

nothing in this part shall be deemed to relieve any one of any obligations assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to January 9, 1965. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) Executive Order 11063 and regulations issued thereunder, or any other regulations or instructions, insofar as such order, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibit discrimination on any other ground.

(b) *Forms and instructions.* Each responsible Department official shall issue and promptly make available to interested parties forms and detailed instructions and procedures for effectuating this part as applied to programs to which this part applies and for which he is responsible.

(c) *Supervision and coordination.* The Secretary may from time to time assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in § 8.13), including the achievement of effective coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or agency acting pursuant to an assignment of responsibility under this paragraph shall have the same effect as though such action had been taken by the responsible official of this Department.

Dated: July 14, 1972.

PETER G. PETERSON,
Secretary of Commerce.

APPENDIX A

I. FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS PART APPLIES

1. Loans, grants, technical and other assistance for public works and development facilities, for supplementing Federal grants-in-aid, for private businesses, and for other purposes, including assistance in connection with designated economic development districts and regions, under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 et seq.) and its predecessor Area Redevelopment Act (42 U.S.C. 2501 et seq.).

2. Operating differential subsidy assistance to operators of U.S. flag vessels engaged in U.S. foreign commerce (46 U.S.C. 1171 et seq.).

3. Assistance to operate State Maritime Academies and Colleges to train merchant marine officers (46 U.S.C. 1381-1388).

4. Assistance to trade fair operators (46 U.S.C. 1122b).

5. Trade adjustment assistance to eligible U.S. businesses under the Trade Expansion Act of 1962 (19 U.S.C. 1911-1920).

6. Grants to nonprofit institutions or organizations to further or obtain scientific research to be made available to the public or interested businesses or organizations (e.g., 42 U.S.C. 1891-1893).

7. Assistance to upgrade commercial fishing vessels and gear (16 U.S.C. 742c).

8. Trade adjustment assistance to eligible U.S. businesses under the Automotive Products Trade Act of 1965 (Public Law 89-283, 79 Stat. 1016).

9. Assistance to State projects designed for the research and development of commercial fisheries resources of the nation (16 U.S.C. 779a-779f).

10. Assistance to States in controlling and eliminating jellyfish, other such pests and floating seaweed (16 U.S.C. 1201 et seq.).

11. Assistance to States and other non-Federal interests under cooperative agreements to conserve, develop, and enhance Anadromous and Great Lakes Fisheries (16 U.S.C. 757a et seq.).

12. Assistance to States in the acquisition, development, and propagation of disease resistant oysters (16 U.S.C. 760j-760l).

13. Fishing Development of the South Pacific—Cooperation with State agencies, island governments and educational, industrial or other organizations or individuals in conducting fishing exploration and scientific studies for development and utilization of the high seas fishing resources of the Pacific Ocean (16 U.S.C. 758b).

14. Migratory Marine Fishing Program—Cooperation or contract with State and other institutions or agencies in research and study of migratory marine fish of interest to recreational fishermen (16 U.S.C. 760f).

15. Grants for education and training of personnel in commercial fishing (16 U.S.C. 760d).

16. Grants and other assistance under the National Sea Grant College and Program Act of 1966 (33 U.S.C. 1121-1124).

17. Cooperation with State or local governments, private agencies, organizations or individuals interested in fishery commodities in order to promote the flow of domestic fishery products by conducting an educational service and fishery technological, biological and related research programs (15 U.S.C. 713c-3).

II. A PRIMARY OBJECTIVE OF THE FEDERAL FINANCIAL ASSISTANCE LISTED IN APPENDIX A1 WHICH IS AUTHORIZED BY EACH OF THE FOLLOWING STATUTES IS TO PROVIDE EMPLOYMENT

1. Public Works and Economic Development Act of 1965, as amended, and predecessor Area Redevelopment Act.

2. Trade Expansion Act of 1962.

[FR Doc.73-13283 Filed 7-3-73;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER II—TENNESSEE VALLEY AUTHORITY

PART 302—NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF TVA—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Miscellaneous Amendments

1. The entry for § 302.11 in the table of contents for Part 302 is revised to read:

Sec.

302.11 Effect on other regulations; supervision and coordination.

2. Subparagraphs (3) and (4) of paragraph (b) of § 302.3 are renumbered as

subparagraphs (4) and (5), respectively, and the following new subparagraphs (3) and (6) are inserted:

§ 302.3 Discrimination prohibited.

(b) * * *

(3) In determining the site or location of facilities, a recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this regulation applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

3. Paragraph (b) of § 302.4 is revised to read as follows:

§ 302.4 Assurances required.

