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DEPARTMENT OF LABOR

Office of the Secretary

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APPRENTICESHIP PROGRAMS

Proposed Registration Standards

DEPARTMENT OF LABOR
Office of the Secretary
[29 CFR Part 29]
APPRENTICESHIP PROGRAMS
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Pursuant to section 1 of the National Apprenticeship Act of 1937 (29 U.S.C. 50), Reorganization Plan No. 14 of 1950 (64 Stat. 1267; 3 CFR 1949-53 Comp., p. 1007), the Copeland Act (40 U.S.C. 276c), and 5 U.S.C. 301, the Department of Labor proposed to amend 29 CFR subtitle A by adding thereto a new Part 29, which was published at 38 FR 13894.

This proposed new part set out labor standards, policies and procedures relating to the registration cancellation and deregistration of apprenticeship programs and of apprenticeship agreements by the Bureau of Apprenticeship and Training, the recognition of a State agency as the appropriate agency for registering local apprenticeship programs for certain Federal purposes, and the standards for Bureau approval of on-the-job training programs.

The Department invited interested persons to submit written views and comments concerning the proposal and numerous comments were received. The Department studied these comments carefully with a resulting decision to revise the proposed regulations in certain respects. The intended revisions were presented to the Federal Committee on Apprenticeship and the Committee after consideration, has recommended their adoption.

The revisions with a short explanatory statement are as follows:

In § 29.1(b) delete the last sentence, which reads: "Standards for Bureau approval of on-the-job training programs are also set forth." This and all other references to "on-the-job training" and to "trainees" at various places throughout the proposal, including § 29.15 in its entirety, are deleted. These revisions are consistent with the principle of confining the proposed apprenticeship regulations in this part to matters of apprenticeship only.

In § 29.4 delete paragraphs (c), (f), (g), and the second sentence of (e); modify paragraph (d) so that the minimum term of apprenticeship is 2,000 hours of work experience and additional hours of related instruction. These revisions are intended to make less restrictive the criteria for apprenticeable occupations and to encourage the expansion of the apprenticeship system into occupational fields where it has not traditionally been used.

In § 29.5(b) paragraph (2) has been modified to conform to § 29.4(d).

In § 29.5(b) delete paragraph (20) as being impractical as a universal requirement, and unnecessary in view of the protections afforded in § 29.6(h) (1) and (2).

In § 29.6 delete paragraph (k), which pertains to the transfer of apprenticeship agreements in certain cases, as being impractical and imposing an unnecessary burden upon the employer in view of § 29.5(b) (13).

Section 29.12 is rewritten to provide in paragraph (b) (1) for continued recognition of State apprenticeship agencies presently recognized, and in paragraph (b) (2) to provide for public members on State apprenticeship councils and to accommodate existing voting practices by such councils. The present § 29.12(c) is redesignated as (d); a new paragraph (c) is inserted; it provides for the right of appeal and procedures related thereto in case of the denial of the application by a State agency for recognition.

Section 29.14 is deleted in entirety as unnecessary for administrative purposes.

Other minor revisions are made for clarity.

Interested persons may submit written views and arguments concerning this revised proposal to the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210, on or before April 9, 1975.

The proposed new Part 29 as revised, would read as follows:

PART 29—LABOR STANDARDS FOR THE REGISTRATION OF APPRENTICESHIP PROGRAMS

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AUTHORITY: Sec. 1, 50 Stat. 664, as amended, 29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301; Reorganization Plan No. 14 of 1950, 64 Stat. 1267, 5 U.S.C. App., p. 534.

§ 29.1 Purpose and scope.

(a) The National Apprenticeship Act of 1937, section 1, (29 U.S.C. 50) authorizes and directs the Secretary of Labor

to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the Office of Education under the Department of Health, Education, and Welfare * * *.

Section 2 of the Act authorizes the Secretary of Labor to "publish information relating to existing and proposed labor standards of apprenticeship," and to "appoint national advisory committees * * ." (29 U.S.C. 50a).

(b) The purpose of this part is to set forth labor standards to safeguard the welfare of apprentices, and to extend the application of such standards by prescribing policies and procedures concerning the registration, for certain Federal purposes, of acceptable apprenticeship programs with the U.S. Department of

Labor, Manpower Administration, Bureau of Apprenticeship and Training. These labor standards, policies and procedures cover the registration, cancellation and deregistration of apprenticeship programs and of apprenticeship agreements; the recognition of a State agency as the appropriate agency for registering local apprenticeship programs for certain Federal purposes; and matters relating thereto.

