

of residential structures under this contract or any resulting subcontracts.

(End of Clause)

Subpart 14-18.7—Labor Standards for Contracts Involving Construction

15. Section 14-18.705-10 is revised to read as follows:

§ 14-18.705 Administration and enforcement.

§ 14-18.705-10 Reports.

The reports required by § 1-18.705-10 of this title shall be prepared in accordance with the provisions of § 14-12.150 of this chapter.

Subpart 14-30.4—Advance Payments

16. Section 14-30.406-50 is amended by adding a new paragraph (d) as follows:

§ 14-30.406 Responsibility—delegation of authority.

§ 14-30.406-50 Special approvals.

(d) Advance payments may be made by the Bureau of Indian Affairs for services (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the act of August 3, 1956 (25 U.S.C. 309), and legislation terminating Federal supervision over certain Indian tribes without regard to the requirements of §§ 1-30.405(c) and 1-30.410 of this title and § 14-30.406 of this chapter, when the current Department of the Interior Appropriation Act authorizes and requires advance payments in these circumstances.

Subpart 14-55.1—Contracts for Services

17. Section 14-55.103 is amended by revising paragraph (a) to read as follows:

§ 14-55.103 Implementation of policy.

(a) In considering the procurement of services by contract, it must be established beyond a doubt that such services are not for the disposition of accumulated backlogs of day-to-day work where the accumulation is traceable to nonproductivity or diversion of assigned staff. However, procurement of services to dispose of nonrecurring peak loads may be considered. Contracts for services must be for a type of work which can properly be delegated to non-Government personnel. It must also be established that a services contract does not create an employee-employer relationship where detailed Government supervision over contractor personnel is permitted or required. The elements listed below

shall be considered in determining whether an improper supervisory relationship exists or would be created under a contract for services, the absence of any one or a number of the elements does not mean that an improper relationship does not exist but that there is less likelihood of its existence. The elements to be considered are as follows: * * *

18. Section 14-55.104 is amended by revising paragraph (b) to read as follows:

§ 14-55.104 Requirements for Departmental approval.

(b) Requests for approval shall include a complete justification, an estimate of cost, information as to whether the services are recurring or nonrecurring, and whether the services are to accomplish a peak load requirement for which it would not be in the public interest to hire additional staff.

[FR Doc. 78-24893 Filed 9-1-78; 8:45 am]

[4110-83]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS, AND STUDENT LOANS

Educational Assistance to Individuals from Disadvantaged Backgrounds

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations govern grants to provide educational assistance to individuals from disadvantaged backgrounds to undertake training and education to enter the health professions or allied health professions.

DATE: Effective date: September 5, 1978. Comments must be received on or before November 6, 1978.

ADDRESS: Written comments should be addressed to the Associate Administrator for Health Resources Opportunity Programs, Office of Health Resources Opportunity, 3700 East-West Highway, Center Building, Room 10-50, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the Program Coordination Branch, Office of Health Resources Opportunity, at

the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION, CONTACT:

Kinzo Yamamoto, Ph. D., Program Coordination Branch, Office of Health Resources Opportunity, Health Resources Administration, 3700 East-West Highway, Center Building, Room 10-50, Hyattsville, Md. 20782, 301-436-7230.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, is amending Subpart S to 42 CFR Part 57, entitled "Special Health Career Opportunity Grants," and renaming it "Educational Assistance to Individuals from Disadvantaged Backgrounds." The purpose of this revision is to establish regulations implementing sections 787 and 798 of the Public Health Service Act ("the Act"), 42 U.S.C. 295g-7 and 42 U.S.C. 295h-7 respectively, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 787 authorizes the Secretary to make grants to schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatry, and other public or private nonprofit health or educational entities to assist them in meeting the costs of conducting health career opportunity programs designed to carry out any of the following purposes: (1) To identify, recruit, and select individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession; (2) to facilitate the entry of these individuals into health professions schools; (3) to provide counseling or other services designed to assist disadvantaged individuals to complete successfully their education at a health professions school; (4) to provide for a period prior to the entry of these individuals into the regular course of education of a health professions school, preliminary education designed to assist them to complete successfully the regular course of education at the school, or to refer these individuals to institutions providing this preliminary education; and (5) to publicize existing sources of financial aid available to students in the educational program of a health professions school or individuals who are undertaking training necessary to qualify them to enroll in this program. Section 798 authorizes the Secretary to award grants to schools of allied health, State and local educational agencies, and other public or private nonprofit entities to assist them in meeting the costs of conducting health career opportunity programs

designed to carry out any of the purposes listed above for disadvantaged individuals who have a potential for education or training in the allied health professions.

The following is a brief summary of the major features of the regulations:

1. Section 57.1803 sets forth the criteria for determining, for purposes of the program, whether individuals are from disadvantaged backgrounds.

2. Under § 57.1803, public or nonprofit private health or educational entities such as community and professional organizations, colleges and universities, and health professions schools are eligible applicants.

3. Section 57.1803 specifies the purposes for which programs may be funded under this subpart. To be eligible for Federal funds, the applicant must conduct programs directed toward the achievement of at least two of these purposes. However, Federal funds may be made available for only one of the purposes if the applicant has an independently funded program designed to achieve at least one of the other purposes. This requirement insures a continuity of preparation for individuals in these programs.

4. Under § 57.1803, eligible projects may include those which provide preliminary education to assist disadvantaged individuals to successfully complete studies at a health professions school, or which refer disadvantaged individuals to institutions which provide preliminary education. However, the preliminary education may not be offered to students before they start the senior year of high school.

5. With respect to allied health training, § 57.1805 requires that the standards and guidelines for training meet those established by accrediting bodies recognized by the Commissioner of Education, or by Federal or State agencies.

Timely implementation is essential if eligible applicants are to have adequate lead time to comply with the requirements of the statute and this subpart so that grants can be made early in the summer. Therefore, the Secretary has determined pursuant to 5 U.S.C. 533 and Department policy that it would be impracticable and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations at the address given above. All relevant materials received no later than November 6, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is in-

tended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 5, 1978.

Accordingly, Subpart S to Part 57 of Title 42 of the Code of Federal Regulations is revised as set forth below.

Dated: July 6, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: August 21, 1978.

HALE CHAMPION,
Acting Secretary.

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

Sec.

- 57.1801 Applicability.
- 57.1802 Definitions.
- 57.1803 Eligibility.
- 57.1804 Application.
- 57.1805 Project requirements.
- 57.1806 Evaluation of applications.
- 57.1807 Grant award.
- 57.1808 Grant payments.
- 57.1809 Expenditure of grant funds.
- 57.1810 Nondiscrimination.
- 57.1811 Grantee accountability.
- 57.1812 Publications and copyright.
- 57.1813 Applicability of 45 CFR part 74.
- 57.1814 Records, audit, and inspection.
- 57.1815 Additional conditions.

AUTHORITY: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 316); Secs. 787 and 798 of the Public Health Service Act, 90 Stat. 2309, 2313 (42 U.S.C. 295g-7; 42 U.S.C. 295h-7).

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

§ 57.1801 Applicability.

The regulations in this subpart set forth the requirements for support of health career opportunity programs under sections 787 and 798 of the Public Health Service Act.

§ 57.1802 Definitions.

