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REGISTRATION

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Monday, December 10, 1979

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- 70703 Reorganization of Functions Relating to International Trade Executive order
- 70705 President's Commission on the Coal Industry Executive order
- 70799 Standby Gasoline Rationing Plan DOE/ERA gives notice of a proposed rule and public hearings in order to receive comments; comments by 1-9-80
- 71102-71380 Consumer Programs Consumer Affairs Council and 31 departments and agencies publish draft programs under EO 12160; comments by 3-10-80 (Parts II-VII of this issue)
- 70932 Prevention Research and Demonstration Grants HEW/PHS announces acceptance of applications for a program devoted to finding out the impact of severely disturbed parents on children; apply by 2-1-80
- 70708 Banking Organizations FRS simplifies procedures for establishing branches in foreign countries; effective 11-28-79

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Title 3—

The President

Proclamation 4705 of December 6, 1979

Bill of Rights Day

Human Rights Day and Week, 1979

By the President of the United States of America

A Proclamation

On December 15, 1791, the Bill of Rights became part of the Constitution of the United States. On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. In marking these anniversaries, we renew our dedication both to our own liberties and to the promotion of human rights everywhere on earth.

In our open society, a freely elected government, an independent judiciary, a free and vigorous press, and the vigilance of our citizens combine to protect our rights and liberties—civil, political, economic and social.

We can be proud of what we have achieved so far. Yet we cannot rest satisfied until the Bill of Rights is a living reality for every person in the United States. The Equal Rights Amendment would help do that by explicitly guaranteeing the basic rights of American women. I urge every state that has not yet done so to ratify this wise and necessary measure in the coming year.

The Universal Declaration of Human Rights sets global standards that reflect the same vision that inspired our own Bill of Rights. Almost every country has endorsed the Declaration. Yet in too much of the world its promise is mocked.

Arbitrary arrest and imprisonment, summary executions and torture, disappearances and acts of genocide still shatter the lives of millions. Fundamental human liberties are continually threatened by the silencing of political dissenters, by discrimination based on race, religion, ethnic origin and sex, by violations of the freedoms of assembly, association, expression and movement, and by the suppression of trade unions. And as the kidnapping and abuse of American Embassy employees in Iran have reminded us, the internationally protected rights of diplomatic envoys are a basic condition of civilized relations among nations.

Those who cause others anguish—whether they are the secret police of dictators, the faceless bureaucrats of totalitarian states or the chanting mobs of revolutionary zealots—must know that we will not defend them, but their victims.

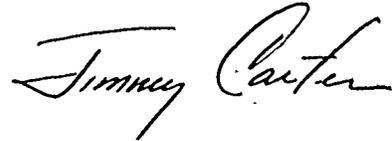
Bill of Rights Day and Human Rights Day and Week should be marked by redoubled support for international efforts on behalf of the full range of human rights.

I renew my request to the Senate to give its advice and consent to the Genocide Convention, the Convention on the Elimination of all Forms of Racial Discrimination, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, and the American Convention on Human Rights. I commend the Senate Foreign Relations Committee for holding hearings on these treaties, and I urge all Americans to support their ratification.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim December 10, 1979, as Human Rights Day and December 15, 1979, as Bill of Rights Day, and call on all Americans to observe Human Rights Week beginning December 10, 1979. Let us rededicate ourselves to promoting the ideals embodied in the Bill of Rights and the Universal Declaration so that, one day, they will be enjoyed by all peoples of the world.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of December, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

[FR Doc. 79-37971
Filed 12-7-79; 10:45 am]
Billing code 3195-01-M

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the main text of the proclamation.

Presidential Documents

Executive Order 12175 of December 7, 1979

Reorganization of Functions Relating to International Trade

By the authority vested in me as President of the United States of America by Section 9 of Reorganization Plan No. 3 of 1979 (transmitted to the Congress on September 25, 1979), the time period prescribed by Section 906 of Title 5 of the United States Code having elapsed without the adoption of a resolution of disapproval by either House of Congress, it is hereby ordered that Section 2(b)(1) of that Plan, establishing the Office of Deputy Secretary of Commerce, is effective immediately.



THE WHITE HOUSE,
December 7, 1979.

[FR Doc. 79-38020
Filed 12-7-79; 11:47 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12176 of December 7, 1979

President's Commission on the Coal Industry

By the authority vested in me as President by the Constitution of the United States of America, and in order to extend the time for the President's Commission on the Coal Industry to complete its report, Sections 1-401 and 1-402 of Executive Order No. 12103 of December 14, 1978 are hereby revised to read as follows:

"1-401. The final report required by section 1-202 of this Order shall be transmitted no later than March 15, 1980.

"1-402. The Commission shall terminate on March 15, 1980."

THE WHITE HOUSE,
December 7, 1979.





Rules and Regulations

Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

[Amdt. No. 11]

Restrictions on the Importation of Meat from Australia and New Zealand

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: The regulation set forth in this Subpart is amended to limit imports of certain meats from Australia and New Zealand to no more than 873.8 and 358.8 million pounds, respectively, during calendar year 1979. Such action is necessary to carry out the 1979 restraint program, including the agreements entered into by the United States with Australia and New Zealand pursuant to section 204 of the Agricultural Act of 1956, limiting the export from Australia and New Zealand and the importation into the United States of certain meat.

EFFECTIVE DATE: December 10, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

This regulation establishes quantitative restrictions applicable to meat imported from Australia and New Zealand which may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly, at the level of 873.8 and 358.8 million

pounds, respectively, during calendar year 1979.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore this regulation falls within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and Executive Order 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to December 10, 1979 shall not be denied entry.

PART 16—LIMITATION ON IMPORTS OF MEAT

Accordingly, § 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended to add paragraph (c) which reads as follows:

§ 16.5 Quantitative restrictions.

(c) Imports from Australia and New Zealand. During calendar year 1979, no more than 873.8 and 358.8 million pounds of meat, exported from Australia and New Zealand, respectively, in the form in which it would fall within the definition of meat in TSUS 106.10 or 106.20 may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Australia or New Zealand to the United States.

(Sec. 204, Pub. L. 540, 84th Cong.; 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733))

Issued at Washington, D.C. this 5th day of December 1979.

M. Rupert Cutler,

Acting Secretary.

[FR Doc. 79-37831 Filed 12-6-79; 9:40 am]

BILLING CODE 3410-10-M

7 CFR Part 16

[Amdt. No. 12]

Restrictions on the Importation of Meat from Honduras and Nicaragua

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the final rule published on October 3, 1979 (44 FR 56919) and October 18, 1979 (44 FR 60069) regarding limitations on the importation of certain meats from Honduras and Nicaragua, respectively. Imports of such meat from Honduras and Nicaragua were previously limited to 48.9 and 66.8 million pounds, respectively, for calendar year 1979 in order to carry out the 1979 restraint program pursuant to Section 204 of the Agricultural Act of 1956. This amendment increases this limitation to 49.7 million pounds for Honduras and 67.9 million pounds for Nicaragua for calendar year 1979 in view of the changes which have been made in the restraint levels for various countries participating in the 1979 restraint program. The global level of imports has not been changed.

EFFECTIVE DATE: December 10, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), 202-447-7217, Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to December 10, 1979 shall not be denied entry.

PART 16—LIMITATION ON IMPORTS OF MEAT

§ 16.5 [Amended]

Accordingly, § 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended as follows:

1. In paragraph (a), imports from Nicaragua, "66.8 million pounds" is

deleted and "67.9 million pounds" is inserted in lieu thereof.

2. In paragraph (b), imports from Honduras, "48.9 million pounds" is deleted and "49.7 million pounds" is inserted in lieu thereof.

(Sec. 204, Pub. L. 540, 84th Cong., 70 Stat. 200, as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733))

Issued at Washington, D.C. this 5th day of December 1979.

M. Rupert Cutler,
Acting Secretary.

[FR Doc. 79-37832 Filed 12-6-79; 9:41 am]

BILLING CODE 3410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 211

[Docket No. R-0263]

International Banking Operations; Regulation K

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended section 211.5(b)(3) of its Regulation K (12 CFR 211.5(b)(3)), to simplify the procedures by which subsidiaries of United States banking organizations may establish branches in foreign countries.

EFFECTIVE DATE: November 28, 1979.

FOR FURTHER INFORMATION CONTACT: C. Keefe Hurley, Senior Counsel (202/452-3269), or Michael L. Kadish, Attorney (202/452-3428), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On June 14, 1979, the Board revised its regulations governing the international operations of member banks, Edge and Agreement Corporations, and bank holding companies ("investors"), and consolidated them into one regulation, Regulation K. Sections 211.3(a) and 211.4(c)(2) of Regulation K govern the establishment of foreign branches by member banks and Edge Corporations, respectively; and § 211.5(b)(3) applies the procedures of § 211.3(a) to the establishment of branches by subsidiaries of member banks, Edge Corporations, Agreement Corporations, and bank holding companies. The Board has amended § 211.5(b)(3) to simplify approval procedures for the establishment of branches by subsidiaries of an investor where the investor, its subsidiaries, or affiliates have offices or branches in foreign countries.

This action relieves a procedural restriction and, therefore, the notice and public participation provisions of 5 U.S.C. 553 with regard to the Board's action are unnecessary. This action is taken pursuant to the Board's authority under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601 *et seq.*); and section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)).

Effective November 28, 1979, Part 211 of 12 CFR Chapter II is amended as follows:

PART 211—INTERNATIONAL BANKING OPERATIONS

By revising § 211.5(b)(3) to read as follows:

§ 211.5 Investments in other organizations.

* * * * *

(b) *Investment limitations.* * * *

(3) A subsidiary (other than a member bank or an Edge Corporation) may establish a foreign branch with prior approval of the Board. Unless otherwise advised by the Board: (i) a subsidiary (other than a member bank or an Edge Corporation) whose affiliates have offices (other than representative offices) in two or more foreign countries may establish initial branches in additional foreign countries after 60 days' notice to the Board; (ii) a foreign bank subsidiary may, without prior approval or prior notice, establish additional branches in any country in which it operates one or more offices (other than representative offices); and (iii) without prior approval or prior notice, any subsidiary (other than a foreign bank, member bank, or Edge Corporation) may establish additional branches in any foreign country in which any affiliate operates one or more offices (other than representative offices). Authority to establish branches through prior approval or prior notice shall expire one year from the earliest date on which that authority could have been exercised, unless extended by the Board. An investor shall inform the Board within 30 days of the opening, closing, or relocation of a branch and the address of a new or relocated foreign branch.

* * * * *

By Order of the Board of Governors of the Federal Reserve System, effective November 28, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-37825 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 265

[Docket No. R-0264]

Disclosure of Reports of Examination Under the 1975 Amendments to the Securities Exchange Act of 1934

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment delegates to the Director of the Division of Banking Supervision and Regulation authority to make certain reports available to the Securities and Exchange Commission. This delegation will simplify procedures now followed by the Board.