(b) In the case of real property, structures or improvements thereon, or interests therein, which is acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer by TVA of real property or interest therein, the instrument effecting or recording the transfer of title shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained by transfer from TVA, the covenant against discrimination may also include a condition coupled with a right to be reserved by TVA to revert title to the property in the event of a breach of the covenant where, in the discretion of TVA, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event if a trans-

fee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, TVA may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as it deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

4. Paragraph (d) of § 302.7 is revised to read as follows:

§ 302.7 Procedure for effecting compliance.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) TVA has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

5. Paragraph (d) (1) of § 302.8 is revised to read as follows:

§ 302.8 Hearings.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with the procedures contained in 5 U.S.C. 554-557 (sections 5-8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both TVA and the recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

6. A new paragraph (g) is added to § 302.9 as follows:

§ 302.9 Decisions and notices.

(g) *Posttermination proceedings.* (1) A recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if he satisfies the terms and conditions of that order for such eligibility or if he brings himself into compliance with this regulation and provides reasonable as-

urance that he will fully comply with this regulation.

(2) Any recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request TVA to restore fully his eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the recipient has met the requirements of subparagraph (1) of this paragraph. If TVA determines that those requirements have been satisfied, it shall restore such eligibility.

(3) If TVA denies any such request, the recipient may submit a request for a hearing in writing, specifying why he believes TVA to have been in error. The recipient shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by TVA. The recipient will be restored to such eligibility if he proves at such a hearing that he satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

1. The title of § 302.11 is revised, the existing language of the section is designated paragraph (a), and a new paragraph (b) is added, all to read as follows:

§ 302.11 Effect on other regulations; supervision and coordination.

(a) *Effect on other regulations.* All regulations, orders, or like directions heretofore issued by TVA which impose requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this regulation applies, and which authorize the suspension or termination of or refusal to grant or to continue financial assistance to any recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246 and regulations issued thereunder, or (2) any other regulations or instructions, insofar as they prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this regulation is inapplicable, or prohibit discrimination on any other ground.

(b) *Supervision and coordination.* TVA may from time to time assign to officials of other departments or agencies of the Government with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this part (other than responsibility for final decision as provided in

§ 302.9), including the achievement of effective coordination and maximum uniformity within the Executive Branch of the Government in the application of title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by TVA.

8. The heading of Appendix A is revised to read:

APPENDIX A—FEDERAL FINANCIAL ASSISTANCE TO WHICH THESE REGULATIONS APPLY

Effective date. The foregoing amendments will become effective on July 5, 1973.

DATED: June 1, 1972.

TENNESSEE VALLEY
AUTHORITY,
LYNN SEEGER,
General Manager.

[FR Doc. 73-13307 Filed 7-3-73; 8:45 am]

**Title 22—Foreign Relations
CHAPTER I—DEPARTMENT OF STATE
SUBCHAPTER O—CIVIL RIGHTS
[Dept. Reg. 108.675]**

**PART 141—NONDISCRIMINATION IN
FEDERALLY-ASSISTED PROGRAMS OF
THE DEPARTMENT OF STATE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Miscellaneous Amendments

A notice of proposed rulemaking was published in the FEDERAL REGISTER on December 9, 1971 (36 FR 23464-23466) to amend Part 141 of Title 22 of the Code of Federal Regulations. The amendments were uniform amendments issued for the purpose of effecting necessary clarification to the Title VI regulations proposed by all Government agencies having Title VI responsibilities.

As a result of comments received, certain changes have been made to the proposed amendments to conform to the uniform agency amendments. A new provision (vii) is added to section 141.3 to prohibit discrimination in the selection of planning and advisory boards; the requirement that a recipient take affirmative action to eliminate discrimination is clarified in § 141.5; § 141.5(b) is amended to require that recipients maintain data showing the extent to which minority group persons receive the benefits of Federal financial assistance; and § 141.6(b) is revised to extend the time limit for filing complaints from 90 days to 180 days.

Accordingly, Part 141 is amended as set forth below.

1. Section 141.2 is revised to read as follows:

§ 141.2 Application of this part.

