RULES AND REGULATIONS

§ 415.22 [Reserved]
38. Section 415.225 is revoked, and shall be designated as "[Reserved]."

§ 415.226 [Reserved]
39. Section 415.226 is revoked, and shall be designated as "[Reserved]." The following changes are made in 40 CFR Part 415: (Subparts W through X as interim final regulations on May 22, 1976, parts BA through BK were promulgated shall be designated as "[Reserved]."

§ 415.230 [Reserved]
40. Section 415.230 is revoked, and shall be designated as "[Reserved]."

§ 415.231 [Reserved]
41. Section 415.231 is revoked, and shall be designated as "[Reserved]."

§ 415.232 [Reserved]
42. Section 415.232 is revoked, and shall be designated as "[Reserved]."

Subpart AH—Chrome Pigments Production Subcategory

§ 415.340 [Reserved]
43. Section 415.340 is revoked, and shall be designated as "[Reserved]."

§ 415.341 [Reserved]
44. Section 415.341 is revoked, and shall be designated as "[Reserved]."

§ 415.342 [Reserved]
45. Section 415.342 is revoked, and shall be designated as "[Reserved]."

Subpart AP—Hydrogen Cyanide Production Subcategory

§ 415.520 [Reserved]
46. Section 415.520 is revoked, and shall be designated as "[Reserved]."

§ 415.521 [Reserved]
47. Section 415.521 is revoked, and shall be designated as "[Reserved]."

§ 415.522 [Reserved]
48. Section 415.522 is revoked, and shall be designated as "[Reserved]."

Subpart BF—Sodium Silicofluoride Production Subcategory

§ 415.580 [Reserved]
49. Section 415.580 is revoked, and shall be designated as "[Reserved]."

§ 415.581 [Reserved]
50. Section 415.581 is revoked, and shall be designated as "[Reserved]."

§ 415.582 [Reserved]
51. Section 415.582 is revoked, and shall be designated as "[Reserved]."

Because this action is taken pursuant to an order issued by the United States Court of Appeals for the Fourth Circuit, and pursuant to a Joint Motion and Stipulation of Settlement Approved by the United States Court of Appeals for the Second Circuit, the Agency finds that public participation in this rulemaking is unnecessary. This amendment as set forth shall become effective immediately. Dated: November 12, 1976.

JOHN QUARLES, Acting Administrator.

[FR Doc.76-34521 Filed 11-22-76; 8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 8607; ID—8668]

IDAHO

Powersite Restoration No. 728; Partial Revocation of Powersite Reserve No. 565

By virtue of the authority contained in sec. 204 of the Act of October 21, 1976, Pub. L. 94-578, and pursuant to the determination of the Federal Power Commission in DA-611-Idaho, it is ordered as follows:

1. The Executive Order of November 21, 1916, creating Powersite Reserve No. 565, as construed by Powersite Interpretation No. 13, dated April 22, 1922, is hereby revoked so far as it affects the following described lands:

BOISE MERIDIAN
T. 9 S., R. 17 E., Sec. 34, lots 12, 13 and 14; Sec. 35, lots 10, 11, 12, 13 and SW¼ NW¼; Sec. 36, lots 10, 11, 12, 13 and 14.

The areas described aggregate approximately 400 acres in Jerome County.

2. The described lands in section 36 lying below the 3,300 foot mean sea level are being restored subject to Section 24 of the Federal Power Act, as amended, (20 U.S.C. 1232(d)) and pursuant to a Joint Motion and Stipulation of Settlement Approved by the Court of Appeals for the Fourth Circuit, the Agency finds that the described lands in section 36 are being restored subject to Section 24 of the Federal Power Act, as amended, (20 U.S.C. 1232(d)) as construed by Powersite Interpretation No. 13, dated April 22, 1922, is hereby revoked so far as it affects the following described lands:

JACK O. HORTON,
Assistant Secretary of the Interior.

November 12, 1976.

[FR Doc.76-34521 Filed 11-22-76; 8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 103—RESEARCH AND TRAINING EXEMPLARY AND CURRICULUM DEVELOPMENT PROGRAMS IN VOCATIONAL EDUCATION

Vocational Education Curriculum Additional Criteria

On August 24, 1976 there was published in the Federal Register at 41 FR 35722, a Notice of Proposed Rulemaking which set forth additional criteria for applications for grants under Part I of the Vocational Education Act of 1963, as amended, 20 U.S.C. 1302(c). The additional criteria were set forth to revise Appendix C to Part 103 of the regulations, 45 CFR Part 103.