EFFECTIVE DATE: November 28, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen L. Siciliano, Senior Counsel, (202/452-3920), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to delegate to the Director of the Board's Division of Banking Supervision and Regulation authority to make reports of examination of transfer agents, clearing agencies and municipal securities dealers subject to the Board's supervisory jurisdiction available to the Securities and Exchange Commission pursuant to section 17(a)(3) of the Securities Exchange Act of 1934, as amended. The Board is required by the Act to make such reports of examination available to the Commission upon request so that it might carry out its regulatory responsibilities under that statute. This delegation will simplify procedures now followed by the Board in processing such requests from the Commission. To accomplish this delegation, § 265.2(c) of the Board's Rules Regarding Delegation of Authority is amended by addition of a new subsection (25), as set forth below.

The provisions of section 553 of Title 5, United States Code, relating to notice and public participation and to deferred effective dates, are not followed in connection with the adoption of § 265.2(c)(25) because the rule involved therein is procedural in nature and accordingly does not constitute a substantive rule subject to the requirements of such section.

Effective November 28, 1979, 12 CFR 265.2(c) is amended by adding a new subparagraph (25) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(c) The Director of the Division of Banking Supervision and Regulation (or,

in the Director's absence, the Acting Director) is authorized:

(25) Under the provisions of section 17(c)(3) of the Securities Exchange Act of 1934, as amended, to make available upon request to the Securities and Exchange Commission reports of examination of transfer agents, clearing agencies and municipal securities dealers for which the Board is the appropriate regulatory agency for use by the Commission in the exercise of its supervisory responsibilities under that statute.

By order of the Board of Governors of the Federal Reserve System November 28, 1979.
Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-37908 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 720

Public Observance and Availability of Information Regarding Board Meetings; Interim Sunshine Act Policy Statement

AGENCY: National Credit Union Administration.

ACTION: Interim Policy Statement.

SUMMARY: In accordance with the objectives of the open meeting provisions of the Sunshine Act (5 U.S.C. 552b), the newly created National Credit Union Administration Board gives notice and seeks comments on its policy governing public observance of its meetings and the availability of public information on its decision-making processes.

DATES: Effective September 14, 1979; however, comments will be received until January 17, 1980.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Beatrix D. Fields, Attorney-Adviser, at the same address or telephone (202) 357-1030.

SUPPLEMENTARY INFORMATION: Pursuant to Pub. L. 95-630, the National Credit Union Administration (NGUA) was restructured to be managed by a three member Board. Once the three members of the National Credit Union Administration Board (the "Board") were appointed by the President, confirmed by the Senate, and had

officially taken office on September 4, 1979, the agency became subject to the open meeting requirements of the Sunshine Act (5 U.S.C. 552b, hereinafter referred to as the "Sunshine Act" or the "Act"). Subsection (g) of the Sunshine Act requires that each agency promulgate regulations to implement the open meeting provisions of the Act, i.e. 5 U.S.C. 552b (b) through (f). Pending the promulgation of regulations to implement the open meeting provisions of the Sunshine Act, the Board adopted at its first meeting, September 14, 1979, an interim policy statement to provide access to its deliberations and access to information regarding its decision-making processes ("Sunshine Act Policy Statement"). The Sunshine Act is silent as to the amount of time an agency newly subject to the Sunshine Act has to promulgate regulations. In view of the agency's new method of management, the Board will evaluate its experience under this interim Sunshine Act Policy Statement as well as evaluating any comments received in determining and developing its Sunshine Act regulations after January 31, 1979. Once final regulations implementing the Sunshine Act become effective, this interim Sunshine Act Policy Statement will be revoked.

Interim Sunshine Act Policy Statement

[IRPS No. 79-8]

Section 1. Scope and Purpose.

(a) This policy statement sets forth guidelines to govern compliance by the National Credit Union Administration Board with the open meeting provisions of the Government in the Sunshine Act (5 U.S.C. 552b(b)-(f)) until final regulations are promulgated to implement those provisions. It is the purpose of these guidelines to provide the public with full access to the deliberations and decisions of the Board while protecting the rights of individuals and preserving the ability of the agency to carry out its responsibilities.

Section 2. Definitions.

(a) "Agency" means the National Credit Union Administration.

(b) "Board" means the National Credit Union Administration Board, whose members are appointed by the President with the advice and consent of the Senate.

(c) "Subdivision of the Board" means a group composed of two Board members authorized by the Board to act on behalf of the agency.

(d) "Meeting" means any deliberations by two or more members of the Board or any subdivision of the Board that determine or result in the

joint conduct or disposition of official agency business with the exception of: (1) Deliberations to determine whether a meeting or a portion thereof will be open or closed to public observation and whether information regarding closed meetings will be withheld from public disclosure; (2) deliberations to determine whether or when to schedule a meeting; and (3) infrequent dispositions of official agency business by sequential circulation of written recommendations to individual Board members ("notation voting procedure"): *Provided*, The votes of each Board member and the action taken are recorded for each matter and are publicly available, unless exempted from disclosure pursuant to 5 U.S.C. 552 (the Freedom of Information Act).

(e) "Public observation" means that a member or group of the public may listen to and observe any open meeting and may record in an unobtrusive manner any portion of that meeting by use of a camera or any other electronic device, but shall not participate in any meeting unless authorized by the Board.

(f) "Public announcement" or "publicly announce" means making reasonable efforts under the particular circumstances to fully inform the public, especially those individuals who have expressed interest in the subject matters to be discussed or the decisions of the agency.

(g) "Sunshine Act" means the open meeting provisions of the "Government in the Sunshine Act", Pub. L. 94-409, 5 U.S.C. 552b (b) to (f).

Section 3. Open Meetings.

Except as provided in Section 4(a), any portion of any meeting of the Board shall be open to public observation. The Board and any subdivision of the Board, shall jointly conduct official agency business only in accordance with this policy statement.

Section 4. Exemptions.

(a) Under the procedures specified in Section 6, the Board may close a meeting or any portion of a meeting from public observation or may withhold information pertaining to such meetings as otherwise required to be disclosed, provided, the Board has properly determined that the public interest does not require otherwise and that the meeting (or any portion thereof) or the disclosure of meeting information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy, and (ii) in fact

properly classified pursuant to such Executive Order;

(2) Relate solely to internal personnel rules and practices;

(3) Disclose matters specifically exempted from disclosure by statute (other than section 552 of Title 5 of the United States Code, the Freedom of Information Act), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by criminal law enforcement authority in the course of a criminal investigation, or by a Federal agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of Federal agencies responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) be likely to, (A) lead to significant speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that this subparagraph shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative

prior to taking final action on such proposal; or

(10) Specifically concern the issuance of a subpoena, participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition of a particular case of formal agency adjudication pursuant to the procedures in section 554 of Title 5 of the United States Code or otherwise involving a determination on the record after opportunity for a hearing.

(b) Prior to closing a meeting whose discussions are likely to fall within the exemptions listed in paragraph (a) of this section, the Board will balance the public interest in observing the deliberations of an exemptible matter and the agency's need for confidentiality of the exemptible matter. In weighing these interests, the Board is assisted by the General Counsel as provided in Section 8, by expressions of the public interest set forth in requests for open meetings as provided by Section 7(b), and by the brief staff analysis of public interest which will accompany each staff recommendation that an agenda item be considered in a closed meeting.

Section 5. Public Announcement of Meetings.

(a) Except as otherwise provided in this section the Board shall, for each meeting, make a public announcement, at least one week in advance of the meeting, of the time, place and subject matter of the meeting, whether it will be open or closed to public observation and the name and phone number of the Secretary of the Board or the person designated by the Board to respond to requests for information about the meeting.

(b) Advance notice is required unless a majority of the members of the Board determine by a recorded vote that agency business requires that a meeting be called at an earlier date, in which case, the information to be announced in paragraph (a) of this section shall be publicly announced at the earliest practicable time.

(c) A change, including a postponement or a cancellation, in the time or place of a meeting after a published announcement may be made only if announced at the earliest practicable time.

(d) A change in or deletion of the subject matter of a meeting or any portion of a meeting or a redetermination to open or close a meeting or any portion of a meeting after a published announcement may be made only if (1) a majority of the Board determines by recorded vote that agency business so requires and that no earlier

announcement of the change was possible and (2) public announcement of the change and of the vote of each member on such change shall be made at the earliest practicable time.

(e) Each meeting announcement or amendment thereof shall be posted on the Public Notice Bulletin Board in the reception area of the agency's headquarters and may be made available by other means deemed desirable by the Board. Immediately following each public announcement required by this section, the stated information shall be submitted to the Federal Register for publication.

(f) No announcement shall contain information which is determined to be exempt from disclosure under Section 4(a).

(g) The agency shall maintain a mailing list of names and addresses of all persons who wish to receive copies of agency announcements of meetings open to public observation and amendments to such announcements. Requests to be placed on the mailing list should be made by telephoning or by writing to the Secretary of the Board.

Section 6. Regular Procedure for Closing Meeting Discussions or Limiting the Disclosure of Information.

(a) A decision to close any portion of a meeting and to withhold information about any portion of a meeting closed pursuant to Section 4(a) will be taken only when a majority of the entire Board votes to take such action. In deciding whether to close a meeting or any portion of a meeting or to withhold information, the Board shall independently consider whether the public interest requires an open meeting. A separate vote of the Board will be taken and recorded for each portion of a meeting to be closed to public observation pursuant to Section 4(a) or to withhold information from the public pursuant to Section 4(a). A single vote may be taken and recorded with respect to a series of meetings, or any portions of meetings which are proposed to be closed to the public, or with respect to any information concerning the series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. No proxies shall be allowed.

(b) Any person whose interests may be directly affected by any portion of a meeting for any of the reasons stated in paragraph (5), (6) or (7) of Section 4(a), may request that the Board close such portion of the meeting. After receiving notice of a person's desire for any specified portion of a meeting to be

closed, the Board, upon a request by one member, will decide by recorded vote whether to close the relevant portion or portions of the meeting. This procedure applies to request received either prior or subsequent to the announcement of a decision to hold an open meeting.

(c) Within one day after any vote is taken pursuant to paragraph (a) or (b) of this section, the Board shall make publicly available a written copy of the vote taken indicating the vote of each Board member. Except to the extent that such information is withheld and exempt from disclosure, for each meeting or any portion of a meeting closed to the public, the Board shall make publicly available within one day after the required vote, a written explanation of its action, together with a list of all persons expected to attend the closed meeting and their affiliation. The list of persons to attend need not include the names of individual staff, but shall state the offices of the agency expected to participate in the meeting discussions.

Section 7. Requests for Open Meetings.