§ 29.2 Definitions.

As used in this part:

(a) "Department" shall mean the U.S. Department of Labor.

(b) "Secretary" shall mean the Secretary of Labor or any person specifically designated by him.

(c) "Assistant Secretary" shall mean the Assistant Secretary of Labor for Manpower or any person specifically designated by him.

(d) "Manpower Administrator" shall mean the Deputy Assistant Secretary for Manpower and Manpower Administrator or any person specifically designated by him.

(e) "Bureau" shall mean the Bureau of Apprenticeship and Training, Manpower Administration.

(f) "Administrator" shall mean the Administrator of the Bureau of Apprenticeship and Training, or any person specifically designated by him.

(g) "Apprentice" shall mean a worker at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law, who is employed to learn a skilled trade as defined in § 29.4 under standards of apprenticeship fulfilling the requirements of § 29.5.

(h) "Apprenticeship program" shall mean a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, including such matters as the requirement for a written apprenticeship agreement.

(i) "Registrant" shall mean any person, association, committee, or organization in whose name or title the program is or is to be registered, irrespective of whether such entity is an employer.

(j) "Employer" shall mean any person or organization employing an apprentice whether or not such person or organization is a party to an apprenticeship agreement with the apprentice.

(k) "Apprenticeship agreement" shall mean a written agreement between an apprentice and either his employer, or an apprenticeship committee acting as agent for employer(s), which agreement contains the terms and conditions of the employment and training of the apprentice.

(l) "Joint apprenticeship committee" shall mean a committee composed of an equal number of representatives of employers and employees, which has been established by an employer or group of employers and a bona fide collective bargaining agent or agents to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices selected for employment under the particular program.

(m) "Non-joint apprenticeship sponsor" shall mean an apprenticeship program sponsor in which a bona fide collective bargaining agent is not a participant, it includes an Individual Non-joint Sponsor (apprenticeship program sponsored by one employer without the participation of a union) and a Group Non-joint Sponsor (apprenticeship program sponsored by 2 or more employers without the participation of a union).

(n) "Federal purposes" includes any Federal contract, grant, agreement or arrangement dealing with apprenticeship; and any Federal financial or other assistance, benefit, privilege, contribution, allowance, exemption, preference or right pertaining to apprenticeship.

(o) "Registration of an apprenticeship program" shall mean the acceptance and recording of such program by the Bureau of Apprenticeship and Training, or by a recognized State Apprenticeship Agency, as meeting the basic standards and requirements of the Department for approval of such program for Federal purposes. Approval is evidenced by a Certificate of Registration or other written indicia.

(p) "Registration of an apprenticeship agreement" shall mean the acceptance and recording thereof by the Bureau or a recognized State Apprenticeship Agency as evidence of the participation of the apprentice in a particular registered apprenticeship program.

(q) "Certification" shall mean written approval by the Bureau of:

(1) A set of apprenticeship standards developed by a national committee or organization, joint or unilateral, for policy or guideline use by local affiliates, as substantially conforming to the standards of apprenticeship set forth in § 29.5; or

(2) An individual as eligible for probationary employment as an apprentice under a registered apprenticeship program.

(r) "Recognized State Apprenticeship Agency" or "recognized State Apprenticeship Council" shall mean an organization approved by the Bureau as an agency or council which has been properly constituted under an acceptable State apprenticeship law, and has been approved by the Bureau as the appropriate body for State registration of local apprenticeship programs and agreements for Federal purposes.

(s) "State" shall mean any of the 50 States of the United States, the District of Columbia, or any territory or possession of the United States.

(t) "Related instruction" shall mean an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical and technical subjects related to his trade.

(u) "Cancellation" shall mean the deregistration of an apprenticeship program at the request of the program sponsor or the termination of an apprenticeship agreement at the request of the apprentice.

§ 29.3 Eligibility and procedure for Bureau registration of a program.

(a) Eligibility for various Federal purposes is conditioned upon a program's

conformity with apprenticeship program standards published by the Secretary of Labor in this part. For a program to be determined by the Secretary of Labor as being in conformity with these published standards the program must be registered with the Bureau or with a State Apprenticeship Agency or council recognized by the Bureau. Such determination by the Secretary is made only by such registration.