This part applies to any program for which Federal financial assistance, as defined in this part, is authorized under a law administered by the Department including, but not limited to, the Federally

assisted programs and activities listed in Appendix A of this part. It applies to Federal financial assistance of any form, including property which may be acquired as a result of and in connection with such assistance, extended under any such program after the effective date of this regulation, even if the application is approved prior to such effective date. This part does not apply to: (a) Any Federal financial assistance by way of insurance of guaranty contracts; (b) money paid, property transferred, or other assistance extended under any such program before the effective date of this regulation; (c) any assistance to any individual who is the ultimate beneficiary under any such program; or (d) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 141.3(d), or (e) any assistance to an activity carried on outside the United States by a person, institution, or other entity not located in the United States. The fact that a program or activity is not listed in Appendix A of this part shall not mean, if Title VI of the Act is otherwise applicable, that such program is not covered. Transfers of surplus property in the United States are subject to regulations issued by the Administrator of General Services (41 CFR 101-6.2).

2. In § 141.3, subparagraphs (1) (vi) are amended and a new subparagraph (vii) is added to paragraph (b); paragraph (b) (2) is amended; and new paragraphs (b) (5) and (d) are added to read as follows:

§ 141.3 Discrimination prohibited.

(b) * * *

(1) * * *

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise afford him an opportunity to do so which is different from that afforded others under the program, including the opportunity to participate in the program as an employee in accordance with paragraph (d) of this section.

(vii) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the location or site of any facilities, or services, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration or select locations or sites for any facilities or services, which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as re-

spect individuals of a particular race, color, or national origin.

(5) (i) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin.

(d) *Employment practices.* (1) Where a primary objective of the Federal financial assistance to a program to which this part applies is to provide employment, a recipient may not (directly or through contractual or other arrangements) subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance is: (i) To reduce the unemployment of such individuals or to help them through employment to meet subsistence needs; (ii) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training; (iii) to provide work experience which contributes to the education or training of such individuals; or (iv) to provide remunerative activity to such individuals who because of severe handicaps cannot be readily absorbed in the competitive labor market.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of paragraph (d) (1) of this section shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

3. In § 141.4, paragraphs (a) and (b) (1) are revised and a new paragraph (c) is added to read as follows:

§ 141.4 Assurances required.

(a) *General.* (1) Every application for Federal financial assistance to carry out a program to which this part applies, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, shall

contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this part. The assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application.

(2) In any case where the Federal assistance is to provide, or is in the form of personal property, or real property or structures or any interest therein, or such property is acquired as a result of and in connection with such assistance, the assurance shall obligate the recipient, or, in case of subsequent transfers, the transferees, for the period during which the property is used for a purpose for which the Federal assistance was, or is extended, or for another purpose involving the provision of similar services and benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. Any assurance relating to property provided under or acquired as a result of or in connection with such assistance shall as appropriate require any instrument effecting or recording transfer, title or other evidence of ownership or right to possession, to include a covenant or condition assuring nondiscrimination for the period of obligation of the recipient or any transferee, which may contain a right to be reserved to the Department to revert title or right to possession. Where no transfer of property is involved, but property is improved or any interest of the recipient or transferee therein is increased as a result of a program of Federal financial assistance, the recipient or transferee shall agree to include such covenant or condition in any subsequent transfer of such property. Failure to comply with any such conditions or requirements contained in such assurances shall render the recipient and the transferees, where appropriate, presumptively in noncompliance.

(3) The responsible Departmental official shall specify the form of the foregoing assurances for each program, and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) *Assurances from institutions.* (1) In the case of any application for Federal financial assistance to an institution of higher education, including assistance for construction, for research, for a special training project, for a student loan program, or for any other purpose, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.

(c) *Elementary and secondary schools.* The requirements of paragraph (a) (1) of this section, with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (1) is sub-

ject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, or (2) submits a plan the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this part within the earliest practicable time, and provides reasonable assurance that it will carry out such plan; in any case of continuing Federal financial assistance the responsible official of the Department of Health, Education, and Welfare may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this part. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

4. Section 141.5(b) is revised to read as follows:

§ 141.5 Compliance information.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Departmental official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as a responsible Departmental official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In general, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of Federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

5. Section 141.6(b) is revised to read as follows:

§ 141.6 Conduct of investigations.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Departmental official a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Departmental official or his designee.

6. Section 141.7(a) is revised to read as follows:

§ 141.7 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceeding under State or local law.

7. In § 141.8, paragraphs (b), (d), and (e) are amended to read as follows:

§ 141.8 Hearings.

(b) *Time and place of hearing.* Hearings shall normally be held at the offices of the Department in Washington, D.C., at a time fixed by the responsible Departmental official. Hearings shall be held before an official designated by the Secretary other than the responsible Departmental official, in accordance with 5 U.S.C. 3105 and 3344 (formerly section 11 of the Administrative Procedure Act).