(a) Following any announcement that the Board intends to close a meeting or any portion of any meeting, any person may make a written or telegraphic request to the Secretary of the Board that the meeting or a portion of a meeting be open. The request shall be circulated to the members of the Board, and the Board, upon the request of one member, shall reconsider its action under Section 6 before the meeting or before discussion of the matter at the meeting. If the Board decides to open a portion of a meeting proposed to be closed, the Board shall publicly announce its decision in accordance with Section 5(e). If no request is received from a Board member to reconsider the decision to close a meeting or portion thereof prior to the meeting discussion, the Chairman of the Board shall certify that the Board did not request reconsideration of its decision to close the discussion of the matter.

(b) The request to open a portion of a meeting shall be submitted to the Secretary of the Board in advance of the meeting in question. The request shall set forth the requestor's interest in the matter to be discussed and the reasons why the requestor believes that the public interest requires that the meeting or portions thereof be open to public observation.

(c) The submission of a request to open a portion of a meeting shall not act to stay the effectiveness of Board action or to postpone or delay the meeting unless the Board decides otherwise.

(d) The Secretary of the Board shall advise the requestor of the Board's consideration of the request to open a portion of the meeting as soon as practicable.

Section 8. General Counsel Certification.

For each meeting or any portion of a meeting closed to public observation under Section 6, the General Counsel shall publicly certify, whether in his or her opinion, the meeting or portion thereof may be closed to public observation and shall state each relevant exemptive provision of law. A copy of the certification together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting and the persons present, shall be retained as a part of the permanent meeting records. As part of the certification, the General Counsel shall recommend to the Board whether the public interest requires that the meeting or portions thereof proposed to be closed to public observation be held in the open.

Section 9. Maintenance of Meeting Records.

(a) The Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to public observation. However, for meetings closed under paragraph (8), (9)(i), or (10) of Section 4(a), the Board shall maintain either a transcript, a recording or a set of minutes. The Board shall maintain a complete electronic recording for each open meeting or any portion thereof. All records shall clearly identify each speaker.

(b) A set of minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons for taking such action. Minutes shall also include a description of each of the views expressed by each person in attendance on any item and the record of any roll call vote, reflecting the vote of each member. All documents considered in connection with any action shall be identified in the minutes.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes or a complete electronic recording of each meeting or any portion of a meeting, closed to public observation, for at least two years after such meeting or until one year after the conclusion of any agency proceeding with respect to which the meeting or any portion was held, whichever occurs later. The agency shall maintain a

complete electronic recording of each open meeting for at least three months after the meeting date. A complete set of minutes shall be maintained on a permanent basis for all meetings.

Section 10. Public Availability of Meeting Records and Other Documents.

(a) The agency shall make promptly available to the public, in the Public Reference Room, the transcript, electronic recording or minutes of a closed meeting, deleting any agenda item or any item of the testimony of a witness received at a meeting which the Board determined, pursuant to paragraph (c) of this section, was exempt from disclosure under Section 4(a). The exemption or exemptions relied upon for any deleted information shall be reflected on any record or recording.

(b) Copies of any transcript, minutes or transcription of a recording, disclosing the identity of each speaker, shall be furnished to any person requesting such information in the form specified in paragraph (a) of this section. Copies shall be furnished at the actual cost of duplication or transcription unless waived by the Secretary of the Board.

(c) Following each meeting or any portion of a meeting closed pursuant to Section 4(a), as the last item of business, the Board shall determine which, if any, portions of the meeting transcript, electronic recording or minutes not otherwise available under 5 U.S.C. 552a (Privacy Act), contain information which should be withheld pursuant to Section 4(a); provided, however, that should the Board not make such determinations immediately following any such closed meeting, the Secretary of the Board, upon the advice of the General Counsel or the General Counsel's designee and after consulting with the Board, shall make such determinations. If at a later time, the Board determines that there is no further justification for withholding any meeting record or other item of information from the public which has previously been withheld, then such information shall be made available to the public.

(d) Except for information determined by the Board to be exempt from disclosure pursuant to paragraph (c) of this section, meeting records shall be promptly available to the public in the Public Reference Room. Meeting records include but are not limited to: The transcript, electronic recording or minutes of each meeting, as required by Section 9(a); the notice requirements of Sections 5 and 6(c); and the General Counsel Certification along with the

presiding officer's statement, as required by Section 8.

(e) These provisions do not affect the procedures set forth in Section 720, Subpart A governing the inspection and copying of agency records, except that the exemptions set forth in Section 4(a) of this statement and in 5 U.S.C. 552b(c) shall govern in the case of a request made pursuant to Part 720, Subpart A to copy or inspect the meeting records described in this section. Any documents considered or mentioned at Board meetings may be obtained subject to the procedures set forth in Part 720, Subpart A.

By the National Credit Union Administration Board, on December 3, 1979.

Rosemary Brady,
Secretary of the Board.

[FR Doc. 79-37785 Filed 12-7-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NW-41-AD Amdt. 39-3634]

Airworthiness Directives; Boeing Model 747 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: FAA Airworthiness Directive (AD) 79-22-03 (Amdt. 39-3598; October 29, 1979, 44 FR 61935) requires inspection and replacement, as required, of the engine pylon diagonal brace forward attach pins. The AD is amended herein to correct a wrong part number, exempt airplanes with JT9D-70 engines, and reference the manufacturer's service bulletin for the inspection procedure.

DATES: Effective date: December 18, 1979.

ADDRESSES: Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Since issuance of Amendment 39-3598, the manufacturer has developed an

alternate inspection method which should be incorporated in the AD. Also, one pin part number was erroneously listed and since all airplanes equipped with JT9D70 engines have this part, they should be exempted from the AD. The AD is accordingly amended.

Since this Amendment relieves a restriction and imposes no additional burden on any person, it is found that notice and public procedure hereon are unnecessary, and this amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive No. 79-22-03 (Amdt. 39-3598; 44 FR 61935, October 29, 1979), as follows:

1. Revise applicability heading to read:

Boeing; Applies to all Model 747 series airplanes, except JT9D-70-equipped airplanes, certificated in all categories with more than 5,000 landings. Compliance required within 300 landings after the effective date of this AD, unless already accomplished within the last 900 landings. To prevent failure of the inboard pylon diagonal brace forward fuse pins, accomplish the following:

2. Revise Paragraph A to read as follows:

A. Within 300 landings after the effective date of this AD unless already accomplished within the last 900 landings, remove the retainer bolt and end caps from the inboard pylon diagonal brace forward fuse pins Part Numbers 65B94182-3, 69B90410-1,3,-4,-600, and 69B89612-3. Visually or ultrasonically inspect the fuse pins for cracks in the machined shear section in accordance with Boeing Service Bulletin 747-54-2066.

The manufacturer's specification and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This Amendment becomes effective December 18, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423, and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not

considered to be significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 20, 1979).

Issued in Seattle, Wash., on November 20, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-37604 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-84; Amdt. No. 39-3631]

Airworthiness Directives; Lockheed Model 382 series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement as necessary of clear vision window latch mechanisms on Lockheed Model 382 series airplanes. The AD is needed to prevent the windows from opening during normal flight operations.

DATES: Effective December 19, 1979. Compliance is required within the next 50 hours time in service.

ADDRESSES: The applicable service bulletin may be obtained from Lockheed-Georgia Company, Marietta, Georgia 30063.

A copy of the Service Bulletin is also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20630, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been reports of discrepant latches found on the latching systems of the clear vision windows on Lockheed Model 382 series airplanes which could result in the windows becoming open in flight. Since this condition is likely to exist on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection and replacement as necessary of the clear vision windows latch mechanism on Lockheed Model 382 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and

public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Lockheed: Models 382 series, Serial Numbers 3946 through 4832, certificated in all categories.

Compliance is required within the next 50 hours time in service, unless already accomplished.

a. To prevent the clear vision windows from opening in flight, inspect the window latch catches, part numbers 385057-1 and -2, and 393433-1 and -2, which are mounted on the windshield post at each window, in accordance with Lockheed-Georgia Company Service Bulletin A382-56-1, dated October 17, 1979.

b. If discrepant catches are found, before further flight, replace the catches in accordance with Lockheed-Georgia Company Service Bulletin A382-56-1, dated October 17, 1979.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320.

This amendment is effective December 19, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Ga., on November 27,

Louis J. Cardinali,
Director, Southern Region.

[FR Doc. 79-37605 Filed 12-7-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-83; Amdt. No. 39-3632]

Airworthiness Directives; EMBRAER EMB-110P1 and EMB-110P2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to EMBRAER Model EMB-110P1 airplanes by making the AD

applicable to the Model EMB-110P2 airplanes. The amendment is needed because the inspections required by the existing AD are also necessary for the Model EMB-110P2 airplane which recently received a U.S. Type Certificate.

DATES: Effective December 19, 1979. Compliance is required within the next 25 hours time in service and thereafter at intervals not to exceed 500 hours time in service.

FOR FURTHER INFORMATION CONTACT: Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (A/C 404) 763-7407.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3468, AD 79-10-11, which currently requires inspection of the FAFNIR Part No. SBS6ATC18-Z bearings installed in the flight control trim tab assemblies of EMB-110P1 airplanes. After issuing Amendment 39-3468, the FAA certificated the EMB-110P2 which uses the same assemblies and, therefore, the inspections required by AD 79-10-11 should also be accomplished on the Model EMB-110P2. Therefore, the FAA is amending Amendment 39-3468 by making AD 79-10-11 apply to EMB-110P2 airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3468, AD 79-10-11, by revising the applicability statement to read:

Applies to all Model EMB-110P1 and EMB-110P2 airplanes, certificated in all categories.

This amendment is effective December 19, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Ga., on November 27, 1979.

George R. La Caille,
Acting Director, Southern Region.

[FR Doc. 79-37606 Filed 12-7-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket Number 79-CE-20-AD; Amdt. 39-3633]

Airworthiness Directive; Cessna Models 180, 182, F182, 185/A185, 188/A188, P206, U206/TU206, 207/T207 and 210/T210 Series and Model P210N Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive applicable to Cessna 180, 182, F182, 185/A185, 188/A188, P206, U206/TU206, 207/T207, 210/T210 Series and Model P210N aircraft. It requires installation of an additional ground strap to bond the alternator electrically to the engine or modification of the alternator installation by replacement of the existing alternator support bracket with a new alternator support bracket which provides an electrical ground path between the alternator frame and engine. Additional inspections and actions to assure the alternator installation meets minimum airworthiness standards are also required. This action is necessary because failure of existing alternator ground provisions will result in a "hot" alternator frame which may seek an electrical ground through any conductive material coming in contact with the alternator or its adjusting arm. This may damage nearby fuel lines, causing release of fuel at the location of the arc and result in an in-flight fire.

EFFECTIVE DATE: December 13, 1979.

COMPLIANCE: Within 50 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Single Engine Customer Care Service Information Letters SE79-5, dated February 26, 1979, SE79-58, dated November 23, 1979, and SE79-59, dated November 23, 1979, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67209; telephone (316) 685-9111. A copy of the Service Letters cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106

and at Room 916, 800 Independence Ave., SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Fred Jones, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 942-4281.