(b) No apprenticeship program or agreement shall be eligible for Bureau registration unless (1) it is in conformity with the requirements of this part and the training is in an apprenticeable occupation having the characteristics set forth in § 29.4 herein, and (2) it is in conformity with the requirements of the Department's regulation on "Equal Employment Opportunity in Apprenticeship and Training" set forth in 29 CFR Part 30, as amended.

(c) Except as provided under paragraph (d) of this section, apprentices must be individually registered under a registered program. Such registration may be effected:

(1) By filing copies of each apprenticeship agreement; or

(2) Subject to prior Bureau approval, by filing a master copy of such agreement followed by a listing of the name, and other required data, of each individual when apprenticed.

(d) The names of persons in their first 90 days of probationary employment as an apprentice under an apprenticeship program registered by the Bureau or a recognized State Apprenticeship Agency, if not individually registered under such program, shall be submitted immediately after employment to the Bureau or State Apprenticeship Agency for certification to establish the apprentice as eligible for such probationary employment.

(e) The appropriate registration office must be promptly notified of the cancellation, suspension or termination of any apprenticeship agreement, with cause for same, and of apprenticeship completions.

(f) Approved apprenticeship programs shall be accorded registration, evidenced by a Certificate of Registration. When approved by the Bureau, national apprenticeship standards for policy or guideline use shall be accorded certification, evidenced by a certificate attesting to the Bureau's approval.

(g) Any modification(s) or change(s) to registered or certified programs shall be promptly submitted to the registration office and, if approved, shall be recorded and acknowledged as an amendment to such program.

(h) The request for registration, together with all documents and data required by this part, shall be submitted in three copies.

(i) Under a program proposed for registration by an employer or employers' association, where the standards, collective bargaining agreement or other instrument, provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of

union agreement or "no objection" to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union local, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. In addition, upon receipt of the application and apprenticeship program, the Bureau shall promptly send by certified mail to such union local another copy of the application and of the apprenticeship program together with a notice that union comments will be accepted for 30 days after the date of the Bureau's transmittal.

(j) Where the employees to be trained have no collective bargaining agent, an apprenticeship program may be proposed for registration by an employer or group of employers.

§ 29.4 Criteria for apprenticeable occupation.

An apprenticeable occupation is a skilled trade which possesses all of the following characteristics:

(a) It is customarily learned in a practical way through training and work on the job.

(b) It is clearly identified and commonly recognized throughout an industry.

(c) It involves manual, mechanical or technical skills and knowledge which require a minimum of 2,000 hours of on-the-job work experience.

(d) It requires related instruction to supplement the on-the-job training.

§ 29.5 Standards of apprenticeship.

An apprenticeship program shall conform to the following standards:

(a) The program is an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation, as defined in this part, and subscribed to by a sponsor who has undertaken to carry out the apprentice training program.

(b) The program standards contain the equal opportunity pledge prescribed in 29 CFR 30.3(b) and, when applicable, an affirmative action plan in accordance with 29 CFR 30.4, a selection method authorized in 29 CFR 30.5, and provisions concerning the following:

(1) The employment and training of the apprentice in a skilled trade;

(2) A term of apprenticeship, not less than 2,000 hours of work experience, consistent with training requirements as established by industry practice;

(3) An outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

(4) Provision for organized related and supplemental instruction in technical subjects related to the trade. A minimum of 144 hours for each year of apprenticeship is recommended. Such instruction may be given in a classroom,

through trade, industrial or correspondence courses of equivalent value, or other forms of approved self-study;

(5) A progressively increasing schedule of wages to be paid the apprentice consistent with the skill acquired. The entry wage shall be not less than the minimum wage prescribed by the Fair Labor Standards Act, where applicable, unless a higher wage is required by other applicable Federal law, State law, respective regulations, or by collective bargaining agreement;

(6) Periodic review and evaluation of the apprentice's progress in job performance and related instruction; and the maintenance of appropriate progress records;

(7) The numeric ratio of apprentices to journeymen consistent with proper supervision, training, and continuity of employment, and applicable provisions in collective bargaining agreements;

(8) A probationary period reasonable in relation to the full apprenticeship term, with full credit for such period toward completion of apprenticeship;

(9) Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction;

(10) The required minimum qualifications for persons entering an apprenticeship program, with an eligible starting age not less than 16 years;

(11) The placement of an apprentice under an apprenticeship agreement as required by the State apprenticeship law and regulations, or the Bureau where no such State law or regulation exists. The agreement shall directly, or by reference, incorporate the standards of the program as part of the agreement;

(12) Grant of advanced standing or credit for previously acquired experience, training, skills, or aptitude for all applicants equally, with commensurate wages for any progression step so granted.