Interested persons were given 30 days after August 24, 1976 to submit comments, suggestions, or objections to the proposed criteria. A letter of comment was received which is discussed below.

Comment. A commenter suggested that section (a) (2) (i) (B) of the regulations for curriculum development in all occupational fields, should be amended by adding "including apprenticeable occupations.

Response. No change is made in the criteria published in the Notice of Proposed Rulemaking in the Federal Register on August 24, 1976. It is felt that the phrase "develop standards for curriculum development in all occupational fields" includes apprenticeable occupations.

The criteria therefore, are issued as originally published without change, as set forth below.

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication in the Federal Register. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

It is hereby certified that the final regulation has been prepared pursuant to Executive Order No. 11821 and does not require an Inflation Impact Evaluation.

(Appendix F of Federal Register No. 13.496; Vocational Education Curriculum.)

Dated: October 14, 1976.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

Approved: November 17, 1976.

DAVID MATTHEWS,
Secretary of—Health, Education, and Welfare.

APPENDIX C

VOCATIONAL EDUCATION CURRICULUM

FISCAL YEAR 1977

The Office of Education contemplates supporting six project grants for six curriculum coordination centers in fiscal year 1977 program money. Two of these awards will be open to competition. Four will be non-competitive continuations of grants made in fiscal year 1976 to (1) the Illinois Office of Education; (2) the Oklahoma State Department of Vocational and Technical Education; (3) the Washington State Commission for Vocational Education and (4) the New Jersey Department of Education.

The two new awards will be funded with a three year multi-year grant which is available on a non-competitive annual basis, beginning January 1, 1977.

The applicants will submit their project goals and activities for the three-year multi-year period. Multi-year approval is intended to offer the project a reasonable degree of stability over time and to facilitate long range planning. Approval of a multi-year project shall not commit the Office of Education to provide financial aid from appropriations not currently available; and second and third year funding is contingent on satisfactory performance.

FEDERAL REGISTER, VOL. 41, NO. 227—TUESDAY, NOVEMBER 23, 1976

51603
RULINGs and REGULATIONS

(a) Awarded applicant's obligation. One of the three-year awards will provide leadership to curriculum coordination in the Southeast area including Alabama, Florida, Georgia, North Carolina, South Carolina and Tennessee. The other three-year award will provide leadership for the Western area including American Samoa, Guam, Hawaii, Nevada and Trust Territory of the Pacific Islands.

Each awardee will be the facilitator in enabling the States in their respective consortiums to:

(1) Improve their curriculum services and capabilities;

(2) Share information and plans regarding curriculum materials and needs in order to reduce duplication of efforts;

(3) Plan for cooperation in development, testing, evaluation, dissemination, reproduction, and distribution of materials; and

(4) Develop and maintain intra-State liaison activities that will stimulate cooperative relationships at State and local levels.

In each additional award each awardee will:

(1) Conduct coordination, dissemination and diffusion activities in order to improve the accessibility of curriculum products and to assess their impact;

(2) Establish and maintain a system for determining curriculum needs based on local needs for vocational and technical education based on available manpower projections and the advancement of equity for girls and women in vocational education and for recommending priorities for State and national emphasis;

(3) Share information regarding materials and services available and under development; and

(4) Provide curriculum services which will encourage the adaptation, demonstration and adoption of effective curricula and curriculum development practices in vocational and technical education in conjunction with business and labor.

The Office of Education will entertain requests for these grants to support:

(1) Communication and coordination activities related to the State Network, the Network, and the U.S. Office of Education.

(2) Travel costs and per diem for the Center personnel to attend two meetings annually of the National Network Council for Curriculum Coordination in vocational and technical education; and as a member each awardee will:

(1) Conduct coordination, dissemination and diffusion activities in order to improve the accessibility of curriculum products and to assess their impact;

(2) Establish and maintain a system for determining curriculum needs based on local needs for vocational and technical education based on available manpower projections and the advancement of equity for girls and women in vocational education and for recommending priorities for State and national emphasis;

(3) Share information regarding materials and services available and under development; and

(4) Provide curriculum services which will encourage the adaptation, demonstration and adoption of effective curricula and curriculum development practices in vocational and technical education in conjunction with business and labor.