SUPPLEMENTARY INFORMATION: There have been instances on Cessna Model T210 and A188 airplanes of failures of existing alternator grounding provisions which resulted in failure of the overvoltage relay and overvoltage damage to the aircraft electrical and electronic components and/or shorting to an adjacent fuel line which contacted the alternator installation. If the damaged fuel line releases fuel at the point of contact, an in-flight fire may result.

A redundant or second ground path can be provided for the alternator by installing a ground strap between the alternator and the engine in accordance with Cessna Single Engine Customer Care Service Information Letter SE79-59.

Alternatively, grounding between the alternator and engine may be accomplished by incorporating applicable Cessna Service Kit SK210-84 or SK182-55A as referenced in Cessna Single Engine Customer Care Service Information Letters SE79-5 or SE79-58 respectively. This kit installs a new left hand rear engine mount leg and alternator support bracket without rubber bushings in the alternator mount, thus providing a direct ground path between the alternator and engine.

Additional assurance that a short will not occur between the alternator installation and adjacent components may be obtained by verifying the integrity of existing engine and alternator to airframe ground provisions and providing adequate separation between the alternator and its mount and other nearby powerplant components.

Since the condition described herein can exist or develop in other airplanes of the same type design (alternator installation), the FAA is issuing an AD making installation of the grounding strap between the alternator and engine in accordance with SE79-59, or in the alternative, incorporation of Cessna Service Kit SK210-84 as referenced in SE79-5, or for the 182 Series, Cessna Service Kit SK182-55A as referenced in SE79-58, mandatory on affected airplanes. In addition, the AD will require certain inspections and action to assure adequate clearance between the alternator and other powerplant installation components and the security

of the existing ground between the alternator and airframe.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the Federal Register.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Cessna: Applies to:

180 Series (Serial Numbers 18051762 thru 18052981, except 18052975) airplanes;
182/F182 Series (Serial Numbers 18257446 thru 18266590, F18200001 thru F18200094) airplanes;
185 and A185 Series (Serial Numbers 18501096 thru 18503619) airplanes;
188 and A188 Series (Serial Numbers 18800050 thru 18803240) airplanes;
P206 Series (Serial Numbers P20600280 thru P20600647) airplanes;
U206 and TU206 Series (Serial Numbers 20600634 thru 20604649) airplanes;
207 and T207 Series (Serial Numbers 20700001 thru 20700451) airplanes;
210 and T210 Series (Serial Numbers 21058783 thru 21062649, 21062651 thru 21062661, 21062663 thru 21062666, T210-0001 thru T210-0454) airplanes;
Model P210N (Serial Numbers P21000001 thru P21000026) airplanes.

Compliance: Required within the next 50 hours' time-in-service after the effective date of this AD unless previously accomplished.

To preclude the possibility of electrical or electronic component damage or an in-flight fire due to a short between an ungrounded alternator and flammable fluid carrying lines, accomplish the following:

(A) Perform either 1 or 2 below:
(1) Install an additional ground strap, Cessna P/N 1570102-22, between the ground stud on the alternator and the lower left hand mounting stud on the engine auxiliary drive pad in accordance with Cessna Single Engine Service Information Letter SE 79-59. An equivalent ground strap fabricated per FAA Advisory Circular 43.13-1A appropriate for the alternator rating is also acceptable.

(2) Modify the alternator installation by installing a different engine mount leg per Cessna Service Kit SK210-84 (Reference Cessna Single Engine Customer Care Service Information Letter SE79-5, dated February 26, 1979) or for the 182 Series, Cessna Service Kit SK182-55A (Reference Cessna Single Engine Customer Care Service Information Letter SE79-58 dated November 23, 1979).

Note.—When accomplishing Paragraph (1) or (2), assure all contact areas are clean and provide good electrical continuity.

(B) Visually inspect the alternator installation for, and if necessary, provide at

least ½ inch clearance between the alternator installation and adjacent flammable fluid carrying lines, powerplant controls and electrical wiring in accordance with FAA Advisory Circular 43.13-1A.

(C) Visually inspect the existing alternator to airframe ground for proper installation (Reference View A-A of SE79-59), evidence of looseness at the terminal and adequate length to allow for relative motion between the alternator and airframe. Also, visually verify that the ground straps between the engine and airframe mount are installed and provide continuity between the engine and mount. Correct any unsatisfactory conditions noted per FAA Advisory Circular 43.13-1A.

(D) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(E) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 E. 12th Street, Kansas City, Missouri 64106.

Cessna Single Engine Customer Care Service Information Letters SE79-5 dated February 26, 1979, SE79-58 dated November 23, 1979, and SE79-59 dated November 23, 1979, pertain to the subject matter of this AD.

This Amendment becomes effective December 13, 1979.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 20, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Donald L. Page, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri, 64106; telephone (816) 374-3446.

Issued in Kansas City, Missouri on November 27, 1979.

Paul J. Baker,

Director, Central Region.

[FR Doc. 79-37603 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 79-GL-10]

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the boundaries of the Lacarne, Ohio, Restricted Area R-5502, dividing it into two areas and including one of them in the Continental Control Area. These

actions more accurately define the area that is presently in use and permits public use of a subarea when it is not in use for military purposes.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION: On September 27, 1979, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter the boundaries of R-5502, divide it into two areas and include them in the Continental Control Area (44 FR 55597). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection. Section 71.151 of Part 71 and § 73.55 of Part 73 were republished in the Federal Register on January 2, 1979 (44 FR 344 and 709). These amendments are the same as proposed in the notice.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) rescind R-5502 and add R-5502A and R-5502B. R-5502A is a subdivision within R-5502B. R-5502 is listed in § 71.151 and is thereby included in the Continental Control Area. R-5502B replaces R-5502 in this listing. These actions permit greater use of the area by the public when the military is using only a part of it. The Department of the Army has stated that the requirements of the Environmental Policy Act (NEPA) have been met.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (44 FR 344 and 709) are amended, effective 0901 GMT, January 24, 1980, as follows:

Under § 71.151

"R-5502 Lacarne, Ohio" is deleted.

"R-5502B Lacarne, Ohio" is added.

Under § 73.55

R-5502 title and text is deleted.

R-5502A is added as follows:

R-5502A Lacarne, Ohio

Boundaries

Beginning at Lat. 41°35'19"N., Long. 82°55'30"W.; to Lat. 41°32'30"N., Long. 83°01'00"W.; to Lat. 41°36'35"N., Long.

83°04'52"W.; thence via a 5 NM arc centered at Lat. 41°32'30"N., Long. 83°01'00"W.; to point of beginning.

Designated altitudes

Surface to 5,000 feet MSL.

Time of designation

0800 to 1700 local time April 1 to November 30; 0800 to 1700 local time Tuesday, Wednesday and Thursday, December 1 to March 31; other times by NOTAM 48 hours in advance.

Controlling agency

Federal Aviation Administration, Cleveland ARTC Center.

Using agency

The Adjutant General, State of Ohio.

R-5502B is added as follows:

R-5502B Lacarne, Ohio

Boundaries

Beginning at Lat. 41°41'30"N., Long. 83°00'00"W.; to Lat. 41°35'40"N., Long. 82°54'50"W.; to Lat. 41°32'30"N., Long. 83°01'00"W.; to Lat. 41°36'35"N., Long. 83°04'52"W.; to Lat. 41°41'30"N., Long. 83°07'30"W.; to point of beginning.

Designated altitudes

Surface to 23,000 feet MSL.

Time of designation

Tuesday, Wednesday and Thursday, 0800 to 1700 local time; other times by NOTAM 48 hours in advance.

Controlling agency

Federal Aviation Administration, Cleveland ARTC Center.

Using agency

The Adjutant General, State of Ohio.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 29, 1979.

William E. Broadwater,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-37607 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 79-WA-4]

Alteration of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Route No. 18 from Bradford, Ill., over St. Joseph, Mo., to Salina, Kans., in order to bypass Kirksville, Mo. This action reduces traffic congestion in the vicinity of Kirksville and provides for more efficient use of the airspace.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION: On May 21, 1979, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route 18 from Bradford, Ill., to Salina, Kans., via St. Joseph, Mo., rather than over Kirksville, Mo. Aircraft are frequently vectored to Salina from Bradford via St. Joseph, Mo., (44 FR 29485). Realignment of Jet Route 18 eliminates the need for radar service thereby reducing controller workload. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. One comment was received with no objection. Subpart B of Part 75 was republished in the Federal Register on January 2, 1979, (44 FR 722).

The Rule

This amendment to Part 75 of the Federal Aviation Regulations (14 CFR Part 75) realigns J-18 in part, from Bradford, Ill., via St. Joseph, Mo., to Salina, Kans. This alteration establishes a jet route segment in an area where aircraft are normally vectored. This action eliminates traffic congestion in the Kirksville, Mo., area and reduces controller workload.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (44 FR 722) is amended, effective 0901 G.m.t., January 24, 1980, as follows:

Under § 75.100—Jet Route No. 18 "Kirksville, Mo.;" is deleted and "St. Joseph, Mo.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on December 3, 1979.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 79-27809 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-2999]

Westinghouse Credit Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Pittsburgh, Pa. finance company to cease violating federal regulations and statutes relating to credit discrimination and credit reporting by requesting, recording and utilizing prohibited consumer credit information; considering the sex and marital status of applicants in evaluating creditworthiness; and failing to provide rejected applicants with reasons for denial of credit. Respondent is further required to establish educational programs for its consumer credit employees and retail dealers to explain the application of federal credit regulations to firm's credit practices.

DATES: Complaint and order issued November 13, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/PD, Lewis H. Goldfarb, Washington, D.C. 20580. (202) 724-1181.

SUPPLEMENTARY INFORMATION: On

Wednesday, September 5, 1979, there was published in the Federal Register, 44 FR 51817, a proposed consent agreement with analysis in the Matter of Westinghouse Credit Corporation, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Acquiring Confidential Information Unfairly: § 13.1 Acquiring confidential information unfairly; 13.1-1 Equal Credit Opportunity Act; 13.1-5 Fair Credit Reporting Act. Subpart-Collecting, Assembling, Furnishing or Utilizing Consumer Reports and/or Information: § 13.382 Collecting, assembling, furnishing or utilizing consumer reports and/or information; § 13.382-1 Confidentiality, accuracy, relevancy, and proper utilization; 13.382-1(a) Fair Credit Reporting Act; 13.382-1(b) Equal Credit Opportunity Act; 13.382-5 Formal regulatory and/or statutory requirements; 13.382-5(a) Fair Credit Reporting Act; 13.382-5(b) Equal Credit Opportunity Act. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-45 Maintain records. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852-60 Fair Credit Reporting Act; 13.1852-65 Equal Credit Opportunity Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 704, 88 Stat. 1522; 90 Stat. 253; (15 U.S.C. 1691c); sec. 621, 84 Stat. 1134; (15 U.S.C. 1681s))

Carol M. Thomas,
Secretary.