As used in this subpart:

"Act" means the Public Health Service Act, as amended.

"Allied health professions" means professions which support, complement, or supplement the professional functions of physicians, dentists, and other health professionals in the delivery of health care to patients, or assist environmental engineers and other personnel in environmental health control and preventive medicine activities.

"Budget period" means the interval of time into which the project period is divided for budgetary and reporting purposes, as specified in the grant award document.

"Council" means the National Advisory Council on Health Professions

Education established by section 702 of the act.

"Health or educational entity" means an organization, agency or combination thereof which has the provision of health or educational programs as one of its major functions.

"Health professions" means the professions of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, podiatry, and public health.

"Health professions schools" means schools of medicine, dentistry, osteopathy, pharmacy, optometry, podiatry, veterinary medicine or public health as defined in section 701(4) of the act.

"Nonprofit" as applied to any private entity means that no part of the net earnings of the entity accrues or may lawfully accrue to the benefit of any private shareholders or individuals.

"Project period" means the total time for which support for a project has been approved including any extensions.

"School of allied health" means a school which provides as one of its major functions training in the allied health professions.

"State" means in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

§ 57.1803 Eligibility

(a) *Eligible applicants.* (1) Health professions schools and public or nonprofit private health or educational entities located in a State may apply for a grant under section 787 of the act.

(2) Schools of allied health, State and local educational agencies, and public or private nonprofit entities located in a State may apply for a grant under section 798 of the act.

(b) *Eligible projects.* (1) Grants under section 787 and this subpart to assist individuals from disadvantaged backgrounds, as defined in subparagraph (3) of this paragraph, to undertake education to enter a health profession may be made to meet the costs of carrying out any of the following purposes:

(i) To identify, recruit, and select individuals from disadvantaged backgrounds for education and training in a health profession.

(ii) To facilitate the entry of these individuals into a health professions school.

(iii) To provide counseling or other services designed to assist these individuals to complete successfully their education at a health professions school.

(iv) To provide, for a period prior to the entry of these individuals into the regular course of education of a health professions school, preliminary education designed to assist them to complete successfully the regular course of education at a health professions school, or to refer these individuals to institutions providing this preliminary education. Preliminary education may not be offered to students before they start the senior year of high school.

(v) To publicize existing sources of financial aid available to students in the education programs of health professions schools or to individuals who are undertaking training necessary to qualify them to enroll in these programs.

Only programs which will carry out two or more of these purposes, however, will be eligible to receive a grant.

(2) Grants under section 798 and this subpart to assist individuals from disadvantaged backgrounds, as defined in subparagraph (3) of this paragraph to undertake education to enter the allied health professions may be made to meet the costs of carrying out any of the following purposes:

(i) To identify, recruit, and select disadvantaged individuals who have a potential for education or training in the allied health professions.

(ii) To facilitate the entry of these individuals into a school of allied health, State or local educational agency, or other public or private non-profit entity.

(iii) To provide counseling or other services designed to assist these individuals to complete successfully their education at these schools, agencies, or entities.

(iv) To provide, for a period prior to the entry of these individuals into the regular course of education of these schools, agencies, or entities, preliminary education designed to assist them to complete successfully the regular course of education at these schools, agencies, or entities, or to refer these individuals to institutions providing this preliminary education. Preliminary education may not be offered to students before they start the senior year of high school.

(v) To publicize sources of financial aid available to persons enrolled in the education programs of these schools, agencies, or entities or to individuals who are undertaking training necessary to qualify them to enroll in these programs.

Only programs which will carry out two or more of these purposes, however, will be eligible to receive a grant.

(3) For purposes of this subpart, an individual will be determined to come from a "disadvantaged background" where the individual:

(i) Comes from an environment that has inhibited the individual from ob-

taining the knowledge, skills, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession, or

(ii) Comes from a family with an annual income below a level based on low income thresholds according to family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health manpower programs. The Secretary periodically will publish these income levels in the FEDERAL REGISTER. For purposes of health career opportunity grants made under section 798, veterans of the Armed Forces with military training or experience in the health field are individuals with disadvantaged backgrounds.

§ 57.1804 Application.

(a) Each applicant desiring a grant under this subpart must submit an application in the form and at the time which the Secretary may prescribe.¹

(b) The application shall be signed 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 such other pertinent information as the Secretary may require, an application for a grant under this subpart must contain:

(1) A detailed description of the proposed project and of the manner in which the applicant intends to conduct the project and carry out the requirements of section 787 or section 798 of the Act, as applicable, and this subpart, and in particular, the requirements of § 57.1805. This description must include a budget for the proposed project and a justification for the amount of grant funds requested.

(2) A detailed description of the applicant's plan, if any, to continue the health career opportunity program after the termination of grant support under this subpart.

§ 57.1805 Project requirements.

A project supported under this subpart must be conducted in accordance with the following requirements:

(a) The project must be conducted in accordance with the requirements of sections 787 and 798, as applicable, this subpart, the approved application, and the terms and conditions of the grant award.

(b) The project must be conducted under the direction of the project di-

¹ Applications and instructions may be obtained from the Office of Health Resources Opportunity, 3700 East-West Highway, Center Building, Room 10-50, Hyattsville, Md. 20782.

rector. If the project director becomes unable to function in this capacity, the Secretary must be notified as soon as possible.

(c) With respect to section 798, the education or training in the allied health professions must meet relevant standards and guidelines established by appropriate:

(1) Accrediting bodies recognized by the Commissioner of Education, or

(2) Federal or State agencies.

(d) The grantee must have a systematic plan for evaluating its health career opportunity program.

§ 57.1806 Evaluation of applications.

The Secretary, after consultation with the Council, will approve or disapprove all applications filed in accordance with § 57.1804, taking into consideration among other pertinent factors:

(a) The potential effectiveness of the project in carrying out the requirements set forth in § 57.1805.

(b) The number and types of individuals who can be expected to benefit from the project.

(c) The administrative and managerial ability of the applicant to carry out the project successfully.

(d) The soundness of the fiscal plan for assuming the effective utilization of grant funds.

(e) The potential of the project after the period of grant support has ended, to continue meeting the purposes of section 787 or section 798 without Federal assistance.

§ 57.1807 Grant award.

(a) *General.* (1) Within the limits of funds available, the Secretary may award grants to those applicants whose projects will, in his judgment, best promote the purposes of sections 787 and 798 of the Act, as determined in accordance with § 57.1805. In making these awards, the Secretary will attempt to fund applications which cover all the health professions.

(2) All grant awards will be in writing and will set forth the amount of funds granted and the period for which these funds will be available for obligation by the grantee. The maximum period for which a project may receive grant support under this subpart is 3 years.

(3) Neither the approval of any project nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to all or any part of an approved project. For continuation support, grantees must make separate application at the time and in the form as the Secretary may prescribe.

(b) *Determination of grant amount.* The Secretary will determine the

amount of any award under this subpart on the basis of his or her estimate of the sum necessary for the direct costs of the project plus an additional amount for indirect costs, if any. The Secretary will make this determination on the basis of either (1) his or her estimate of the actual indirect costs of the project, or (2) a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of this percentage will not exceed the approximate actual indirect costs. The award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the Secretary has determined the amount properly expended by the grantee for provisional items.