(d) Procedures, evidence, and record.

(1) The hearing, decision, and any administrative review thereof shall be conducted with as much conformity as is practicable with 5 U.S.C. 554-557 (formerly sections 5-8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(e) *Consolidated or joint hearings; hearings before other agencies.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies, or noncompliance with this part and regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Secretary may, by agreement with such other departments or agencies where applicable,

provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part, except that procedural requirements of the hearing agency if other than this Department may be adopted insofar as it is determined by the Secretary that variations from the procedures described in this section or elsewhere as may be required under this part do not impair the rights of the parties. The Secretary may also transfer the hearing of any complaint to any other department or agency, with the consent of that Department or Agency, (1) where Federal financial assistance to the applicant or recipient of the other Department or Agency is substantially greater than that of the Department of State, or (2) upon determination by the Secretary that such transfer would be in the best interests of the Government of effectuating this part. Final decisions in all such cases, insofar as this part is concerned, shall be made in accordance with § 141.9.

8. A new paragraph (g) is added to § 141.9 to read as follows:

§ 141.9 Decisions and notices.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible Departmental official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information establishing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible Departmental official determines that those requirements have been satisfied, he shall restore such eligibility, but such determination shall be in writing and shall be supported by evidence and findings of fact which shall be retained by the Department.

(3) If the responsible Departmental official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Departmental official. The burden of substantiating compliance with the requirements of paragraph (g)(1) of this section shall be on the applicant or recipient. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

9. In § 141.11, paragraph (b) is amended to read as follows:

§ 141.11 Effect on other regulations; forms and instructions.

(b) *Supervision and coordination.* The Secretary may, from time to time, assign to officials of the Department, or to officials of other departments or agencies of the Government with the consent of such department or agencies, responsibilities in connection with the effectuation of the purposes of Title VI of the Act and this part including the achievement of effectiveness coordination and maximum uniformity within the Department and within the executive branch of the Government in the application of Title VI and this part to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another department or agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this Department.

10. In § 141.12, paragraphs (e) and (f) are amended and a new paragraph (j) is added to read as follows:

§ 141.12 Definitions.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, and (4) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance or other benefits to individuals whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient. Services, financial aid, or other benefits shall include those provided with the aid of or through any facility provided for by the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions in order to receive Federal assistance.

(j) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

11. The title of Appendix A is changed to read as follows:

GRANTS AND ACTIVITIES TO WHICH THIS PART APPLIES

(Sec. 602, Civil Rights Act of 1964, 78 Stat. 252; sec. 4, 63 Stat. 111, as amended; 42 U.S.C. 2000d; 22 U.S.C. 2658)

Effective date. These amendments shall be effective on July 5, 1973.

[SEAL]

JOHN N. IRWIN II,
Acting Secretary of State.

AUGUST 31, 1972.

[FR Doc. 73-13290 Filed 7-3-73; 8:45 am]

CHAPTER II—AGENCY FOR INTERNATIONAL DEVELOPMENT, DEPARTMENT OF STATE

[A.I.D. Reg. 9]

PART 209—NON-DISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Miscellaneous Amendments

On December 9, 1971, a notice of proposed rule making was published in the *FEDERAL REGISTER* (36 FR 23466) proposing amendments to Part 209 of title 22, Code of Federal Regulations, for the purpose of effecting necessary clarifications of this Agency's regulations implementing Title VI of the Civil Rights Act of 1964. The proposed amendments were published on behalf of this Agency by the Department of Justice, pursuant to that Department's responsibility under Executive Order 11247, to coordinate enforcement of Title VI.

Interested persons were invited to participate in the consideration of the proposed amendments by submitting written comments to the Assistant Attorney General, Civil Rights Division, Department of Justice, within thirty days of the publication of the notice of proposed rule making.

Comments on these amendments have been received and reviewed by the Civil Rights Division. On the basis of those comments, this Agency has been advised by the Civil Rights Division that no additions are required to be made to the proposed amendments. The Civil Rights Division has recommended that we take the necessary steps to adopt the proposals as final amendments.

Accordingly, the proposed amendments are hereby adopted without change and are set forth below.

Effective date. These amendments shall become effective on July 5, 1973.

Dated May 18, 1972.

JOHN A. HANNAH,
Administrator, Agency for International Development.