[FR Doc. 79-37810 Filed 12-7-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-79-593]

Increase in Loan Maturity for Double- wide Mobile Homes From 15 to 20 Years

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This amendment increases the maturity period for an obligation financing the purchase of a mobile home consisting of two or more modules from 15 years and 32 days to 20 years and 32 days. The purpose of this rule is to lower the monthly mortgage payment by extending the loan term. This rule permits double-wide homes to be financed for a period of 20 years and 32 days provided that only one transportation trip occurs after manufacture unless specified shipping precautions are observed.

EFFECTIVE DATE: January 9, 1980.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, U.S. Department of Housing and Urban Development, Room 9172, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6880. This is not a toll free number.

SUPPLEMENTARY INFORMATION: On December 22, 1978, the Secretary of Housing and Urban Development published a Notice of Proposed Rulemaking (43 FR 247) to amend 24 CFR Part 201, § 201.560. At present, the maturity period for the financing of two or more modules is a maximum of 15 years and 32 days.

This rule permits 20 year maturities provided one transportation trip occurs after manufacture unless special shipping precautions are observed. One transportation trip consists of moving the home from the manufacturing plant, to the dealer's lot, and finally to the purchaser's site. A home that has been moved from the original purchaser's site may not be financed again under this subpart unless the following transportation procedures are followed. Each section for the double-wide mobile home shall be reinforced with reusable exterior plywood on the open portions of the marriage walls. The plywood must cover the marriage wall ridge beam and extend to the bottom of the perimeter joist. It is recommended that

¹ Copies of the Complaint and the Decision and Order filed with the original document.

4' x 10' x 5/8" tongue and grooved plywood sheets be utilized and be fastened to the home's ridge beam and perimeter joist with two rows of 7/16" x 1 1/2" x 15 gauge staples. The temporary walls should be attached before removing the mobile home from its on-site foundation supports and shall remain attached until the home is placed on a subsequent site. If manufacturers are shipping double-wide homes long distances, it is recommended these temporary walls be installed at the factory. The recommended maximum speed during transportation is 45 miles per hour. Comments were invited until January 22, 1979. A total of nineteen comments were received. Overall, these comments were favorable.

Several commenters suggested that the maturity period be extended to twenty-three (23) years instead of the proposed twenty (20) and they also questioned the restriction of limiting the home to one transportation trip after manufacture. Both of these restrictions originated from the study conducted by HUD on the economic useful life of a Mobile Home. No change will be made with respect to the loan term; however, the one transportation trip was modified to permit a secondary move if special transportation instructions are followed.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures and was submitted with the Proposed Rule. A copy of this Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, § 201.560 is amended by adding the exception at the end of the section as follows:

§ 201.560 Maturity provision.

* * *, except that an obligation for a mobile home composed of two or more modules may have a term of not more than 20 years and 32 days provided that only one transportation trip occurs after manufacture unless specified shipping precautions are observed. * * *

(Sec. 7(d) Department of Housing and Urban Development Act, 79 Stat. 670 (42 U.S.C. 3535(d) sec. 2, 48 Stat. 1248 (12 U.S.C. 1703))

Issued at Washington, D.C., November 28, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-37728 Filed 12-7-79; 8:45 am]

BILLING CODE 4210-01-M

Office of Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-79-643]

Community Development Block Grants; A-95 Clearinghouse Review and Comment

AGENCY: Department of Housing and Urban Development. (HUD)

ACTION: Final rule.

SUMMARY: HUD is issuing a final rule with respect to compliance with OMB Circular No. A-95 by applicants for entitlement grants and small cities grants.

EFFECTIVE DATE: January 9, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Kreiman, Entitlement Cities Division, or Richard Kennedy, Small Cities Division, Office of Block Grant Assistance, Department of HUD, 451 Seventh Street, SW., Washington, D.C. 20410, telephone number (202) 755-5977 or (202) 755-6322, respectively. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On April 16, 1979, the Department published in the Federal Register for public comment proposed changes to the requirements for compliance with OMB Circular No. A-95 by applicants for entitlement grants and small cities grants. The purpose of the proposed changes was to consider the impact of conforming strictly to standard OMB procedures and to achieve consistency among HUD programs and among HUD, Economic Development Administration (EDA) and other Federal programs. The proposed changes related to the timing of the notice of intent to file and who is responsible for filing, the review time for the clearinghouses, and the disposition by applicants of clearinghouse comments.

Interested persons were given until June 15, 1979 to submit written comments. Forty persons submitted one or more comments. All comments received with respect to the proposed rule were carefully considered. As a result of the comments received, a number of changes have been made. Following is the Department's response to the comments received.

Entitlement Grants—Responsibility for Filing of Notice of Intent

Six commentors indicated that requiring individual applicants, rather than HUD, to notify the clearinghouses would pose no problems. Two commentors pointed out that this

requirement might improve communications between clearinghouses and applicants.

Four commentors protested that this change would be burdensome to applicants, increase paperwork and result in a duplication of effort. Two commentors indicated that this change would be confusing to clearinghouses which would receive multiple notifications, one from each applicant, rather than one notification from HUD.

Under the Entitlement Grant Program, the Department knows which communities will be applying for entitlement grants. Because the Department is in a unique position to provide the clearinghouses with one notification on behalf of these entitlement communities, the Department has decided that it would be more efficient and economical to continue notification to the clearinghouses. Therefore, the Department is not adopting the proposed change in the notification process and is retaining the rule as published in the March 1, 1978 regulations (43 FR 8434) and republished in the August 27, 1979 regulations (44 FR 50248).

Entitlement Grants—Clearinghouse Review Time

Seven commentors expressed support for the proposed change to reduce clearinghouse review time from 45 to 30 days. These persons indicated that the shortened review time would be beneficial to applicants by providing them with an additional 15 days to prepare their applications, and that 30 days was an adequate time for clearinghouse review.

Eight commentors did not support the proposed change, including one commentor who suggested that the review time be expanded from the current 45 to 60 days. These persons indicated that the clearinghouses required 45 days to conduct adequate reviews, coordinate comments from other agencies, and take into account their monthly policy board meetings. A few stated that some of the applications, including the Housing Assistance Plans, are quite complex and require at least 45 days for thoughtful review. It also was noted that, for many clearinghouses, the entitlement workload is not evenly spread throughout the year and that clearinghouses must be able to review a considerable number of entitlement applications within a two- or three-month period.

The Department believes that it is desirable to continue its policy of supporting clearinghouses and of providing clearinghouses with an

opportunity for meaningful review. Therefore, the Department has decided not to adopt the proposed change and to retain the 45-day clearinghouse review period as published in the August 27, 1979 regulations.

Entitlement Grants—Applicant Handling of Clearinghouse Comments

Four commentors supported the proposed requirement that if the clearinghouses find any inconsistency with State, areawide or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, applicants must state how they intend to resolve the findings or state their justification for proceeding despite the findings.

Four commentors expressed concerns about the proposed change. One commentor stated that clearinghouses do not have the resources to determine noncompliance with equal opportunity requirements. Another commentor suggested that clearinghouse comments should not be given higher status than citizen comments and that applicants should not have to respond to adverse clearinghouse comments on consistency with State, areawide or local plans. The Department would like to note that such a response is already required by the August 27, 1979 regulations.

One commentor objected to the proposed change because it assumes that all negative clearinghouse comments are valid and unfairly places the burden of proof on applicants to show otherwise. This commentor stated that clearinghouses frequently raise questions without adequately documenting their findings and suggested that the Department warn clearinghouses to issue comments only after complete reviews of applications. The Department would like to point out that although it is concerned with the quality of clearinghouse reviews, the achievement of such quality is not a matter of Federal regulation.

The Department believes there is merit to placing emphasis on consistency with State, areawide or local plans, significant adverse urban impacts, compliance with environmental laws, and provision of equal opportunity. Therefore, the Department has decided to require applicants to consider clearinghouse findings in these four areas before submitting the application to HUD. Applicants also must submit a written statement indicating what action they plan to take as a result of these findings and the reasons therefor.

Another commentor stated that additional time would be required

between receipt of clearinghouse comments and submission of the application to HUD if applicants had to submit with their applications their responses to clearinghouse comments. It was suggested that applicants be permitted to submit their response to clearinghouse comments within 30 days after acceptance of the application by HUD for review. This would mean that the 30-day applicant response period would be concurrent with the first 30 days of the 75-day application review period. The Department believes that this suggestion is reasonable and, therefore, has incorporated it into the final rule.

Small Cities Program—Timing and Length of Clearinghouse Review of Full Application

Three clearinghouses and two grantees supported the proposed change to reduce clearinghouse review time of the full application from 45 to 30 days before submission of the full application to HUD. One commentor suggested that the 30-day review would be more workable if it remained concurrent with the first 30 days of HUD's review period.

Eight clearinghouses, 11 grantees and two other commentors did not support the proposed change. The clearinghouses pointed out that a 30-day review period would not be feasible because of their monthly policy board meetings and the heavy workloads created when all of the full applications arrive simultaneously. The reduced review time would encourage reviews on an emergency basis which would be undesirable and superficial at best. One commentor suggested that a one-time submission of the multi-year comprehensive full applications to the clearinghouses would be desirable if the clearinghouses were then notified of any revisions, similar to the procedure used for amendments to entitlement programs under § 570.312. Another commentor suggested that advance notice of second and third year submissions of multi-year applications would facilitate clearinghouse review.

Several grantees pointed out that since Area Offices only give applicants about 60 days from notification to the date full applications are due, a 30-day sequential review by clearinghouses would reduce application preparation time to 30 days. These commentors claimed that this would not allow applicants sufficient time for public meetings, application preparation, administrative review, etc. In small communities where newspaper publications are limited to weeklies, missing one publication date with a notice of public meetings further delays

required citizen participation and cuts application preparation time. Additionally, many commentors suggested a more appropriate time for clearinghouse reviews would be at the preapplication submission.

It was never the intent of the Department to further limit the time of preparation of the full application by interjecting the 30-day prior clearinghouse review into the existing time frame. Additional time would have to have been incorporated into the schedule to accommodate the proposed change. However, because the majority of commentors opposed this change, the Department has decided not to require advance submission of the full applications to the clearinghouses or to reduce clearinghouse review time to 30 days. Therefore, the Department has decided not to adopt the proposed change and will retain the rules as published in the March 1, 1978 regulations (43 FR 8434) and republished in the June 26, 1979 regulations (44 FR 37478), as corrected July 19, 1979 (44 FR 42179). The July 19, 1979 regulations provided applicants with the option of submitting full applications to the clearinghouses prior to or concurrent with submission to HUD, with HUD making no decisions on the full applications until 45 days after receipt. This should allow ample time for clearinghouse review and submission of comments before HUD reaches a decision on the full application.