(13) Transfer of employer's training obligation to another employer, where warranted, with full credit to the apprentice for satisfactory time and training earned;

(14) Assurance of qualified training personnel;

(15) Recognition for successful completion of apprenticeship evidenced by an appropriate certificate;

(16) Identification of the registration agency;

(17) Provision for the registration, cancellation and deregistration of the program; and requirement for the prompt submission of any modification or amendment thereto;

(18) Provision for registration of apprenticeship agreements, modifications, and amendments; notice to the registration office of persons who have successfully completed apprenticeship programs; and notice of cancellations, suspensions and terminations of apprenticeship agreements and causes therefor;

(19) Authority for the termination of an apprenticeship agreement during the probationary period by either party without stated cause;

(20) A statement that the program will be conducted, operated and administered

in conformity with applicable provisions of 29 CFR Part 30, as amended;

(21) Name and address of the appropriate authority under the program to receive, process and make disposition of, complaints;

(22) Recording and maintenance of all records concerning apprenticeship as may be required by the Bureau or recognized State Apprenticeship Agency and other applicable law.

§ 29.6 Apprenticeship agreement.

The apprenticeship agreement shall contain explicitly or by reference:

(a) Names and signatures of the contracting parties (apprentice, and the program registrant or employer), and the signature of a parent or guardian if the apprentice is a minor.

(b) The date of birth of apprentice.

(c) Name and address of the program registrant and registration agency.

(d) A statement of the trade or craft which the apprentice is to be taught, and the beginning date and term (duration) of apprenticeship.

(e) A statement showing (1), the number of hours to be spent by the apprentice in work on the job, and (2) the number of hours to be spent in related and supplemental instruction which is recommended to be not less than 144 hours per year.

(f) A statement setting forth a schedule of the work processes in the trade or industry divisions in which the apprentice is to be taught and the approximate time to be spent at each process.

(g) A statement of the graduated scale of wages to be paid the apprentice and whether or not the required school time shall be compensated.

(h) Statements providing:

(1) For a specific period of probation during which the apprenticeship agreement may be terminated by either party to the agreement upon written notice to the registration agency;

(2) That, after the probationary period, the agreement may be suspended, cancelled, or terminated for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and to the registration agency of the final action taken.

(i) A reference incorporating as part of the agreement the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended during the period of the agreement.

(j) A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training, without discrimination because of race, color, religion, national origin, or sex.

(k) Name and address of the appropriate authority, if any, designated under the program to receive, process and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established trade procedure or applicable collective bargaining provisions.

(l) A statement that in the event the registration of the program has been cancelled or revoked, the apprentice will be notified within 15 days of the event.

§ 29.7 Deregistration of Bureau-registered program.

Deregistration of a program may be effected upon the voluntary action of the registrant by a request for cancellation of the registration, or upon reasonable cause, by the Bureau instituting formal deregistration proceedings in accordance with the provisions of this part.

(a) *Request by registrant.* The registration officer may cancel the registration of an apprenticeship program by a written acknowledgement of such request stating, but not limited to, the following matters:

(1) The registration is canceled at registrant's request, and effective date thereof;

(2) That, within 15 days of the date of the acknowledgement, the registrant shall notify all apprentices of such cancellation and the effective date; that such cancellation automatically deprives the apprentice of his individual registration; and that the deregistration of the program removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program.

(b) *Formal deregistration.*—(1) Reasonable cause. Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, and administered in accordance with the registered provisions or the requirements of this part, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions under 29 CFR Part 30, as amended.

(2) Where it appears the program is not being operated in accordance with the registered standards or with requirements of this part, the registration officer shall so notify the program registrant in writing.