(c) *Noncompeting continuation awards.* If a grantee has filed an application for continuation support and within the limits of funds available for this purpose, the Secretary may make a grant award for an additional budget period for any previously approved project if, on the basis of progress and accounting records as may be required, the Secretary finds that the project's activities during the current budget period justify continued support of the project for an additional budget period. If the Secretary decides to continue support, the amount of the grant award will be determined in accordance with paragraph (b) of this section. If the Secretary decides not to continue supporting a project for an additional budget period, he or she will notify the grantee in writing before the end of the current budget period. In addition, the Secretary may provide financial support for the orderly phase-out of the supported project, if he or she determines that this support is necessary.

§ 57.1808 Grant payments.

The Secretary will from time to time make payments to the grantee of all or part of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he or she determines that these payments are necessary to promote prompt initiation and advancement of the approved project.

§ 57.1809 Expenditure of grant funds.

(a) Any funds granted under this subpart may be expended solely for carrying out the approved project in accordance with sections 789 and 798 of the Act, the regulations of this subpart, and the terms and conditions of the award.

(b) Grant funds may be used to provide support to individual participants in the health career opportunity programs only when a determination has been made that:

(1) No other Federal financial assistance program is authorized to provide this support, and

(2) That this support is needed by the individual in order to participate in the health career opportunity program.

(c) Grant funds may be used to provide one round trip for each individual participant in the program between his or her place of residence and the training site.

(d) Grant funds may not be expended for tuition and fees, the training of any program staff, or the retraining of health professionals.

(e) Funds granted under this subpart may not be expended for sectarian instruction or for any religious purpose.

(f) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 57.1810 Nondiscrimination.

(a) Recipients of grants under this subpart are advised that in addition to complying with the terms and conditions of these regulations, the following laws and regulations are applicable:

(1) Section 704 of the Act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to training programs).

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination in federally assisted programs on the grounds of race, color, or national origin).

(3) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs).

(4) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs.

§ 57.1811 Grantee accountability.

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other grant awards. With respect to each approved project, the grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart. When the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs will be computed on the basis of the predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

(b) *Accounting for royalties.* The policies of 45 CFR 74.44 apply to grants made under this subpart.

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

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for under paragraphs (a) and (b) of this section; and

(ii) Any other amounts due under Subparts F, M, and O of 45 CFR Part 74 and the terms and conditions of the grant award. The total sum constitutes a debt owed by the grantee to the Federal Government and is recoverable from the grantee or its successors or assigns by setoff or other lawful action.

§ 57.1812 Publications and copyright.

The policies of 45 CFR 74.140 apply to grants made under this subpart.

§ 57.1813 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of Part 74. The relevant provisions of the following subparts of Part 74 also apply to all other grantee organizations under this subpart:

- Subpart:
 - A General.
 - B Cash Depositories.

- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

§ 57.1814 Records, audit, and inspection.

The provisions of section 705 of the Act apply to grants made under this subpart.

§ 57.1815 Additional conditions.

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

[FR Doc. 78-24367 Filed 9-1-78; 8:45 am]

[4110-83]

PART 58—GRANTS FOR TRAINING OF PUBLIC HEALTH AND ALLIED HEALTH PERSONNEL

Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

AGENCY: Public Health Service, HEW.

ACTION: Interim-final regulations.

SUMMARY: These regulations set forth requirements for implementing the Secretary's authority to make grants to public or nonprofit private educational entities (excluding schools of public health) to support traineeships in graduate educational programs of such entities in health administration, hospital administration, or health policy analysis and planning.

DATES: These regulations are effective September 5, 1978. As discussed below, comments on the regulations are invited. To be considered, comments must be received on or before November 6, 1978.

ADDRESS: Written comments should be addressed to the Director, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Center Building, Fourth Floor, Hyattsville, Md. 20782. All comments received will be available for public inspection and copying at the above address weekdays (Federation

holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Dr. Merrill DeLong, Education Development Branch, Division of Associated Health Professions, Bureau of Health Manpower, Room 5-27 at the above address (telephone, 301-436-6824).

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, Department of Health, Education, and Welfare with the approval of the Secretary of Health, Education, and Welfare, is adding a new Subpart D entitled "Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions, other than Schools of Public Health" to Part 58 of Title 42, Code of Federal Regulations.

Section 749 of the Public Health Service Act (42 U.S.C. 294s) provides that the Secretary may make grants to public or nonprofit private educational entities (including graduate schools of social work, but excluding schools of public health) to provide traineeships in the graduate educational programs of these entities in health administration, hospital administration, or health policy analysis and planning. The purpose of this new subpart D is to establish regulations implementing this authority.

Particular attention is drawn to the following provisions of the regulations:

Section 58.223. Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis and planning? Section 749 of the act specifies that in order to be eligible to apply for a traineeship grant, an applicant public or nonprofit educational entity must offer a graduate educational program, which is accredited for the training of individuals for health administration, hospital administration, or health policy analysis and planning by a recognized body or bodies approved for this purpose by the Commissioner of Education. The Secretary has determined that the body currently recognized for this purpose by the Commissioner of Education is the Accrediting Commission on Education for Health Services Administration.

It should be noted that under these regulations, if another body were granted initial or expanded recognition by the Commissioner to accredit programs in these areas, institutions with programs accredited by that body would also become eligible for traineeship grants under this subpart.

Section 58.224. How is application made for a grant? It should be noted

that in accordance with the statute these regulations require under § 58.224(c)(3) that eligible applicants provide assurance that in selecting individuals to receive traineeships, at least 80 percent of the grant funds received for any fiscal year will go to individuals pursuing a graduate program in health administration, hospital administration, or health policy analysis and planning, who have previously received a postbaccalaureate degree, or have 3 years of work experience in health services.

Timely implementation is essential if eligible applicants are to have adequate leadtime to comply with the requirements of the statute and this subpart so that grants can be made prior to June 30, 1978. Therefore, the Secretary has determined in accordance with 5 U.S.C. 553 and Department policy that it would be impractical and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Notwithstanding the omission of the proposed rulemaking procedures, interested persons are invited to submit written comments or data relating to these regulations to the Director of the Bureau of Health Manpower at the address given above. All relevant materials received not later than November 6, 1978, will be considered, and following the close of the comment period, the regulations will be revised as warranted by the public comments received. It is intended that any revision of the regulations arising from these comments will be published within 90 days of the close of the comment period.

The regulations as set forth below will be effective September 5, 1978.

Accordingly Subpart D is added to Part 58 of Title 42 of the Code of Federal Regulations and is adopted as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 17, 1978.

CHARLES MILLER,
Acting Assistant
Secretary for Health.

Approved: August 14, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

Sec.

- 58.221 To what educational institutions are these regulations applicable?
- 58.222 Definitions.
- 58.223 Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis and planning?
- 58.224 How is application made for a grant?
- 58.225 What are the requirements for traineeships and the appointment of trainees?
- 58.226 Who is eligible for financial assistance as a trainee?
- 58.227 Duration and termination of traineeships.
- 58.228 How will grant awards be made?
- 58.229 How will grant payments be made?
- 58.230 For what purposes may grant funds be spent?
- 58.231 What prohibitions against discrimination are applicable to these traineeship grants?
- 58.232 How must a grantee account for the grant funds it receives?
- 58.233 What record keeping, audit and inspection requirements apply to these grants?
- 58.234 What provisions of 45 CFR Part 74 apply to these grants?
- 58.235 What additional conditions may apply to these grants?