Small Cities Program—Applicant Handling of Clearinghouse Comments

The public comments that are summarized in the entitlement grants section on this subject also apply to the Small Cities Program. The current rule, as published in the July 19, 1979 regulations, already requires applicants to explain why they should proceed with the project if A-95 comments contain any findings of inconsistency with State, areawide or local plans, or noncompliance with civil rights laws. The Department believes that it also is important to emphasize significant adverse urban impacts and compliance with environmental laws. Therefore, the Department has decided to require applicants to consider clearinghouse findings in these four areas and state what action they plan to take as a result of these findings and the reasons therefor.

Small Cities Program—Clearinghouse Review of Preapplications

A number of commentors raised issues relating to the submission of preapplications to the clearinghouses, although A-95 review of the

preapplications was not addressed in the proposed rule. Four clearinghouses suggested that prior submission of the preapplications to clearinghouses would be more desirable since HUD funding decisions are based largely on the preapplications and the clearinghouses have a greater chance of influencing projects at the preapplication stage. These commentors suggested that review of the full applications was merely a formality and that clearinghouse comment at that time was largely unnecessary.

One commentor suggested that a 60-day clearinghouse review period for preapplications and a 30-day clearinghouse review period for full applications would be more meaningful. Another commentor stated that submission of both the preapplication and the full application to the clearinghouses was a duplication and recommended that there be one application for the Small Cities Program, with approval or disapproval based on the point system.

Although the issue of A-95 review of the preapplications was not a part of the proposed rule, in view of the number of comments received advocating longer clearinghouse review periods, the Department has decided to extend the review time from 30 days to 45 days prior to or concurrent with filing of the preapplication to HUD.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, Department of HUD, 451 Seventh Street SW., Washington, D.C. 20410.

Accordingly, the Department is amending Part 570 by:

1. Amending § 570.310, A-95 clearinghouse review and comment, of Subpart D, Entitlement Grants, by revising paragraph (c) as follows:

§ 570.310 A-95 clearinghouse review and comment.

(c) *Applicant actions after clearinghouse review.* The applicant shall transmit all comments received from the clearinghouses with the application to HUD. In instances where no comments are received, the applicant shall include a statement indicating the date that the State and areawide clearinghouses were notified and no comments were received by the end of the 45-day review period. If the A-95 review comments contain any findings of inconsistency with State, areawide or

local plans, significant adverse urban impacts, noncompliance with environmental laws or failure to provide equal opportunity, the applicant must consider these findings before submitting the application to HUD. The applicant must submit a written statement indicating what action it plans to take as a result of these findings and the reasons therefor within 30 days of acceptance by HUD of the application for review.

2. Amending § 570.435, Modified OMB Circular No. A-95 procedures for the Small Cities Program, of Subpart F, Small Cities Program, by revising paragraphs (b) and (c)(3) as follows:

§ 570.435 Modified OMB Circular A-95 procedures for the Small Cities Program.

(b) *A-95 procedures for preapplications.* Preapplications for either comprehensive Grants or for Single Purpose Grants shall be submitted to the appropriate State and areawide A-95 clearinghouses prior to or concurrent with the submission of the preapplication to HUD to serve as the notification of intent to apply for a Federal grant. The clearinghouses shall have forty-five days from receipt of the preapplication in which to conduct their review and provide a response to the applicant with a copy to HUD. The clearinghouse must clearly identify the applicant and the activity or program to which the comments are addressed. HUD shall not make a final decision on a preapplication until all clearinghouse comments are considered, or if no clearinghouse comments are received by HUD, forty-five days after the deadline for submission of preapplications. Applicants are urged to provide preapplications to the clearinghouses prior to submission to HUD whenever possible.

(c) *A-95 procedures for full applications.*

(3) If the A-95 review comments contain any findings of inconsistency with State, areawide, or local plans, significant adverse urban impacts, noncompliance with environmental laws, or failure to provide equal opportunity, the applicant must consider these findings and state what action it plans to take as a result of these findings and the reasons therefor.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., November 28, 1979.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 79-37729 Filed 12-7-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 3,161

[CGD 79-133]

Boundary Lines for MSO/VTS Prince William Sound; Editorial Amendment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Portions of the boundaries for the Marine Inspection Zone and the Captain of the Port Zone at Prince William Sound, Alaska, as well as for the Prince William Sound Vessel Traffic Service (VTS), are presently described by referencing the COLREGS Demarcation Lines at Prince William Sound (33 CFR 82.1740). However, on April 16, 1979, the Coast Guard published in the Federal Register a final rule which removed all the COLREGS Demarcation Lines from Alaskan waters (44 FR 22457). Because of that rulemaking, it is necessary to redescribe these boundaries and delete the references to these lines, eliminating any misunderstanding caused by these inconsistencies.

EFFECTIVE DATE: December 10, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant (jg) George W. Molessa, Jr., Office of Marine Environment and Systems (G-WLE-4/TP11), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: Since these amendments are editorial and no substantive provisions of the regulations are being changed, notice and public procedure are unnecessary under 5 U.S.C. 553, and these amendments may be made effective in less than 30 days after publication in the Federal Register.

Drafting Information

The principal persons involved in the drafting of this document are: Lieutenant (jg) George W. Molessa, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Jack Orchard, Project Counsel, Office of the Chief Counsel.

Evaluation

The Coast Guard has determined, in accordance with the Department of Transportation's notice entitled "Improving Government Regulations" (44 FR 11034), that these amendments are not significant. Since these amendments are editorial, there will be no economic impact and a full evaluation is not necessary. These amendments impose no additional requirements upon any vessel.

In consideration of the foregoing, Parts 3 and 161 of Title 33 of the Code of Federal Regulations are amended as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

1. By amending § 3.85-20 to read as follows:

§ 3.85-20 Prince William Sound Marine Inspection Zone and Captain of the Port Zone.

(a) * * *

(b) The Prince William Sound Marine Inspection Zone and the Prince William Sound Captain of the Port Zone comprise the State of Alaska that falls within the following boundary line: A line which starts at Cape Puget; thence northerly to latitude 61°30' N., longitude 148°28' W.; thence easterly to latitude 61°30' N., longitude 145°30' W.; thence southerly to the sea at longitude 145°30' W.; thence westerly along the coastline to Pt. Whitshed; thence southwesterly to Point Bentinck aero-beacon on Hinchinbrook Island; thence southwesterly along the coastline of Hinchinbrook Island to Cape Hinchinbrook Light; thence northwesterly to Schooner Rock Light; thence southwesterly along the coastline of Montague Island to latitude 59°50' N., longitude 147°54' W.; thence northwesterly to Point Elrington Light; thence westerly to Cape Puget.

PART 161—VESSEL TRAFFIC MANAGEMENT

2. By amending § 161.380 to read as follows:

§ 161.380 VTS Area.

The VTS Area consists of the navigable waters of the United States north of a line drawn from Cape Hinchinbrook Light to Schooner Rock Light, comprising that portion of Prince William Sound between longitudes 146°40' W. and 147°20' W.; and includes Valdez Arm, Valdez Narrows, and Port Valdez.

(5 U.S.C. 552; 63 Stat. 545 (14 U.S.C. 633); 80 Stat. 937 (49 U.S.C. 1655(b)); 92 Stat. 1477 (33 U.S.C. 1231); 49 CFR 1.46(n)(4))

Dated: November 29, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79-37815 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE**39 CFR Part 111****Pickup of Express Mail Addressed to Post Office Box Addresses**

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Pursuant to Parts 223 and 224 of the Domestic Mail Manual, the Postal Service picks up shipments of Express Mail from addresses within designated areas. Certain regulations, such as those governing delivery of registered mail and preparation of Express Mail shipments, place conditions upon, or limit the usefulness of, pickup service from post office box addresses. This final rule amends postal regulations to establish conditions for service agreements that govern pickup service from post office box addresses, and to alter Express Mail preparation requirements in order to make such pickup service more useful to all Express Mail customers.

EFFECTIVE DATE: January 9, 1980.

FOR FURTHER INFORMATION CONTACT: William Purson, (202) 245-5624.

SUPPLEMENTARY INFORMATION: On October 25, 1979, the Postal Service published for comment in the Federal Register (44 FR 61384) proposed changes to Parts 223, 224, 262, and 263 of the Domestic Mail Manual as described above in the Summary. Interested persons were invited to submit written comments concerning the proposed changes by November 24, 1979. No comments were received. Accordingly, the proposed changes, which are hereby adopted without change, are made to the Domestic Mail Manual, which is incorporated by reference in the Federal Register under 39 CFR 111.1.

Part 223—Express Mail Custom Designed Service

1. In 223.2 add new .24 reading as follows:

.24 Pickup from Post Office Box Addresses.

The Postal Service will pick up Express Mail shipments made up of mail addressed to post office box addresses provided that postage and fees are paid by special permit and instructions are

given to redirect registered, certified, numbered insured, and C.O.D. mail. (See Handbook M-68, *Express Mail Service*, for procedures.) Business reply and shortpaid mail will be handled in accordance with the provisions of the service agreement.

Part 224—Express Mail Next Day Service

2. Revise 224.3 to read as follows:
224.3 Service Agreement.

Pickup service is available for Next Day Service only on a scheduled basis pursuant to a service agreement (Form 5631) between the Postal Service and the mailer. The service agreement must specify the time, place, day or date, and frequency of such service. The Postal Service will pick up Express Mail shipments made up of mail addressed to post office box addresses provided that postage and fees are paid by postage trust account and instructions are given to redirect registered, certified, numbered insured, and C.O.D. mail. (See Handbook M-68, *Express Mail Service*, for procedures.) Business reply and shortpaid mail will be handled in accordance with the provisions of the service agreement. Service under a service agreement must not be offered in a manner that makes any undue or unreasonable preference to any such user. Commencement and termination of service agreements are subject to the provisions of 223.22 and 223.23.

Subchapter 260—Preparation Requirements

3. Revise 262 to read as follows:
262 Express Mail Custom Designed Service.

Except as provided in 261.2 and 223.24, all Custom Designed Service mail must be tendered in sealed Express Mail pouches with the required receipt forms and labels combined and attached. See 261.2 for outside pieces and 223.24 for pickup from post office box addresses.

4. Revise 263.2 to read as follows:
263.2 For Next Day Service pickup (see 224.3) other than pickup from post office box addresses, the customer must complete Form 5625-B, Mailing Statement for Next Day and Same Day Airport Express Mail Service, for each pickup. Volume mailers must tender the mail in containers provided or approved by the Postal Service.

These changes will be published in the Federal Register as provided in 39 CFR 111.3

(39 U.S.C. 401, 403)

Fred Eggleston,
Assistant General Counsel, Legislative
Division.