(3) The notice shall (i) be sent by registered or certified mail, with return receipt requested; (ii) state the shortcoming(s) and the remedy required; and (iii) state that a determination of reasonable cause for deregistration will be made unless corrective action is effected within 30 days.

(4) Upon request by registrant for good cause, the 30-day term may be extended for another 30 days. During the period for correction, the registrant shall be assisted in every reasonable way to achieve conformity.

(5) If the required correction is not effected within the allotted time, the registration officer shall send a notice to the registrant, by registered or certified mail, return receipt requested, stating the following:

(i) The notice is sent pursuant to this subsection;

(ii) Certain deficiencies (stating them) were called to registrant's attention and remedial measures requested, with dates of such occasions and letters;

and that the registrant has failed or refused to effect correction;

(iii) Based upon the stated deficiencies and failure of remedy, a determination of reasonable cause has been made and the program may be deregistered unless, within 15 days of the receipt of this notice, the registrant requests a hearing;

(iv) If a request for a hearing is not made, the entire matter will be submitted to the Administrator, BAT, for a decision on the record with respect to deregistration.

(6) If the registrant has not requested a hearing, the registration officer shall transmit to the Administrator, BAT, a report containing all pertinent facts and circumstances concerning the nonconformity, including his findings and recommendation for deregistration, and copies of all relevant documents and records. Statements concerning interviews, meetings and conferences shall include the time, date, place, and persons present. The Administrator shall make a final order on the basis of the record before him.

(7) If the registrant requests a hearing, the registration officer shall transmit to the Secretary, through the Administrator, a report containing all the data listed in paragraph (6) above. The Secretary shall convene a hearing in accordance with § 29.9; and shall make a final decision on the basis of the record before him including the proposed findings and recommended decision of the hearing officer.

(8) In his discretion, the Secretary may allow the registrant a reasonable time to achieve voluntary corrective action. If the Secretary's decision is that the apprenticeship program is not operating in accordance with the registered provisions or requirements of this part, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered, the Secretary shall make public notice of the order and shall notify the registrant.

(9) Every order of deregistration shall contain a provision that the registrant shall, within 15 days of the effective date of the order, notify all registered apprentices of the deregistration of the program; the effective date thereof; that such cancellation automatically deprives the apprentice of his individual registration; and that the deregistration removes the apprentice from coverage for Federal purposes which require the Secretary of Labor's approval of an apprenticeship program.

§ 29.8 Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to this part may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with this part. Such evidence shall be presented to the Administrator, BAT, if the registrant had not requested a hearing, or to the Secretary, if an order of deregistration was entered pursuant to a hearing.

§ 29.9 Hearings.

(a) Within 10 days of his receipt of a request for a hearing, the Secretary shall

designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by registered mail, return receipt requested, to the appropriate sponsor. Such notice shall include (1) a reasonable time and place of hearing, (2) a statement of the provisions of this part pursuant to which the hearing is to be held, and (3) a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his case, including such cross-examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Secretary upon the basis of the record before them.

§ 29.10 Limitation.

Nothing in this part or in any apprenticeship agreement shall operate to invalidate—

(a) Any apprenticeship provision in any collective bargaining agreement between employers and employees setting up higher apprenticeship standards; or

(b) Any special provision for veterans, minority persons or females in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, executive order, or authorized regulation.

§ 29.11 Complaints.

(a) This section is not applicable to any complaint concerning discrimination or other equal opportunity matters; all such complaints shall be submitted, processed and resolved in accordance with applicable provisions in 29 CFR Part 30, as amended.

(b) Except for matters described in paragraph (a) of this section, any controversy or difference arising under an apprenticeship agreement which cannot be adjusted locally and which is not covered by a collective bargaining agreement, may be submitted by an apprentice, or his authorized representative, to the registration office for review. The registration office may not review a matter which is covered by a collective bargaining agreement.

(c) The complaint, in writing and signed by the complainant, or authorized representative, shall be submitted within 60 days of the final local decision. It shall set forth the specific matter(s) complained of, together with all relevant facts and circumstances. Copies of all pertinent documents and correspondence shall accompany the complaint.

(d) The registration office shall render an opinion within 90 days after receipt of the complaint, based upon such investigation of the matters submitted as may be found necessary, and the record before it. During the 90-day period, the office shall make reasonable efforts to effect a satisfactory resolution between the parties involved. If so resolved, the parties shall be notified that the case is closed. Where an opinion is rendered,

copies of same shall be sent to all interested parties.