AUTHORITY: Sec. 749 of the Public Health Service Act (42 U.S.C. 294s).

Subpart D—Grants for Traineeships in Health Administration, Hospital Administration, or Health Policy Analysis and Planning at Public or Nonprofit Private Educational Institutions Other Than Schools of Public Health

§ 58.221 To what educational institutions are these regulations applicable?

The regulations of this subpart are applicable to the award of grants to eligible educational entities under section 749 of the Public Health Service Act (42 U.S.C. 294s) to provide funds for traineeships for students enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning.

§ 58.222 Definitions.

As used in this subpart:

“Act” means the Public Health Service Act, as amended.

“Educational entity” means a school, college, or university which is accredited by a body or bodies recognized for this purpose by the Commissioner of Education.

“Fiscal year” means the Federal fiscal year, beginning October 1 and ending the following September 30.

“Full-time student” means a student who is enrolled on a full-time basis in a graduate program in health administration, hospital administration, or health policy analysis and planning, and who is enrolled for a sufficient number of credit hours in any semester or other academic term to enable the student to complete the course of study within not more than the number of semesters or other academic terms normally required to complete that course of study at the school in which the student is enrolled.

“Graduate program” means a program of education leading to a master’s degree or equivalent or a doctoral degree or equivalent.

“National of the United States” means: (1) A citizen of the United States or (2) a person who, though not a citizen of the United States, owes permanent allegiance to the United States (8 U.S.C. 1101(a)(22)).

“Nonprofit,” as applied to any entity, means one which is a corporation or association, or is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

“Secretary” means the Secretary of the Department of Health, Education, and Welfare or any officer or employee of the Department to whom the authority involved has been delegated.

“School of public health” means a school which provides training leading to a graduate degree in public health or equivalent degree and which has been accredited by the Council on Education for Public Health as a school of public health.

“State” means any one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

“Stipend” means a sum of money from a grant made under this subpart given to a student for living expenses during the period of traineeship.

“Trainee” means a student who is receiving traineeship funds from a grant made under this subpart.

§ 58.223 Who is eligible to apply for a grant for traineeships in health administration, hospital administration, or health policy analysis planning?

Any public or nonprofit private educational entity (excluding schools of public health) located in a State is eligible to apply for a grant under section 749 of the Act and this subpart to support traineeships in their graduate program in health administration, hospital administration, or health policy analysis and planning which

has been accredited by a body or bodies approved for this purpose by the Commissioner of Education.

§ 58.224 How is application made for a grant?

(a) Each eligible applicant desiring a grant under this subpart must submit an application in the form and at the time the Secretary may require.¹

(b) The application must be signed 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 made under section 749 of the Act, including the regulations of this subpart.

(c) In addition to other pertinent information the Secretary may require, an application for a grant under this subpart must contain the following information:

(1) A description of the graduate programs offered by the applicant for which funds for traineeships are requested.

(2) A description of the qualifications and experience of the director of each graduate program for which funds for traineeships are requested.

(3) An assurance that at least 80 percent of the grant funds received will be awarded to individuals who have previously received a post-baccalaureate degree or have 3 years work experience in health services.

§ 58.225 What are the requirements for traineeships and the appointment of trainees?

(a) The grantee must appoint as trainees only individuals who meet the eligibility requirements of § 58.226 and must terminate trainees in accordance with § 58.227.

(b) The grantee must only offer traineeships to individuals enrolled in graduate programs in health administration, hospital administration, or health policy analysis and planning, which are accredited by a body or bodies approved for this purpose by the Commissioner of Education. These programs may not include more than 4 months of field training unless expressly approved by the Secretary.

(c) The grantee must require each trainee to complete a statement of appointment by the beginning of the training period. The original copy must be submitted to the Secretary by the grantee as soon as it is completed. A copy of the statement must be retained by the grantee to be available for program and financial audits.

¹ Applications and instructions may be obtained from the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, Center Building, Room 4-22, 3700 East-West Highway, Hyattsville, Md. 20782.

(d) Full-time trainees must be required to sign a statement that, as a condition of their traineeship, they will not undertake employment during their traineeship which would interfere with their ability to satisfactorily complete in a timely fashion the training program in which they are enrolled, and the trainee must agree to respond to communications from the Secretary regarding the trainee's professional activities for a period of 10 years following completion of the training program for which the traineeship is awarded.

(e) Trainees may not be required, as a condition of their traineeships, to perform any work which is not an integral part of their training program and required of all students in the program. Trainees may not be required to perform services which detract from or prolong the training for which their traineeships are awarded.

(f) Where trainees are enrolled in a course of study requiring more than 12 months to complete, the grantee must advise these trainees that continued support from funds awarded under this subpart is contingent upon the continued availability of grant funds and the ability of the trainee to continue in attendance in accordance with the standards and practices of the institution at which the trainee is enrolled.

§ 58.226 Who is eligible for financial assistance as a trainee?

Trainees must meet the following criteria to be eligible for grant support:

(a) A trainee must be a national of the United States, a lawful permanent resident of the United States, Puerto Rico, the Virgin Islands, or Guam or a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(b) A trainee must be enrolled in a public or nonprofit private educational entity which has been awarded a grant under section 749 of the Act and enrolled in a graduate program that meets the requirements of § 58.225.

(c) A trainee may not be receiving concurrent support from any other Federal source except education benefits under the Veterans Readjustment Benefits Act.

§ 58.227 Duration and termination of traineeship.

(a) A traineeship must be for a full academic year except that an appointment for less than a full academic year may be made to a student who will complete his or her program of study in a lesser time. A traineeship may not exceed 12 months in duration. However, consecutive traineeship appointments may be made on a year-to-year basis to students whose re-

quired program of study exceeds 12 months. Training for which a student receives a traineeship must begin during the period for which funds are made available, but may extend beyond that period.

(b) The grantee must terminate a traineeship at any time:

(1) Upon request of the trainee;

(2) If the trainee withdraws from the grantee institution; or

(3) Upon a determination by the grantee that—

(i) The trainee is no longer an enrolled student; or

(ii) Is not eligible or able to continue in attendance in accordance with the standards and practices of the institution at which the student is enrolled. In the event that a traineeship is terminated for any reason, the grantee must notify the Secretary as soon as possible.

§ 58.228 How will grant awards be made?

(a) The traineeship funds to be awarded under this subpart will be awarded on a formula basis among the educational entities whose applications have been approved by the Secretary.

(b) The amount of the grant to be awarded to each educational entity with an approved application will be determined in accordance with the formula:

$$G = SS/TS \times AF$$

in which G is the amount of the grant award to be made; SS is the number of students enrolled in approved graduate programs in health administration, hospital administration, or health policy analysis and planning at a particular school with an approved application; TS is the total number of students in these programs at all schools with approved applications and AF is the amount of available funds authorized under section 749 for traineeships in a given fiscal year. In determining the number of students enrolled in these programs at any given school, (SS), the following formula will be used:

$$SS = FTS + (PTC)/(9)$$

in which FTS is the number of full-time students enrolled in these programs and PTC is the number of credits for which part-time students in these programs are enrolled. The figure for (PTC)/(9) will be rounded upward, if necessary, to the next whole number. Students will be counted as of October 15 of the fiscal year in which the application is made. In no case will the amount of the grant exceed the amount requested by the applicant.

