected from mortgagors and sellers in connection with the mortgage transaction. Special provisions will be added for areas where these maximums are established. Existing provisions in § 203.27 will be retained for the remainder of the country. Standards for 6 metropolitan areas are being published for comment in this issue of the FEDERAL REGISTER and it is further contemplated that standards will be set in the near future for additional areas in which the Secretary deems the setting of such standards to be advisable.

No change is proposed at this time in the amount the mortgagee may collect as an origination fee. HUD and VA are jointly studying the question as to what is a reasonable amount to be allowed the mortgagee for originating and closing the mortgage loan. In this study we are considering the question as to whether to allow the collection of a separate "Closing Fee", as included in our proposed schedule of maximum settlement charges, or whether this fee is to be absorbed by the mortgagee from the origination fee.

The maximum settlement charges to be fixed have been derived from cost data produced by a comprehensive survey of all HUD and VA loan closings during March of 1971. Statistical and economic analyses were performed on this data, and additional information concerning the nature of the services rendered for various charges was collected. Proposed maximums were then developed and were reviewed by personnel of the HUD Insuring Offices in the areas in question. The maximums appearing in this issue of the FEDERAL REGISTER were then established.

In addition, it is proposed that a uniform "Settlement Cost Reporting Form" be submitted to HUD by the mortgagee following the settlement of each loan to which § 203.27 applies. A copy of the form proposed for this purpose is reproduced in this issue of the FEDERAL REGISTER. Comments on the proposed amendment, "Settlement Cost Reporting Form" and settlement cost maximums are solicited from mortgagees, mortgagors, persons who supply services in connection with real estate settlements, public interest groups and all other interested parties. Interested parties are also requested to comment on whether the proposed maximums should also apply to mortgages on individual dwelling units insured under sections 213(d) and 234 of the National Housing Act.