[FR Doc. 79-37727 Filed 12-7-79; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF COMMERCE**Federal Maritime Commission****46 CFR Part 503**

[Managing Directive 79-4; G.O. 22, Amdt. 10]

Classification and Declassification of National Security Information and Material; Correction

AGENCY: Federal Maritime Commission.
ACTION: Correction to Implementing Directive; Final rule.

SUMMARY: The Commission's final rule in this matter, published October 5, 1979 (44 FR 57411), should have indicated that it constitutes amendment 10 to General Order 22, as shown in the above corrected heading.

EFFECTIVE DATE: August 29, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: None.
Francis C. Hurney,
Secretary.

[FR Doc. 79-37731 Filed 12-7-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****49 CFR Part 399**

[BMCS Docket No. MC-58-1; Amdt. No. 79-1]

Step, Handhold, and Deck Requirements on Commercial Motor Vehicles; Effective Date Extended

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Effective date extended.

SUMMARY: A final rule concerning Step, Handhold, and Deck Requirements on Commercial Motor Vehicles was to become effective on April 1, 1982. The effective date is extended to September 1, 1982. This extension is in response to a petition from the Ford Motor Company. The petitioner contends that an April effective date is inconsistent with customary timing for the introduction of new models and that the

timing could cause an unnecessary disruption of production by introducing a change in their product designs which is out of phase with other Government regulation changes presently planned for the 1983 models.

DATE: The rule is effective on September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Chief, Development Branch, Bureau of Motor Carrier Safety (202) 426-9767; or Mr. Gerald M. Tierney, Attorney, Motor Carrier and Highway Safety Law Division (202) 426-0346, FHWA, Department of Transportation, Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA has received, from the Ford Motor Company, a petition requesting reconsideration of the April 1, 1982 effective date of the final rule that establishes specific requirements for steps, handholds, and deck plating on commercial motor vehicles. The new rule which affords individuals increased stability and safety while entering and exiting the cab and while performing work-related duties on other areas of the vehicle was published on July 26, 1979 (44 FR 43730).

Ford stated that an April effective date is inconsistent with customary timing for the introduction of new models. Also, this timing could cause unnecessary disruption of production by introducing a change in product designs which is out of phase with other government regulations changes presently planned for the 1983 model. The new rule will require design and procurement of new components, some reprocessing of the assembly operations and further changes to the inspection, invoicing, parts coding and production control functions that are a necessary part of any product change. To "pull ahead" the changes necessitated by the new regulation into the 1982 model program would cause Ford to modify a product program already underway.

Another heavy duty truck manufacturer has advised that it will be faced with similar problems if the April 1, 1982 effective date is retained since a new cab-over model is planned for introduction at the beginning of the 1983 model year (September 1, 1982).

Three other manufacturers have stated that their production lines "shut down" for a short period of time during the summer months for necessary retooling and other necessary production changes prior to the introduction of the next model year trucks. The April 1, 1982 date would cause disruption to their production.

Early in this decade the automotive manufacturers used the same arguments presented herein to persuade the National Highway Traffic Safety Administration (NHTSA) to use September 1, as an effective date for all regulations that would cause a change in the manufacturer's production processes. The NHTSA recognized that by using the September 1, date as an effective date, increased manufacturing costs would be kept to a minimum and the resulting societal costs would also be minimized.

Both the NHTSA and the FHWA regulate commercial motor vehicles. It would seem appropriate for both agencies to be compatible in their use of the same effective date when promulgating regulations effecting commercial motor vehicles.

In consideration of the foregoing, it has been determined that a postponement of the effective date of the new rules to September 1, 1982, has merit. Accordingly, the effective date of Subpart L, Step, Handhold, and Deck Requirements on Commercial Motor Vehicles, of Part 399, Title 49 of the Code of Federal Regulations is extended to September 1, 1982.

Note.—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. An evaluation of the regulation is contained in BMCS Docket No. MC-58-1 and can be reviewed in Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street SW., Washington, D.C. 20590 from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48(b) and 301.60)

Issued on: December 3, 1979.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 79-37812 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-22-M

Research and Special Programs Administration**49 CFR Parts 171, 172, 173, 174, 175, 176, 177, 178**

[Docket No. HM-161; Amdt. Nos. 171-51, 172-56, 173-134, 174-36, 175-10, 176-10, 177-47, 178-60]

Detonators and Detonating Primers

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: These amendments prescribe appropriate shipping descriptions and hazard class designations for detonators

and detonating primers. The need for this action is the present lack of proper shipping descriptions for many small explosive devices and the fact that the present division of blasting caps into Class A and Class C explosives is not done on a technically sound basis from a safety standpoint. The term "commercial detonators" as proposed in the notice is revised to read "detonators" in order to accommodate shipments made commercially and by the military. The reference to the IME standard has been updated to acknowledge the latest revision of the standard. Also, § 173.87 has been revised for clarity. A grandfather clause allowing the transportation of detonators and detonating primers under certain conditions has been added in this final rule.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Schultz, Technical Division, Office of Hazardous Materials Regulation, Department of Transportation, Washington, D.C. 20590, telephone 202-426-2311.

SUPPLEMENTARY INFORMATION: On May 4, 1978, the MTB published a notice of proposed rulemaking under Docket HM-161 in the Federal Register (43 FR 19242) regarding commercial detonators and detonating primers. Also, on September 25, 1978, a meeting was held with representatives of the Institute of Makers of Explosives (IME), who had requested an extension of the time allowed for filing comments.

Several comments were received on the proposed rulemaking and all have been carefully evaluated. Several commenters stated that limiting the initiators described in the notice to "commercial" devices creates problems for the military because some devices such as blasting caps are shipped both commercially and by the military. The MTB acknowledges this fact with respect to devices identified in the notice as "commercial detonators" and this amendment contains revisions which change the definition and shipping description so that such devices may be shipped by both military and commercial interests without any conflict in terminology.

Several commenters indicated that the proposed revision to § 175.320 was not consistent with § 172.101 concerning quantities allowed aboard aircraft. The MTB agrees that a possible inconsistency existed by the proposed wording of § 175.320, therefore, the wording in the section is being revised in this amendment to eliminate the problem.

Another commenter stated that a reference to mass detonation in § 173.100 was not necessary in view of the 25-gram limited propagation restriction. It is the MTB's opinion that the mass detonation prohibition is needed to prevent shipments of less than 25 grams in one package when all the devices may explode simultaneously when one is initiated.

In an effort to simplify and clarify the regulations, § 173.87 has been revised. The term "with other articles" as used in this section means with articles foreign to the explosive or device packaged, other explosives with different shipping descriptions or classes, and other hazardous materials. A packaging exception is permitted for explosives (other than detonators and initiating explosives) when packaged in accordance with the requirements of this section.

Section 173.103 has been revised in an effort to clarify the specific requirements for detonators and detonating primers which are to be offered for transportation as Class C explosives. Included in this section is a provision which allows the use of an IME Standard 22 container as an outside packaging for detonators under specific conditions. Also included in this section is a provision which details specific conditions in which detonators, Class C explosives, and detonating primers, Class C explosives, may be transported on passenger carrying aircraft. The IME has revised IME Safety Library Publication No. 22. The MTB has reviewed these revisions and concurs. Therefore, the reference in § 171.7 is being updated to reflect this latest revision.

A grandfather clause has been added in §§ 173.66 and 173.68 which allows detonators and detonating primers, which are subject to the provisions of the appropriate sections but which have been approved prior to January 1, 1980, to continue to be transported in effect on October 31, 1979, until December 31, 1984.

In consideration of the foregoing, Title 49, Code of Federal Regulations, Parts 171, 172, 173, 174, 175, 176, 177, and 178 are amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. In § 171.7 paragraph (d)(9) is revised as follows:

§ 171.7 Matter incorporated by reference.

(d) * * *

(9) IME Standard 22 is titled, "IME Standard for the Safe Transportation of Class C Detonators (Blasting Caps) in a Vehicle With Certain Other Explosives," Revised March 21, 1979 (IME Safety Library Publication No. 22).

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

2. Section 172.101, the Hazardous Materials Table is amended as follows:

BILLING CODE 4910-60-M

(1) * / *W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label (a) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments			
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or rail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements	
	(Delete) Blasting caps - (1,000 or less) (Show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5		Portable magazines or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps - (more than 1,000) (Show actual number)	Class A explosive	Explosive A	None	173.66	Forbidden	Forbidden	6	5		Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.

(1) */ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label (s) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipment		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or rail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	blasting caps - electric (1,000 or less) (Show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1, 2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded. Magazine. Do not stow blasting caps with any high explosives. Do not handle blasting caps at the same time high explosives are being loaded.
	blasting caps - electric (more than 1,000) (Show actual number)	Class A explosive	Explosive A	None	173.66	Forbidden	Forbidden	6	5	Magazine. Do not stow blasting caps with any high explosives. Do not handle blasting caps at the same time high explosives are being loaded.

(1) o/ W/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label (e) required (if not accepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipment		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or rail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Blasting caps with metal clad mild detonating fuse, (Show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazine or metal locker. Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are loaded.
	Blasting caps with metal clad mild detonating fuse (more than 1,000) (Show actual number)	Class A explosive	Explosive A	None	173.66 173.67	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.

(1) e/ w/ A	(2) Hazardous materials descriptions and proper shipping names	(3) Hazard class	(4) Label (a) required (if not excepted)	(5) Packaging		(6) Maximum net quantity in one package		(7) Water shipments		
				(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or tail car	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	Blasting caps with safety fuse - (1,000 or less) (Show actual number)	Class C explosive	Explosive C	None	173.103	Forbidden	Forbidden	1,2	5	Portable magazines or metal locker. Do not stow blasting caps with any high explosive Do not handle blasting caps at the same time high explosives are being loaded.
	Blasting caps with safety fuse - (more than 1,000) (Show actual number)	Class A explosive	Explosive A	None	173.66 173.67	Forbidden	Forbidden	6	5	Do not stow blasting caps with any high explosive. Do not handle blasting caps at the same time high explosives are being loaded.
	Detonating primer	Class A explosive	Explosive A	None	173.68	Forbidden	Forbidden	6	5	

(1) */ A/ W	(2) Hazardous materials description and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packing (a) Exceptions (b) Specific Requirements	(6) Maximum net quantity in one package (a) Passenger carrying aircraft or railcar (b) Cargo only aircraft	(7) Water Shipments (a) Cargo Vessel (b) Passenger vessel	(8) Other Requirements
	(Add) <u>Blasting caps. See Detonators.</u> <u>Blasting caps, electric. See Detonators</u> <u>Blasting caps, percussion activated. See Detonators</u> <u>Blasting caps with metal cled mild detonating fuse. See Detonators</u> <u>Blasting caps with detonating cord. See Detonators and detonating primers.</u> <u>Blasting caps with safety fuse. See Detonators</u>						