The Office of Education will entertain requests for these grants to support:

(1) Communication and coordination activities related to the State Network, the Network, and the U.S. Office of Education.

(2) Travel costs and per diem for the Center personnel to attend two meetings annually of the National Network Council for Curriculum Coordination. One of these meetings will be held in Washington, D.C.

(3) Travel costs and per diem, excluding honoraria, for State representatives to attend meetings sponsored by the center. Each of the six centers will hold a consortium meeting with their State representatives concurrently at a central U.S. location.

(b) Application review criteria. The criteria to be utilized in reviewing applications are listed below. These criteria are consistent with section 100a.38, Review of Applications, in the Corporation's General Procedures for Programs, published in the Federal Register in 38 FR 30654 on November 6, 1973. Segments or a segment of the application must receive an overall rating. Each criterion is weighted to show the maximum score that can be given to each specific criterion. Each criterion has the maximum points possible as follows:

CRITERIA AND SCORE

(a) Need and problems.—The application should clearly define the need for the project within the specified consortium of States and should indicate responsiveness to problems rather than symptoms. 15

(b) Objectives.—The objectives should be clearly stated, supportive of defined needs, capable of being attained by the proposed procedures, and capable of being measured. 15

(c) Plan.—The management plan should show functions to be performed and services to be provided; and the procedures for accomplishing each are delineated. The size and scope of the project is appropriate and includes a schedule of events planned for the project. The proposed plan of operation should clearly describe (a) how the objectives will be accomplished, (b) how and when personnel and resources will be utilized, (c) what, if any, in-service training connected with project services will be provided, (d) what feedback and evaluation procedures will be implemented and (e) how input from State vocational education administrators will be utilized. 25

(d) Results.—The proposed outcomes should be identified and described in terms of the expected potential for their use for similar educational purposes and (2) anticipated impact at National, State and local levels, and (3) relationships to Federal/State curriculum programs. Provision should be made for disseminating the results of the project including techniques or other creative services. 15

(e) Institutional capability.—Application should clearly show the strengths and weaknesses of the Types of required curriculum strengths and the capability of the applicant to immediately initiate and maintain liaison functions with consortium States. There should be evidence that adequate facilities and equipment will be provided and that participation of cooperating States has been authorized. Other dissemination, diffusion and facilitation systems, if any, should be described. 15

(f) Personnel.—The qualifications and experiences of key staff should be appropriate for the requirements of the project; specific responsibilities and time commitments should be made for the key staff; and at least one key staff person should devote a minimum of 50 percent of their time to the total objectives of the project. 15

(g) Budget.—The estimated cost should be reasonable in relation to anticipated results and the geographic area, scope, and duration of the project. Costs that objective the project costs by objectives are included. The application should also include a clear statement about cost-sharing proposed by line items in the proposed budget. 25

(3) PersonneL.—Personnel shall be appropriate for the requirements of the project; specific responsibilities and time commitments should be made for the key staff; and at least one key staff person should devote a minimum of 50 percent of their time to the total objectives of the project. 15

(4) Cooperative.—Cooperation shall be appropriate for the requirements of the project; specific responsibilities and time commitments should be made for the key staff; and at least one key staff person should devote a minimum of 50 percent of their time to the total objectives of the project. 15

(5) Plan.—The management plan should show functions to be performed and services to be provided; and the procedures for accomplishing each are delineated. The size and scope of the project is appropriate and includes a schedule of events planned for the project. The proposed plan of operation should clearly describe (a) how the objectives will be accomplished, (b) how and when personnel and resources will be utilized, (c) what, if any, in-service training connected with project services will be provided, (d) what feedback and evaluation procedures will be implemented and (e) how input from State vocational education administrators will be utilized. 25

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The maximum income level adopted here is equal to 125% of the official poverty line.¹ In designating that level, the

¹The definition of "Income in § 1611.1 conforms to the one used by the Community Services Administration, that develops the "official" poverty line. A chart showing the maximum income levels adopted by the Corporation is attached hereto.

Corporation recognizes that a substantial number of people who are unable to afford legal assistance will nonetheless be rendered ineligible, but the Corporation's limited resources will allow only a higher level at this time. After the Corporation reaches its preliminary goal of providing the equivalent of two lawyers for every 10,000 poor persons, as defined by the official measure, additional funds may be sought to permit adoption of an income standard that is more realistic in terms of the income required in order for a person to be able to afford private legal assistance. It is also hoped that the development of knowledge about the fees charged for various legal services by the private Bar will contribute to a more informed determination of how much income is required to afford private assistance.