(e) Nothing in this section shall be construed to require an apprentice to use the registration office review procedure set forth in this section.

§ 29.12 Recognition of State agencies.

(a) Recognition of a State Apprenticeship Agency or State Apprenticeship Council (SAC), for Federal purposes, may be accorded by the Bureau upon submission and approval of the following:

(1) An acceptable State apprenticeship law (or Executive Order), and regulations adopted pursuant thereto;

(2) Acceptable composition of the State Apprenticeship Council (SAC); and

(3) An acceptable State Plan for Equal Employment Opportunity in Apprenticeship.

(b) *Basic requirements.* Generally, the basic requirements under the matters covered in paragraph (a) of this section shall be in conformity with applicable requirements as set forth in this part. Acceptable State provisions shall:

(1) Establish the apprenticeship agency in (i) the State Department of Labor, or (ii) in that agency of State government having jurisdiction of laws and regulations governing wages, hours, and working conditions, or (iii) that State agency presently recognized by the Bureau, with a State official empowered to direct the apprenticeship operation.

(2) Require that the State apprenticeship council be composed of persons familiar with apprenticeable occupations and an equal number of representatives of employer and of employee organizations and may include public members who shall not number in excess of the number named to represent either employer or employee organizations. Each representative so named shall have one vote. Ex officio members may be added to the council but they shall have no vote except where such members have a vote according to the established practice of a presently recognized council. If the State official who directs the apprenticeship operation is a member of the council, provision may be made for him to have a tie-breaking vote.

(3) Clearly delineate the respective powers and duties of the State official and of the council;

(4) Clearly designate the officer or body authorized to register and deregister apprenticeship programs and agreements;

(5) Establish policies and procedures to promote equality of opportunity in apprenticeship programs pursuant to a State Plan for Equal Employment Opportunity in Apprenticeship which adopts and implements the requirements of 29 CFR Part 30, as amended, and to require apprenticeship programs to operate in conformity with such State Plan and 29 CFR Part 30, as amended;

(6) Prescribe the contents of apprenticeship agreements;

(7) Limit the registration of apprenticeship programs to those providing training in "apprenticeable" occupations as defined in § 29.4;

(8) Provide for the cancellation and deregistration of programs, and for the temporary suspension, cancellation, and deregistration of apprenticeship agreements; and

(9) Provide that under a program proposed for registration by an employer or employers' association, and where the standards, collective bargaining agreement or other instrument provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgement of union agreement or "no objection" to the registration is required. Where no such participation is evidenced and practiced, the employer or employers' association shall simultaneously furnish to the union local, if any, which is the collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. In addition, upon receipt of the application and apprenticeship program, the State agency or council shall promptly send by certified mail to such union local another copy of the application and of the apprenticeship program together with a notice that union comments will be accepted for 30 days after the date of the agency transmittal.

(c) *Appeal from denial of recognition.* The denial by the Administrator of a State agency's application for recognition under this part shall be in writing and shall set forth the reasons for the denial. The notice of denial shall be sent to the applicant by certified mail, return receipt requested. The applicant may appeal such a denial to the Secretary by mailing or otherwise furnishing to the Administrator, within 30 days of receipt of the denial, a notice of appeal addressed to the Secretary and setting forth the following items:

(1) A statement that the applicant appeals to the Secretary to reverse the Administrator's decision to deny its application.

(2) The date of the Administrator's decision and the date the applicant received the decision.

(3) A summary of the reasons why the applicant believes that the Administrator's decision was incorrect.

(4) A copy of the application for recognition and subsequent modifications, if any.

(5) A copy of the Administrator's decision of denial. Within 10 days of receipt of a notice of appeal, the Secretary shall assign an Administrative Law Judge to conduct hearings and to recommend findings of fact and conclusions of law. The proceedings shall be informal, witnesses shall be sworn, and the parties shall have the right to counsel and of cross-examination.

He shall submit them, together with the entire record to the Secretary for final decision. The Secretary shall make his final decision in writing within 30 days of the Administrative Law Judge's submission. The Secretary may make a decision granting recognition conditional

upon the performance of one or more actions by the applicant. In the event of such a conditional decision, recognition shall not be effective until the applicant has submitted to the Secretary evidence that the required actions have been performed and the Secretary has communicated to the applicant in writing that he is satisfied with the evidence submitted.