(c) All grant awards will be in writing and will specify the amount of funds granted and the period for

which the funds will be available for obligation by the grantee.

(d) Neither the approval of any application or the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application. Only annual formula grants will be made under this subpart for which separate applications must be submitted at the time and in the form the Secretary may require.

§ 58.229 How will grant payments be made?

The Secretary will from time to time make payments to a grantee of all or a portion of any grant award, either in advance or by way of reimbursement.

§ 58.230 For what purposes may grant funds be spent?

(a) Any funds granted under this subpart must be expended solely for providing traineeships to eligible individuals in accordance with section 749 of the act (42 U.S.C. 294s), the regulations of this subpart, the approved application, and the terms and conditions of the award.

(b) Expenditures are limited to (1) payment of stipends within the limitations set forth in paragraphs (d) and (e) of this section, (2) tuition and fees, in accordance with the established rates of the institution except as limited by the Secretary, and (3) transportation allowances on an individual basis when prior approval has been obtained from the Secretary in the following circumstances:

(i) The grantee may pay a trainee an allowance from grant funds for travel from his or her residence to the training site only in cases of extreme need.

(ii) The grantee may pay a trainee an allowance from grant funds for travel to and from field training which is at a site beyond a reasonable commuting distance and which requires the trainee to establish a temporary new residence. No allowance shall be paid for daily commuting from the new place of residence to the field training headquarters.

(iii) The grantee may pay the trainee an allowance from grant funds for domestic travel to conduct research to meet dissertation requirements.

(c) Use of traineeship funds for dependency allowances or to meet indirect costs (overhead) of the training institution is not authorized.

(d) The grantee may pay each trainee whatever stipend and allowance the grantee determines is required to enable the trainee to pursue the training program in which the trainee is enrolled, except that the stipend amount may not exceed amounts

established by the Secretary for both predoctoral and postdoctoral trainees.

(e) A grantee may not give a stipend or allowance to a part-time trainee but may give a traineeship award to pay a part-time trainee's tuition and fees.

(f) A grantee may obligate traineeship funds awarded under this subpart at any time within the period specified in the grant award document. At the end of this period, any unobligated grant funds must be refunded to the Federal Government.

§ 58.231 What prohibitions against discrimination are applicable to these traineeship grants?

(a) Recipients of grants under this subpart are advised that in addition to the terms and conditions of these regulations, the following laws and regulations are applicable to the administration of these grant awards:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and its implementing regulation, 45 CFR Part 80 (prohibiting discrimination in federally assisted programs on the grounds of race, color or national origin);

(2) Title IX of the Educational Amendments of 1972 (20 U.S.C. 1681 et seq.) and its implementing regulation, 45 CFR Part 86 (prohibiting discrimination on the basis of sex in federally assisted education programs);

(3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulation, 45 CFR Part 84 (prohibiting discrimination in federally assisted programs on the basis of handicap);

(4) Section 704 of the act (42 U.S.C. 292d) and its implementing regulation, 45 CFR Part 83 (prohibiting discrimination on the basis of sex in the admission of individuals to its training programs or in the award of traineeships).

(b) The grantee may not discriminate on the basis of religion in the admission of individuals to its training programs or in the award of traineeships.

§ 58.232 How must a grantee account for the grant funds it receives?

(a) *Accounting for grant award payments.* The grantee must record all payments made by the Secretary in accounting records separate from the records of all other funds, including funds derived from other grant awards. The grantee must account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures meeting the requirements of this subpart.

(b) *Grant closeout.*—(1) *Date of final accounting.* The grantee must submit, with respect to each grant under this subpart, a full account, as provided in

this subpart, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* The grantee must pay to the Federal Government as final settlement with respect to each grant under this subpart the total sum of (i) any amount not accounted for under paragraph (a) of this section and (ii) any other amounts due under subparts F and M of 45 CFR Part 74 and the terms and conditions of the grant award. This total sum constitutes a debt owed by the grantee to the Federal Government and may be recovered from the grantee or its successors or assignees by setoff or other lawful action.

§ 58.233 What record keeping, audit, and inspection requirement apply to these grants?

(a) *Records.* In addition to the applicable requirements of 45 CFR Part 74, the grantee must establish and maintain records which the Secretary may by regulation or order require, including records which completely disclose the amount and disposition of the total amount of funds received by the grantee for the project, the total cost of the project for which a grant was received, the total amount of that portion of the total cost of the project received by or allocated to the grantee from other sources, and other records which will facilitate an audit conducted in accordance with generally accepted auditing standards.

(b) *Audit.* The grantee is responsible for providing and paying for an annual financial audit of its books, accounts, financial records, files and other papers and property in accordance with the requirements of section 705(b) of the act. The audit must be conducted by and certified to be accurate by, an independent certified public accountant utilizing generally accepted auditing standards. A report of the audit must be filed with the Secretary at the time and in the manner which the Secretary may require.

(c) *Inspection.* The grantee must make available to the Secretary or the Comptroller General of the United States or any of their duly authorized representatives all these books, documents, paper, and records for examination, copying, or mechanical reproduction, on or off the premises of the grantee upon reasonable request.

§ 58.234 What provisions of 45 CFR Part 74 apply to these grants?

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, apply to all grants awarded under this subpart:

- A. General.
- B. Cash Depositories.
- C. Bonding and Insurance
- D. Retention and Custodial Requirements for Records.
- F. Grant-related Income.
- K. Grant Payment Requirements.
- L. Budget Revision Procedures.
- M. Grant Closeout, Suspension and Termination.

§ 58.235 What additional conditions may apply to these grants?

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

[FR Doc. 78-24366 Filed 9-1-78; 8:45 am]

[6325-01]

Title 45—Public Welfare

CHAPTER VIII—CIVIL SERVICE COMMISSION

PART 801—VOTING RIGHTS PROGRAM

Appendix A: Alabama

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This identifies the location of a new office for the filing of applications or complaints under the Voting Rights Act of 1965, as amended.

EFFECTIVE DATE: September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles J. Dullea, Coordinator, Voting Rights Program, U.S. Civil Service Commission, Washington, D.C. 20415, 202-632-4604.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Pickens County, Ala., as coming under the provisions of the Voting Rights Act of 1965, as amended.

Accordingly, 45 CFR Part 801, Appendix A, is amended to show an additional place under the heading "Dates, Times, and Places" for filing in Alabama, as follows:

ALABAMA

County, place for filing, beginning date

* * * * *

Pickens; Carrollton—U.S. Post Office, Room 200, Courthouse Square, Highway 86; September 5, 1978.

(Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g).)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant
to the Commissioner.*

[FR Doc. 78-25020 Filed 9-1-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-139; RM-3064]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Beaverton, Mich.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a class A FM channel to Beaverton, Mich., as that community's first FM assignment. Petitioner, Mid West Communications, states the proposed station could render a first full-time local aural broadcast service to Beaverton.

EFFECTIVE DATE: October 6, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER

Adopted: August 23, 1978.

Released: August 29, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments, FM broadcast stations (Beaverton, Mich.)*, BC docket No. 78-139, RM-3064.