The "official" poverty measure attempts to define poverty in terms of the minimum income needed for subsistence. Critics of the measure argue that it is too low—that even bare subsistence living requires a higher income than indicated by the official line. The recently published, Congressionally-mandated study, "The Measure of Poverty," describes some flaws in the current measure, but adhering to the Congressional directive,
RULES AND REGULATIONS

An acknowledged limitation of the current measure is that it does not make any specific recommendations for change. An acknowledged limitation of the current measure is that it does not make any specific recommendations for change. An acknowledged limitation of the current measure is that it does not make any specific recommendations for change. An acknowledged limitation of the current measure is that it does not make any specific recommendations for change.

As a matter of policy, the Corporation believes it would be a mistake to adopt a standard so low that it excluded all but welfare recipients from receiving legal assistance. As a matter of policy, the Corporation believes it would be a mistake to adopt a standard so low that it excluded all but welfare recipients from receiving legal assistance. As a matter of policy, the Corporation believes it would be a mistake to adopt a standard so low that it excluded all but welfare recipients from receiving legal assistance.

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maximum. Failure to do so would disconsider before determining whether to that condition (such as special housing, than a welfare recipient.

Another recipient might consider the value of the person's salary as a factor rendering the person ineligible. In determining a person's income, past earnings are irrelevant except insofar as they may have resulted in the acquisition of assets, that are required by § 1611.5(b)(2) to be considered. Inquiry should be focused on present income, and on the prospects for its continuation. Thus, if a person is engaged in seasonal work such as farm labor, it should be recognized that the person's salary during peak harvest is not an accurate indication of annual income. This requirement is established by § 1611.5(b)(1).

Federal and local taxes should be considered before determining whether to provide legal assistance to a person whose gross income is above the established maximum. Failure to do so would discriminate against working people, whose income is subject to taxation, while that of individuals on welfare is not. After taxes have been deducted, a working person whose gross income is above the maximum may have less discretionary money available for legal services than a welfare recipient. A person who is aged or disabled may have unusual expenses associated with that condition (such as special housing, utility, transportation, dietary or medical needs), and allowance should be made for them in determining eligibility. The disqualifying factor described in § 1611.5(c) is farm labor, it should be recognized that the person's salary during peak harvest is not an accurate indication of annual income. This requirement is established by § 1611.5(b)(1).

A group, corporation, or association may be afforded representation if the criteria of § 1611.5(d) are met. The legislative history of the Act makes clear that Congress intended to permit recipients to aid such organizations, as they have in the past.

Manner of determining eligibility. Section 1611.6 lists some of the personal factors that should be considered by a recipient in determining eligibility. The list is not exhaustive. Depending on local circumstances, a recipient may consider other factors that might either expand or narrow eligibility. For example, a recipient in a state like Alaska might consider the cost of transportation from a remote area to the nearest private lawyer as a factor bearing on a client's ability to pay for private assistance. Another recipient might consider the value of the person's salary as a factor rendering the person ineligible.

Change in circumstances. If a client becomes ineligible because of a change in circumstances, § 1611.7 requires a recipient to discontinue representation if the change is sufficiently likely to continue to enable the client to obtain private counsel, and if discontinuation is not inconsistent with the Code of Professional Responsibility.

Accordingly, Part 1611 is added to read as set forth below.

§ 1611.1 Purpose.

Sec. 1611.1 Purpose.

1611.2 Definition.

1611.3 Maximum Income Level.

1611.4 Authorized Exceptions.

1611.5 Manner of Determining Eligibility.

1611.6 Change of Circumstances.

Authority: Sec. 1007(a)(2); 42 U.S.C. 2996(a)(2).

§ 1611.1 Purpose.

This Part is designed to insure that a recipient will determine eligibility according to criteria that give preference to the legal needs of those least able to obtain legal assistance, and afford sufficient latitude for a recipient to consider local circumstances and its own resources and policies. This Part is not intended to insure that eligibility is determined in a manner conducive to development of an effective attorney-client relationship.

§ 1611.2 Definitions.

"Governmental income maintenance program" means Aid for Dependent Children, Supplemental Security Income, Unemployment Compensation, and a state or county general assistance or home relief program.