(d) *State apprenticeship programs.*—
(1) An apprenticeship program submitted for registration with a State Apprenticeship Agency recognized by the Bureau shall, for Federal purposes, be in conformity with the State apprenticeship law, regulations, and with the State equal opportunity plan in apprenticeship as submitted to and approved by the Bureau pursuant to 29 CFR 30.15, as amended;

(2) In the event that a State Apprenticeship Agency is not recognized by the Bureau for Federal purposes, or that such recognition has been withdrawn, or if no State Apprenticeship Agency exists, registration with the Bureau may be requested. Such registration shall be granted if the program is conducted, administered and operated in accordance with the requirements of this part and the equal opportunity regulation in 29 CFR Part 30, as amended.

§ 29.13 Deregognition of State agency.

The recognition for Federal purposes of a State Apprenticeship Agency or State Apprenticeship Council, (hereinafter designated "respondent"), may be withdrawn for the failure to fulfill, or operate in conformity with, the requirements of this part. Deregognition proceedings for reasonable cause shall be instituted in accordance with the following:

(a) Deregognition proceedings for failure to adopt or properly enforce a State Plan for Equal Employment Opportunity in Apprenticeship shall be processed in accordance with the procedures prescribed in 29 CFR 30.15.

(b) For causes other than those under paragraph (a) above, the Bureau shall notify the respondent and appropriate State registrants in writing, by certified mail, with return receipt requested. The notice shall set forth the following:

(1) That reasonable cause exists to believe that the respondent has failed to fulfill or operate in conformity with the requirements of this part;

(2) The specific areas of nonconformity;

(3) The needed remedial measures; and

(4) That the Bureau proposes to withdraw recognition for Federal purposes unless corrective action is taken, or a hearing request mailed, within 30 days of the receipt of the notice.

(c) If, within the 30-day period, respondent:

(1) Complies with the requirements, the Bureau shall so notify the respondent and State registrants, and the case shall be closed;

(2) Fails to comply or to request a hearing, the Bureau shall decide whether

recognition should be withdrawn. If the decision is in the affirmative, the Administrator shall forward all pertinent data to the Secretary, together with his findings and recommendation. The Secretary shall make the final decision, based upon the record before him;

(3) Requests a hearing, the Administrator shall forward the request to the Secretary, and the procedures under § 29.9 shall be followed, with notice thereof to the State apprenticeship registrants.

(d) If the Secretary determines to withdraw recognition for Federal purposes, he shall notify the respondent and the State registrants of such withdrawal and effect public notice of such withdrawal. The notice to the registrants shall state that, 30 days after the date of the Secretary's order withdrawing recognition of the State agency, the Department shall cease to recognize, for Federal purposes, each apprenticeship program registered with the State agency unless, within that time, the State registrant requests registration with the Bureau. The Bureau may grant the request for registration contingent upon its finding that the State apprenticeship program is operating in accordance with the requirements of this part and of 29 CFR Part 30, as amended. The Bureau shall make a finding on this issue within 30 days of receipt of the request. If the finding is in the negative, the State registrant shall be notified in writing that the contingent Bureau registration has been revoked. If the finding is in the affirmative, the State registrant shall be notified in writing that the contingent Bureau registration is made permanent.

(e) If the registrant fails to request Bureau registration, or upon a finding of noncompliance pursuant to a contingent Bureau registration, the written notice to such State registrant shall further advise the recipient that any actions or benefits applicable to recognition "for federal purposes" are no longer available to participants in its apprenticeship program.

(f) Such notice shall also direct the State registrant to notify, within 15 days, all its registered apprentices of the withdrawal of recognition for Federal purposes; the effective date thereof; and that such withdrawal removes the apprentice from coverage under any Federal provision applicable to his individual registration under a program recognized or registered by the Secretary of Labor for Federal purposes.

(g) A State Apprenticeship Agency or Council whose recognition has been withdrawn pursuant to this part may have its recognition reinstated upon presentation of adequate evidence that it has fulfilled, and is operating in accordance with, the requirements of this part.

Signed at Washington, D.C., this 4th day of March, 1975.

PETER J. BRENNAN,
Secretary of Labor.

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