§ 209.4 [Amended]

1. The present § 209.4(b) (3) is redesignated as § 209.4(b) (4).

2. The present § 209.4(b) (4) is redesignated as § 209.4(b) (5).

3. The following new paragraph is added to the regulation and is designated as § 209.4(b) (3):

(3) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this regulation.

4. The following new paragraph is added to the regulation and is designated as § 209.4(b) (6):

(6) This regulation does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color or national origin. Where previous discriminatory practice or usage tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this Regulation applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

5. Section 209.5(a) (2) is revised to read as follows:

§ 209.5 Assurance required.

(a) * * *

(2) In the case of real property, structures or improvements thereon, or interests therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the Agency to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible Agency official, such a condition and right of reverter is appropriate to the program

under which the real property is obtained and to the nature of the grant and the grantee. In such event if a transferee of real property proposed to mortgage or otherwise encumber the real property as security for financing construction of new or improvement of existing facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

7. Section 209.8(d) is revised to read as follows:

§ 209.8 Procedure for effecting compliance.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Agency official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with this part and to take such corrective action as may be appropriate.

§ 209.9 [Amended]

8. The last sentence of § 209.9(b) is revised to read as follows: "Hearings shall be held before the Administrator or before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act)."

9. The first sentence of § 209.9(d) (1) is revised to read as follows:

(1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (sections 5-8 of the Administrative Procedure Act), and in accordance with such rules of procedure as are proper and not inconsistent with this section) relating to the conduct of the proper (and not inconsistent with this hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters.

10. The following new paragraphs are added to the regulation and designated as § 209.10(f):

§ 209.10 Decisions and notices.

(f) *Post Termination Proceedings.* (1) An applicant or recipient adversely

affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this regulation and provides reasonable assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the responsible Agency official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Agency official determines that those requirements have been satisfied, he shall restore such eligibility.

(3) If the responsible Agency official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible Agency official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of subparagraph (1) of this paragraph. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

§ 209.12 [Amended]

11. The last sentence of § 209.12(a) is revised to read as follows:

"Nothing in this part, however, shall be deemed to supersede any of the following (including future amendment thereof):

"(1) Executive Order 11246, and regulations issued thereunder, or (a) any other regulation or instruction insofar as it prohibits discrimination on the grounds of race, color, or national origin in any program or situation to which this part is inapplicable, or prohibits discrimination on any other ground."

12. The following new sentence is added to § 209.12 (b) at the end thereof: "Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this subsection shall have the same effect as though such action had been taken by the responsible official of this Agency."

13. The title of Appendix A to the regulation is revised to read as follows:

FEDERAL FINANCIAL ASSISTANCE TO WHICH THIS REGULATION APPLIES

[FR Doc. 73-13292 Filed 7-3-73; 8:45 am]

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-71-107]

PART 1—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The purpose of these regulations is to further effectuate the provisions of title VI of the Civil Rights Act of 1964 and to make the Department of Housing and Urban Development's regulations consistent with the uniform amendments being adopted by Federal agencies under that title. On December 9, 1971 (36 FR 23467), the Department published a notice of proposed rule making to amend the existing regulations (29 FR 16280, Dec. 4, 1964, amended 32 FR 14819, Oct. 26, 1967 and 36 FR 8784, May 13, 1971) with comments to be submitted to the Department of Justice.

The comments received have been evaluated by the Department of Justice and HUD, and in response to these comments, the following changes have been made to the proposed regulations as noticed. In other respects, the amendment is adopted as published in the notice of rule making.

In § 1.4(b), a new item (vii) has been added to the list of prohibitions, that of discriminating in the selection of members of planning or advisory boards where the recipient of Federal aid has control over the board and the board is an integral part of the program receiving Federal aid.

Section 1.6(b) has been revised to expressly provide that racial and ethnic data should be made available by the recipient to the Department as part of the information necessary for determining compliance.

Section 1.4(b)(6) has been reworded and divided into two subparagraphs in order to clarify that affirmative action is required in those programs where discrimination as prohibited by § 1.4 has previously occurred, but may also be taken where conditions have resulted in limiting participation in a program to persons of a particular race, color or national origin.

In § 1.7(b) the time allowed a complainant for filing a complaint has been changed from 90 days to 180 days in order to make these regulations consistent with other civil rights laws. (42 U.S.C. 2000e-5(e); 42 U.S.C. 3610(b); 41 CFR 60-1.21)

Accordingly, Part 1 of Subtitle A of Title 24 of the Code of Federal Regulations is amended as follows:

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| Sec. | |
| 1.1 | Purpose. |
| 1.2 | Definitions. |
| 1.3 | Application of Part 1. |