"Governmental program for the poor" means any federal, state or local program that provides benefits of any kind to persons whose eligibility is determined on the basis of financial need.

"Income" means actual current annual total cash receipts before taxes of all persons who are resident members of, and contribute to, the support of a family unit.

"Total cash receipts" include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. They include income from self-employment after deductions for business or farm expenses. They include regular payments from public assistance, social security, unemployment and worker's compensation, strike benefits from union funds, veterans benefits, training stipends, alimony, child support and military family allotments or other regular support from an absent family member or someone not living in the household; public or private employee pensions, and regular insurance or annuity payments; income from dividends, interest, rents, royalties, or from estates and trusts. They do not include money withdrawn from a bank or received from sale of real or personal property, or from tax refunds, gifts, one-time insurance payments or compensation for injury; nor do they include non-cash benefits.

§ 1611.3 Maximum income level.

(a) Every recipient shall establish a maximum annual income level for persons to be eligible to receive legal assistance under the Act.

(b) Unless specifically authorized by the Corporation, a recipient shall not establish a maximum annual income level that exceeds one hundred twenty-five percent (125%) of the official poverty threshold as defined by the Office of Management and Budget.

(c) Before establishing its maximum income level, a recipient shall consider relevant factors including:

(1) Cost-of-living in the locality;

(2) The number of clients who can be served by the resources of the recipient;

(3) The population who would be eligible at and below alternative income levels; and

(4) The availability and cost of legal services provided by the private Bar in the area.

(d) Unless authorized by § 1611.4, no person whose income exceeds the maximum annual income level established by a recipient shall be eligible for legal assistance under the Act.

(e) This Part does not prohibit a recipient from providing legal assistance to a client whose annual income exceeds the maximum income level established here, if the assistance provided the client
§ 1611.4 Authorized exceptions.

A person whose income exceeds the maximum level established by a recipient may be provided legal assistance under the Act if;

(a) The person's circumstances require that eligibility be allowed on the basis of one or more of the factors set forth in §1611.5(b); or

(b) The person is seeking legal assistance to secure benefits provided by a governmental program for the poor; or

(c) The person would be eligible but for receipt of benefits from a governmental income maintenance program.

§ 1611.5 Determination of eligibility.

(a) The governing body of a recipient shall adopt guidelines, consistent with these regulations, for determining the eligibility of persons seeking legal assistance under the Act. At least once a year, guidelines shall be reviewed and appropriate adjustments made.

(b) In addition to income, a recipient shall consider other relevant factors before determining whether a person is eligible for legal assistance. Factors considered shall include:

1. Current income prospects, taking into account seasonal variations in income;

2. Liquid net assets;

3. Fixed debts and obligations, including federal and local taxes, and medical expenses;

4. Child care, transportation, and other expenses necessary for employment;

5. Age or physical infirmity of resident family members;

6. The cost of obtaining private legal representation with respect to the particular matter in which assistance is sought;

7. The consequences for the individual if legal assistance is denied; and

8. Other factors related to financial inability to afford legal assistance.

(c) Evidence of a prior administrative or judicial determination that a person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment, shall disqualify the person from receiving legal assistance under the Act. The paragraph does not bar provision of legal assistance to an otherwise eligible person who seeks representation in order to challenge the prior determination.

(d) A recipient may provide legal assistance to a group, corporation, or association if it:

1. Is primarily composed of persons eligible for legal assistance under the Act, or

2. Has as its primary purpose furtherance of the interests of persons in the community unable to afford legal assistance, and

3. Provides information showing that it lacks, and has practical means of obtaining, funds to retain private counsel.

§ 1611.6 Manner of determining eligibility.

(a) A recipient shall adopt a simple form and procedure to obtain information to determine eligibility in a manner that promotes the development of trust between attorney and client. The form and procedure adopted shall be subject to approval by the Corporation, and the information obtained shall be preserved, in a manner that protects the identity of the client, for audit by the Corporation.

(b) If there is substantial reason to doubt the accuracy of the information, a recipient shall make appropriate inquiry to verify it, in a manner consistent with an attorney-client relationship.

(c) Information furnished to a recipient by a client to establish financial eligibility shall not be disclosed to any person who is not employed by the recipient in a manner that permits identification of the client, without the express written consent of the client.

§ 1611.7 Change in circumstances.