1. The Commission has before it the notice of proposed rulemaking, adopted April 21, 1978, 43 FR 19240, proposing the assignment of channel 249A to Beaverton, Mich., as that community's first FM assignment. The notice was

issued in response to a petition of Mid West Communications ("petitioner"). Petitioner filed supporting comments reaffirming its intention to apply for the channel, if assigned. Comments in opposition were filed by the Gladwin Broadcasting Co. ("WJEB"), licensee of AM station WJEB, and permittee of an FM station, Gladwin, Mich., and David C. Schaberg ("Schaberg") of Lansing, Mich. Reply comments were filed by petitioner.

2. Beaverton (pop. 945), in Gladwin County (pop. 13,471),¹ is located approximately 64 kilometers (40 miles) northwest of Bay City, Mich. There is no local aural broadcast service in Beaverton.

3. Petitioner states that Beaverton is the second largest community in Gladwin County and, according to a recent Beaverton school survey, has had a substantial gain in population. It notes that Beaverton's present industries include plastic thermo-forming equipment, plastics manufacturing, precision cutting tools, lumbering, livestock and dairy farming. Petitioner asserts that there is only one weekly newspaper serving the county and believes that there is a need for a broadcast facility to serve Beaverton and the surrounding communities.

4. WJEB claims, in opposition, that, since Beaverton and Gladwin are located only 12 kilometers (8 miles) apart, WJEB will provide broadcast service to Beaverton when it commences operation of its Gladwin FM station.² It believes that the public interest would be better served if the proposed channel were assigned to a larger community, where there is presently no FM service, rather than to Beaverton. Further, WJEB questions the good faith of the petitioner in applying for the proposed channel. It alleges that the Beaverton station would have to look to Gladwin for its economic support.

5. Schaberg, in opposing comments, raises the issue of fair distribution of broadcast facilities and whether the proposed assignment would serve the public interest. He also questions whether the community could support a station.

6. In reply comments, petitioner states, among other things, that with its commitment to programing and community service, it intends to serve Beaverton and the surrounding communities.

¹ Population figures are taken from the 1970 U.S. Census.

² An application for a construction permit filed by Gladwin Broadcasting Co. for an FM station (channel 276A) at Gladwin, Mich., was granted on June 1, 1978 (BPH-10470).

7. We have carefully considered the record in this proceeding and believe that channel 249A should be assigned to Beaverton, Mich., because of the need shown for a local aural broadcast service. Even if nearby stations were to provide broadcast coverage of Beaverton and offer some programing directed to Beaverton, this is not a basis for refusing to provide a community with an opportunity to acquire its own first broadcast outlet for local expression. An FM channel assignment here would provide for a local station which could broadcast programs directed to meeting special needs, interests and problems of Beaverton and the surrounding area. No station, owing its primary obligation to another locality, could be expected to provide the equivalent of such local service. As to the questions of fair distribution of broadcast facilities and whether the proposed channel assignment would serve the public interest, these matters are given full consideration in our decision. No other community has expressed interest in the channel which can be used at Beaverton to provide a first local service. Nor does the fact that such a station could also cover Gladwin raise a Berwick issue in light of its small size. The issue of the possible economic impact on other stations are matters which should be raised at the application stage when it would be possible to investigate and weigh the merits of various allegations rather than in a rulemaking proceeding.

8. In view of the foregoing: *It is ordered*, That effective October 6, 1978, § 73.202(b) of the Commission's rules, the FM table of assignments is amended to read as follows:

City and Channel No.
Beaverton, Mich., 249A.

9. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. *It is further ordered*, That this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
*Acting Chief,
Broadcast Bureau.*

[FR Doc. 78-24832 Filed 9-1-78; 8:45 am]

[4910-60]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Amendment No. 192-33; Docket No. PS-50]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE

Corrosion Control Requirements

AGENCY: Materials Transportation Bureau.

ACTION: Final rule.

SUMMARY: This rule makes miscellaneous changes to MTB's corrosion control requirements for natural gas and other gas pipelines. The amendments update and clarify several of the existing regulations and modifies others to provide flexibility in conducting the required periodic operational and maintenance inspections. These changes are based on recommendations of the Technical Pipeline Safety Standards Committee after their review of the existing regulations.

EFFECTIVE DATE: This amendment becomes effective on September 5, 1978.

FOR FURTHER INFORMATION CONTACT:

George Mocharko, 202-426-2082.

SUPPLEMENTARY INFORMATION: In accordance with article 11 of the Department of Transportation (DOT) policy of improving Government regulations issued March 1, 1978 (43 FR 9582), the Materials Transportation Bureau (MTB) has initiated a program for reviewing its existing regulations and revoking or revising those regulations which it determines are not achieving their intended purpose. MTB initiated a systematic review of the existing pipeline safety regulations in 1977, with the aid of the Department's Technical Pipeline Safety Standards Committee (TPSSC). The first segment of the regulations chosen for review was subpart I, Requirements for Corrosion Control, since that segment had been the subject of more inquiries and interpretations than any other. On January 18, 1978, the TPSSC completed its review of the corrosion regulations and recommended some changes.

In consideration of the TPSSC recommendations and other factors, MTB is by this document amending several of the corrosion control regulations as discussed and set forth hereafter.

Some of the other changes to the regulations suggested by the TPSSC were not adopted while one suggestion serves as the basis for a notice of proposed rulemaking on cathodically protected transmission lines published elsewhere in the FEDERAL REGISTER.

Because the amendments contained herein either clarify existing requirements or establish equivalent safety requirements, and impose no added compliance burdens, MTB finds that notice and public procedure are unnecessary and good cause exists for making the amendments effective on less than 30 days' notice.

Section 192.465(b). By a unanimous affirmative vote, the TPSSC proposed to require the inspection of each cathodic protection rectifier or other impressed current power source six times annually at intervals not exceeding 2½ months. MTB agrees that the current regulation requiring inspection at intervals not exceeding 2 months does not allow sufficient flexibility in scheduling personnel.

Section 192.465(c). By unanimous vote, the TPSSC proposed a revision to require an operator to check each reverse current switch, each diode, and each interference bond whose failure could jeopardize its structure six times annually at intervals not exceeding 2½ months. MTB agrees that the current regulation requiring inspection at intervals not exceeding 2 months does not allow sufficient flexibility in scheduling personnel.

Section 192.467(b). By a vote of 10 affirmative to 1 negative, the TPSSC proposed a change to provide that "one or more" insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control. The current regulation calls for an insulating device to be installed, but more than one insulating device may be required to adequately isolate a portion of a pipeline.

Section 192.477. By a unanimous vote, the TPSSC proposed that each coupon or other means of monitoring internal corrosion must be checked two times annually, but at intervals not exceeding 7½ months. MTB agrees that the current regulation calling for the checks to be conducted at intervals not exceeding 6 months does not allow sufficient flexibility in scheduling personnel.

Section 192.481. By a unanimous affirmative vote, the TPSSC proposed a revision to require operators to reevaluate offshore pipelines that are exposed to the atmosphere once each calendar year but with intervals not exceeding 15 months. MTB agrees that the current regulation calling for these checks to be conducted at intervals not exceeding 1 year does not

allow sufficient flexibility in scheduling personnel.