If an eligible client becomes ineligible through a change in circumstances, a recipient shall discontinue representation if the change in circumstances is sufficiently likely to continue for the client and afford private legal assistance, and discontinuation is not inconsistent with the attorney's professional responsibilities.

Effective date: December 23, 1976.

APPENDIX A

Table showing maximum income levels equal to 125% of the Office of Management and Budget 1976 revision of the official poverty line threshold figures.

<table>
<thead>
<tr>
<th>ALL STATES EXCEPT ALASKA AND HAWAII</th>
<th>Maximum income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 family unit</td>
<td>$3,800</td>
</tr>
<tr>
<td>2 family unit</td>
<td>$4,326</td>
</tr>
<tr>
<td>3 family unit</td>
<td>$4,900</td>
</tr>
<tr>
<td>4 family unit</td>
<td>$5,474</td>
</tr>
<tr>
<td>5 family unit</td>
<td>$6,000</td>
</tr>
<tr>
<td>6 family unit</td>
<td>$6,575</td>
</tr>
</tbody>
</table>

For family units with more than 6 members, add $1,126 or each additional member in a nonfarm family and $1,188 for each additional member in a farm family.

ALASKA

<table>
<thead>
<tr>
<th>Maximum income</th>
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<tbody>
<tr>
<td>1 family unit</td>
</tr>
<tr>
<td>2 family unit</td>
</tr>
<tr>
<td>3 family unit</td>
</tr>
<tr>
<td>4 family unit</td>
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<tr>
<td>5 family unit</td>
</tr>
<tr>
<td>6 family unit</td>
</tr>
</tbody>
</table>

For family units with more than 6 members, add $1,400 for each additional member in a nonfarm family and $1,888 for each additional member in a farm family.

HAWAII

<table>
<thead>
<tr>
<th>Maximum income</th>
</tr>
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<tbody>
<tr>
<td>1 family unit</td>
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<tr>
<td>2 family unit</td>
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<tr>
<td>3 family unit</td>
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<tr>
<td>4 family unit</td>
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<tr>
<td>5 family unit</td>
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<tr>
<td>6 family unit</td>
</tr>
</tbody>
</table>

For family units with more than 6 members, add $1,288 for each additional member in a nonfarm family and $1,888 for each additional member in a farm family.

THOMAS EHRlich, President.

Legal Services Corporation.

[FR Doc. 76-34469 Filed 11-22-76; 8:45 am]

PART 1617—CLASS ACTIONS

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-555, 88 Stat. 373, 42 U.S.C. 2996-2996f (“the Act”). Section 1006(d) (5) of the Act, 42 U.S.C. 2996d(d) (5), requires class action litigation undertaken by a recipient to be approved by the project director in accordance with policies established by the governing board. Section 1007(a) (3), 42 U.S.C. 2997f(a) (3), requires the Corporation to insure that legal assistance is rendered in the most economical and effective manner, and Section 1007(a) (1), 42 U.S.C. 2997f(a) (1), requires the Corporation to protect against impairing the integrity of the adversary process.

On September 23, 1976 (41 FR 41722) a proposed regulation on class actions was published. Interested persons were given until October 26, 1976 to submit comments on the proposed regulation. All comments received were given full consideration. The following issues were among those considered before adoption of the final regulation.

COMMENT

Section 1008(d) (5) of the Act requires class action litigation undertaken by a recipient to be approved by the project director in accordance with policies established by the governing board. The legislative history of the section makes it clear that Congress did not intend to discourage use of class actions, but did want to ensure that litigation would be undertaken according to standards established by persons accountable for the overall performance of the legal services program.

Under the Act, or relevant American Bar Association Ethics Opinions permits a governing body to review class action litigation on a case-by-case basis. What is contemplated is the establishment of a governing body of broad policies that are consistent with its resource allocation priorities, and with the need to protect the rights of an individual client and similarly situated clients. The class action policy adopted by a governing body should not interfere with an attorney's independent judgment or duty to a client. See Sections 1006(a) (3); 1007(a) (1); ABA Committee on Ethics and Professional Responsibility, Formal Opinion 334.

Because a class action may be a useful way of avoiding duplicative and repetitive actions, the mandate of Section 1007(a) (3) that legal assistance be rendered in “the most economical and effective manner,” as well as the prohibition in Section 1007(a) (1) that legal assistance impairing the integrity of the adversary process, preclude a recipient from adopting policies