Section 192.485(a). This regulation provides that generally corroded transmission line pipe with a remaining wall thickness less than that required for maximum allowable operating pressure of the pipeline must be replaced or the operating pressure reduced commensurate with the actual remaining wall thickness except that a small area of general corrosion may be repaired. By a vote of nine affirmative, one negative, and one nonvoting, the TPSSC proposed to allow pressure reduction commensurate with the remaining strength of the pipe. The TPSSC pointed out that there can be significantly pitted areas in the pipe wall that reduce wall thickness but do not reduce the pipe strength materially. MTB agrees that the remaining strength of the pipe is the important determinative criterion and that wall thickness is only a measure of that strength. This point is recognized in §192.485(b) which provides for pressure reduction commensurate with pipe strength for localized corrosion pitting. The amendment to paragraph (a) therefore clarifies the intent of the rule and makes the language consistent with that of paragraph (b).

Evaluating the strength of corroded pipe to contain pressure is a complex problem which can be done in different ways. The ASME Guide for Gas Transmission and Distribution Piping Systems provides operators with suggested methods to evaluate the pressure strength of a corroded area of transmission pipelines. A report, "Summary of Research To Determine the Strength of Corroded Areas in Line Pipe," July 20, 1971, conducted by Battelle Columbus Laboratories for the American Gas Association line pipe research program also describes methods for predicting estimates of remaining pressure strength of corroded pipe based on the principles of fracture mechanics.

In addition to the above changes recommended by the TPSSC, MTB is amending several sections in subpart I by deleting effective dates that were codified to provide adequate notice of leadtime available to comply with new or amended requirements. Now that these effective dates have passed, retaining them in a codified form is unnecessary.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows:

§ 192.451 [Amended]

1. In § 192.451, paragraph (b) is deleted.

§ 192.457 [Amended]

2. In § 192.457, the following phrases and punctuation marks are deleted:

In the first sentence of paragraph (a), delete ", not later than August 1, 1974," and in the first sentence of paragraph (b), delete ", not later than August 1, 1976,".

3. In § 192.465, paragraphs (b) and (c) are amended to read as follows:

§ 192.465 External corrosion control: monitoring

(b) Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months, to insure that it is operating.

(c) Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding 2½ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.

4. Section 192.467(b) is amended to read as follows:

§ 192.467 External corrosion control: electrical isolation.

(b) One or more insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

§ 192.473 [Amended]

5. In § 192.473(a), the following phrase is deleted: "After July 31, 1973,".

§ 192.475 [Amended]

6. In § 192.475(a), the following phrase is deleted: "After July 31, 1972,".

7. Section 192.477 is amended to read as follows:

§ 192.477 Internal corrosion control: monitoring.

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each

calendar year, but with intervals not exceeding 7½ months.

§ 192.479 [Amended]

8. In § 192.479(b), the following phrase is deleted: "Not later than August 1, 1974,".

9. Section 192.481 is amended to read as follows:

§ 192.481 Atmospheric corrosion control: monitoring.

After meeting the requirements of § 192.479 (a) and (b), each operator shall, at intervals not exceeding 3 years for onshore pipelines and at least once each calendar year, but with intervals not exceeding 15 months, for offshore pipelines, reevaluate each pipeline that is exposed to the atmosphere and take remedial action whenever necessary to maintain protection against atmospheric corrosion.

10. Section 192.485(a) is amended to read as follows:

§ 192.485 Remedial measures: Transmission lines.

(a) *General corrosion.* Each segment of transmission line with general corrosion and with a remaining wall thickness less than that required for the maximum allowable operating pressure of the pipeline must be replaced or the operating pressure reduced commensurate with the strength of the pipe based on the actual remaining wall thickness. However, if the area of general corrosion is small, the corroded pipe may be repaired. Corrosion pitting so closely grouped as to affect the overall strength of the pipe is considered general corrosion for the purpose of this paragraph.

§ 192.491 [Amended]

11. In § 192.491(a), the following phrase is deleted: "After July 31, 1972,".

NOTE.—MTB has determined that this document does not contain a major proposal requiring preparation of a regulatory analysis under DOT procedures.

(49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR App. A of Part 1.)

Issued in Washington, D.C., on August 28, 1978.

L. D. SANTMAN,
Acting Director, Materials
Transportation Bureau.

[FR Doc. 78-24843 Filed 9-1-78; 8:45 am]

[4910-59]

CHAPTER V—NATIONAL HIGHWAY
TRAFFIC SAFETY ADMINISTRATION,
DEPARTMENT OF TRANSPORTATION

[Docket No. 75-16; Notice 21]

PART 571—FEDERAL MOTOR
VEHICLE SAFETY STANDARDS

Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: NHTSA amends its standard No. 121 for the regulation of braking system performance of air-braked trucks, buses, and trailers to specify test procedures and conditions for frictional characteristics of the test track surface, duration of time intervals between road tests, duration of permissible wheel lockup during road tests, and the amount of curving in the test track. This action is in fulfillment of the remand of the Ninth Circuit Court of Appeals in *PACCAR v. National Highway Traffic Safety Administration and Department of Transportation* with regard to modification of test procedures, which is the only aspect of the order not subject to further judicial review. The agency also makes final a long-standing proposal (40 FR 45200, October 1, 1975) to modify the means for establishing the frictional resistance of the road test surface.

DATES: The amendment is effective August 25, 1978. Petitions for reconsideration must be received no later than September 27, 1978.

ADDRESS: Petitions for reconsideration should refer to the docket number and be submitted to: Docket Section, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Tad Herlihy, Office of Chief Counsel; National Highway Traffic Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-9511.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. Requirements are established for the service, emergency, and parking brake systems, including a requirement that the service brakes provide retardation, power, and recovery capabilities. Road test procedures are set forth to advise manufacturers how the NHTSA will conduct its com-

pliance tests of the manufacturers' products.

In January 1975, a truck manufacturer petitioned for judicial review of the standard's promulgation in accordance with section 105 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1394). The petitioner was subsequently joined by a trade association of truck users and a trade association representing the small manufacturers that complete trucks by mounting the bodies on incomplete truck chassis. The three actions were consolidated for argument in the Ninth Circuit U.S. Court of Appeals.

The ninth circuit recently entered its order on the petition for review and remanded the standard to the agency for further proceedings (573 F. 2d 632). The Federal Government has since petitioned for review of two aspects of that order in the Supreme Court. The purpose of this notice is to set forth the agency's actions in fulfillment of the third aspect of the remand, which was not a subject of the Government's petition.

The court remanded several issues to the agency concerning the standard's test procedures, all of which are easily resolved by modifications in the standard's wording which do not affect the requirements for any person. The court stated that "the manufacturers are entitled to formal and reasonably specific testing criteria" in the area of frictional characteristics of the test track surface, duration of time intervals between repetitive road tests, duration of permissible wheel lockup during stopping distance tests, and the amount of curving in the test track.

Interpretation must be made of the court's remand on frictional characteristics of the test track. A first reading of the decision might suggest that a measurement technique (in the case, the "skid number" method of measuring road surface friction) may not be used in standards setting if it does not produce exact measurements. It is acknowledged that the skid number measurement has an accuracy tolerance, and that the tolerance can vary from measurement to measurement for a variety of reasons.

The agency does not believe the court intended this literal a reading, because no measurement can be exact as a matter of physical science. This exaggerated a reading of the decision would preclude all motor vehicle safety regulations, because all regulation involves measurement criteria and none is perfect. The agency's view is that the court objected only to reliance on a measurement technique that varies too widely in response to road surface conditions and that specified use of a no-longer-manufactured tire.

Because the tire specified is no longer manufactured, the NHTSA has

already replaced the skid number measurement in all of its stopping distance standards other than 121. The only reason the technique was not replaced in standard No. 121 was to comply with the ninth circuit's wish that the standard change as little as possible. (41 FR 24592; June 17, 1976.) Now that review of the standard by the ninth circuit is complete, the agency can and does make final its longstanding proposal to use the new measuring technique. Comments received with regard to standard No. 121 were discussed in conjunction with the June 1976 amendment.

The court also stated that the margin of variation in the measuring technique would not permit a manufacturer to conduct its tests by a means that insured its vehicles would meet the requirement set forth in the standard. While the agency has always taken the position that an exact value (such as "skid number 75") is the clear and unambiguous way to state a legal requirement so that manufacturers are best on notice of what performance is required (e.g., 40 FR 47141; October 8, 1975), the agency can instead state a range of skid numbers in such a way that the manufacturer will be able to test to the exact skid number encountered in its testing, knowing that its vehicle has complied with the standard so long as the number used falls within the specified range. Essentially, the test procedure can be restated as a range (representing the anticipated tolerance in the new measuring method) in which the manufacturer has its choice of what skid number it uses. As long as this range includes the criterion specified in the past by the NHTSA and is already being met by manufacturers, it is no more stringent than the past requirement. Similarly, the other skid numbers from which manufacturers could choose would fall in the range of those that they have been using previously, but without the certainty that the chosen number will be the one by which their vehicles are measured. This approach recognizes the physical impossibility of finding any measuring technique which is exact, and the agency finds that it accurately fulfills the court's remand. The skid number ranges established are from 20 to 30 for the wet surface, and from 71 to 81 for the dry surface, to reflect the different values obtained when the new test tires are used. It is noted that this revised specification of skid numbers is no more severe a requirement than the single values previously referenced in the standard.

As for the remaining test conditions which the court questioned, the agency has monitored these conditions as a part of its compliance program and the development of its compliance test procedures. It is apparent that

manufacturers, permitted to choose reasonable values for these aspects of the test protocol in the absence of criteria set forth in the standard, have chosen values that fall within an easily adoptable level. No manufacturer, for example, has chosen to test on other than a straight test track, which is sensible in view of the fact that a straight track offers the easiest means of staying within a 12-foot-wide-lane. Comparably, no antilock manufacturer has chosen other than reasonable "wheel lockup" times for its antilock systems because overly long lockups significantly and adversely reduce the stopping performance of the brakes on the controlled axle, which would sacrifice the other major characteristics of the vehicle being measured—that is, stopping distance. As for the interval between dynamic tests of the vehicle, the relevant factor is the relationship between the time interval and brake temperature, because a short interval could result in an adverse effect on braking capabilities due to fade or other thermal effects. Therefore, the NHTSA hereby adopts a specification for initial brake temperature, which will in turn determine the interval between tests. A review of NHTSA compliance test results has shown that the performance of all complying vehicles tested to date has been within the requirements specified in this amendment. Adoption of these values therefore does not adversely affect any person subject to the standard, and they can be incorporated for the benefit of remand without the delay occasioned by notice and opportunity for comment.

The decision to revise the standard in this fashion has been evaluated in accordance with the requirements of Executive Order 12044 (43 FR 12660; March 24, 1978) and the corresponding review procedures within the Department of Transportation (43 FR 9582; March 8, 1978). It has been determined that this rulemaking is governed by short-term judicial considerations and that, despite its connection with standard No. 121, does not qualify as a rulemaking that raises issues of cost or controversy necessitating the level of review and comment contemplated by the two directives.

EFFECTIVE DATE: With regard to the establishment of a new test tire for pavement resistance measurement, because the older test tire is no longer manufactured, and because the amendment of the procedure and test tire is intended only to duplicate the existing procedure and tire, this amendment creates no additional requirements for any person, and an immediate effective date is found to be in the public interest.

With regard to the modification of test procedures and conditions not

based on a proposal, the agency finds that they do not impose additional requirements on any person, and that delay of a proposal is unnecessary and would be contrary to the public interest in responding to the court's remand as expeditiously as possible.

§ 571.121 [Amended]

In consideration of the foregoing, standard No. 121 (49 CFR 571.121) is amended as follows:

1. In section S4 (definitions), the definition of "Auto transporter" is relocated between the definitions of "Antilock system" and "Heavy hauler trailer", and a new definition is added to section S4 preceding the definition of "Load divider dolly" to read:

"Initial brake temperature" means the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application.

2. In the definition of "Skid number" in section S4 the designation "E-274-65T" is amended to read "E-274-70 (as revised July 1974)" and the reference to "paragraph 7.1" is amended to read "paragraphs S7.1 and 7.2."

3. References to "skid number of 30" and "Skid No. 30" in tables I and II are amended to read "skid number range 20-30," and "Skid No. 20-30", respectively.

4. References to "skid number of 75" and "Skid No. 75" in tables I and II are amended to read "skid number

range 71-81" and "Skid No. 71-81," respectively.

5. Paragraph S5.3.1(a) is amended to read:

S5.3.1 ***

(a) Controlled lockup of wheels of not more than 1 second allowed by an antilock system, or

6. Paragraph S5.3.2(a) is amended to read:

S5.3.2 ***

(a) Controlled lockup of wheels of not more than 1 second allowed by an antilock system, or

7. Reference to "skid number of 30" in paragraphs S5.3.1 and S5.3.2.1 are amended to read "skid number in the range of 20 to 30, inclusive, chosen at the option of the manufacturer."

8. References to "skid number of 75" in paragraphs S5.3.1.1, S5.3.2.1, and S5.7.1 are amended to read "skid number in the range of 71 to 81, inclusive, chosen at the option of the manufacturer."

9. The second sentence in section S6 is amended to read:

Except as otherwise specified, where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range.

10. Paragraph S6.1.7 is amended to read:

Unless otherwise specified, stopping tests are conducted on a 12-foot wide level, straight roadway having a skid number in the range of 71 to 81, inclu-

sive, chosen at the option of the manufacturer. The vehicle is alined in the center of the roadway at the beginning of the stop.

11. A new paragraph S6.1.15 is added to read:

S6.1.15 Initial brake temperature. The temperature of each brake is measured by a single plug-type thermocouple installed in the center of the lining surface of the most heavily loaded shoe or pad as shown in figure 2. The thermocouple is outside any center groove. With the exception of conditions specified for burnishing brakes in paragraph S6.1.8, repetitive test runs are separated by an interval of time sufficient to reach any initial brake temperature in the range of 150° F to 200° F. If the initial brake temperature for the first stop in a test procedure has not been reached, heat the brakes to the initial brake temperature by making not more than 10 snubs from not more than 40 to 10 mph at a deceleration not greater than 10 fpsps.

The program official and lawyer principally responsible for this document are Duane Perrin and Tad Herlihy, respectively.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50.)

Issued on: August 25, 1978.

JOAN CLAYBROOK,
Administrator.

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