(1)	(2)	(3)	(4)	(5) Packing		(6) Maximum net quantity in one package		(7) Water Shipments		
				(a) Exceptions	(b) Specific Requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo Vessel	(b) Passenger vessel	(c) Other Requirements
	Hazardous materials description and proper shipping names. See Detonators	Hazard class	Label(s) required (if not excepted)	(a) Exceptions	(b) Specific Requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo Vessel	(b) Passenger vessel	(c) Other Requirements
	Blasting caps with shock tubes. See Detonators Cape, blasting. See Detonators Detonators, Class A explosives. See 173.53	Class A explosive	Explosives A	None	173.66	Forbidden	Forbidden	6	5	Do not stow detonators, Class A explosives with any high explosives. Do not handle at the same time high explosives are being loaded.
	Detonators Class C explosives. See 173.100	Class C explosive	Explosive C	None	173.66	See § 173.103(d)	150 pounds	1, 2	1, 2	The maximum net quantity in one package for this material shipped aboard passenger vessel is limited to 50 pounds. Must be stowed in portable magazine or metal locker. Do not stow detonators, Class C explosives with high explosives. Do not handle at the same time high explosives are being loaded.
	Delay connectors. See Detonators and detonating primers									

* /
A /
W

(1) * / A / W	(2) Hazardous materials description and proper shipping names	(3) Hazard class	(4) Label(s) required (if not excepted)	(5) Packing		(6) Maximum net quantity in one package		(7) Water Shipments			
				(a) Exceptions	(b) Specific Requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo Vessel	(b) Passenger vessel	(c) Other Requirements	
	Detonating primers, Class A explosives. <u>See 173.53</u>	Class A explosive	Explosive A	None	173.68	Forbidden	Forbidden	6	5		Do not stow detonating primers, Class A explosives with any high explosives. Do not handle at the same time high explosives are being loaded.
	Detonating primers, Class C explosives. <u>See 173.100</u>	Class C explosive	Explosive C	None	173.68	See § 173.103(d)	150 pounds	1, 2	1, 2		The maximum net quantity in one package for this material shipped aboard passenger vessel is limited to 50 pounds. Must not be stowed in portable magazine for 1 metal locker. Do not stow detonating primers Class C explosives with high explosives. Do not handle at the same time high explosives are being loaded.

Detonators, commercial, See Detonators
Electric blasting caps, See Detonators
Primers, detonating, See Detonating Primers

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3. In § 172.203 paragraph (c) is deleted:

§ 172.203 Additional description requirements.

* * * * *
(c) [Deleted]
* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

4. In § 173.53 the introductory text of paragraph (g) and paragraph (g)(1) are revised; paragraph (g)(2) is redesignated (g)(3); and a new paragraph (g)(2) is added; Notes 1 through 5 following paragraph (h)(1) are moved to the end of the section following paragraph (v); Note 5 is revised and a new Note 6 is added to read as follows:

§ 173.53 Definition of Class A explosives.

(g) *Type 7.* An initiating device is a metal or plastic casing containing initiating or priming explosives, Class A-Type 4, either with or without other explosives. It is activated by any one of several means, including an electrical pulse, a flame, a shock or detonation wave, mechanical impact (percussion), pressurized gas, or high intensity light beam. It produces an explosive output that may be used to initiate another explosive or to perform work. A time delay may be incorporated in the means of applying the stimulus, or in the initiating device itself.

(1) A detonator (see Note 5) is an initiating device (other than one properly described as a detonating fuze) which contains no more than 10 grams of total explosives weight, excluding ignition and delay charges per unit. There are different kinds of detonators including the following:

(i) Blasting caps which are activated by safety fuse.

(ii) Blasting caps which are percussion activated.

(iii) Blasting caps which are activated by flexible detonating cord, including—

(A) Delay connectors in plastic sheaths which consist of a plastic sleeve that contains a suitable delay system with receptor and donor explosive charges in the center portion. Each end of the sleeve is made so that flexible detonating cord can be inserted into and locked to the connector;

(B) Delay connectors in metal tubes which consist of a system with a receptor and donor charge positioned between two detonators with the entire assembly placed in a metal tube having both ends open for the insertion of flexible detonating cord;

(C) Delay connectors with detonating cord pigtailed which consist of delay

connectors as described in paragraph (g)(1)(iii)(B) of this section that have short lengths of detonating cord inserted into both ends and crimped in place; and

(D) Nonelectric instantaneous and delay caps which consist of blasting caps to which is assembled a length of detonating cord that may have a transfer explosive charge at the opposite end.

(iv) Blasting caps which are activated by gas pressurization or reaction.

(v) Blasting caps which are activated by a shock tube.

(vi) Electric blasting caps which are activated by an electric current.

(2) A detonating primer (see Note 6) is an initiation device for commercial use which contains more than 10 grams of total explosives weight, excluding ignition and delay charges per unit.

* * * * *
(v) * * *

Note 5.—See § 173.100(gg) for criteria that determine whether a particular type of detonator can be classed as a Class C explosive.

Note 6.—See § 173.100(hh) for criteria that determine whether a particular type of detonating primer can be classed as a Class C explosive.

5. Section 173.66 is revised to read as follows:

§ 173.66 Detonators.

(a) Unless otherwise specified in this section, detonators must be packed in accordance with the following:

(1) They must be snugly packed in strong inside packagings.

(2) Inside packagings must be snugly packed in an outside packaging specified in paragraph (e) of this section.

(3) For devices containing no more than 10 grams of explosive (excluding ignition and delay charges)—

(i) No more than 50 devices may be packed in one inside packaging;

(ii) No more than 500 devices may be packed in one outside packaging; and

(iii) The gross weight of the completed package may not exceed 150 pounds or the gross weight permitted by the specification for the outside packaging used, whichever is less.

(b) Detonators that are blasting caps (including percussion activated) or delay connectors in metal tubes, must be packed as specified in paragraph (a) of this section. In addition—

(1) They must be packed in inside packagings with the open ends of any device covered with an appropriate cushioning material;

(2) Inside packagings must be snugly packed in intermediate packagings consisting of cartons, or wrappings made of paper, plastic, or pasteboard;

(3) Intermediate packagings must be separated from the outside packaging by at least 1 inch of cushioning material; and

(4) For devices containing no more than 3 grams of explosive (excluding ignition and delay charges)—

(i) No more than 110 devices may be packed in one inside packaging; and

(ii) No more than 5,000 devices may be packed in one outside packaging.

(c) Detonators that are electric blasting caps, delay connectors in plastic sheaths, or blasting caps with empty plastic tubing, must be packed as specified in paragraph (a) of this section, except that—

(1) Devices containing no more than 3 grams of explosive (excluding ignition and delay charges) may be packed as follows:

(i) No more than 100 devices may be packed in one inside packaging; and

(ii) No more than 1,000 devices may be packed in one outside packaging.

(2) Inside packaging is not required for electric blasting caps when packed in inside pasteboard tubes, or when their leg wires are wound on spools with the caps either placed inside the spool or securely taped to the wire on the spool, so as to restrict freedom of movement of the caps and to protect them from impact forces.

(d) Detonators that are blasting caps with safety fuse, blasting caps with metal clad mild detonating cord, blasting caps with detonating cord, or blasting caps with shock tubes, must be packed in accordance with the requirements of paragraph (a) of this section, except that—

(1) The blasting caps are not required to be attached to the safety fuse, metal clad mild detonating cord, detonating cord, or shock tube; and

(2) Inside packagings are not required if the packing configuration restricts freedom of movement of the caps and protects them from impact forces.

(e) Detonators with or without inside packaging as provided for in paragraphs (a) through (d) of this section, must be packed in the following outside packagings.

(1) DOT Specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter) wooden box.

(2) DOT Specification 12H, 23F, or 23H (§§ 178.209, 178.214, 178.219 of this subchapter) fiberboard box.

(f) Each outside packaging containing detonators must be plainly marked "DETONATORS—HANDLE CAREFULLY" and bear the appropriate explosives label specified in § 172.411 of this subchapter.

(g) Devices subject to this section which have been approved by an

agency listed in § 173.86(b) before January 1, 1980, may be transported subject to the conditions of the approval and in accordance with the regulations in effect on October 31, 1979, until December 31, 1984.

§ 173.67 [Deleted]

6. Section 173.67 is deleted.

7. Section 173.68 is revised to read as follows:

§ 173.68 Detonating primers.

(a) Detonating primers that are blasting caps with detonating cord, and delay connectors with detonating cord pigtails, must be packed in accordance with the following:

(1) They must be snugly packed in inside packagings;

(2) Inside packagings must be snugly packed in an outside packaging specified in paragraph (d) of this section;

(3) No more than 50 devices may be packed in one inside packaging;

(4) No more than 500 devices may be packed in one outside packaging; and

(5) The gross weight of the completed package may not exceed 150 pounds or the maximum gross weight permitted by the specification for the outside packaging used, whichever is less.

(b) Detonating primers that are blasting caps with detonating cord in a coil configuration must be packed as specified in paragraph (a) of this section, except the use of inside packaging is not required if the packing configuration restricts movement of the caps and protects them from impact forces.

(c) All other unspecified types of detonating primers may only be offered for transportation if they are packed in accordance with the requirements of paragraph (a) of this section, except that inside packagings are not required for devices that are packed in individual pasteboard, metal, plastic, or wooden tubes.

(d) Detonating primers, with or without inside packagings, as provided for in paragraphs (a) through (c) of this section, must be packed in one of the following outside packagings:

(1) DOT specification 14, 15A, or 16A (§§ 178.165, 178.168, 178.185 of this subchapter) wooden box.

(2) DOT specification 12H, 23F, or 23H (§§ 178.209, 178.214, 178.219 of this subchapter) fiberboard box.

(e) Each outside packaging of detonating primers must be plainly marked "DETONATING PRIMERS—HANDLE CAREFULLY" and must bear the appropriate label specified in § 172.411 of this subchapter.

(f) Devices subject to this section, which have been approved by an

agency listed in § 173.86(b) before January 1, 1980, may be transported subject to the conditions of the approval and in accordance with the regulations in effect on October 31, 1979, until December 31, 1984.

8. Section 173.87 is revised to read as follows:

§ 173.87 Explosives in mixed packaging.

Unless specifically authorized by Parts 110–189 of this subchapter, explosives may not be packed in the same outside packaging with other articles. Inside packages of different explosives (except detonators and initiating explosives) may be packed in one outside packaging in accordance with the requirements of this subchapter if the gross weight of each inside package does not exceed 8 ounces and the gross weight of the completed package does not exceed 50 pounds.

9. In § 173.100 paragraph (bb) is amended by deleting the words "or commercial users" in the third sentence; paragraphs (gg), and (hh) are added to read as follows:

§ 173.100 Definition of Class C explosives.

(gg) Detonators (§ 173.53(g)(1)), which will undergo only limited propagation in the shipping package, are classed as Class C explosives. For the purposes of this paragraph, limited propagation means that if one detonator near the center of a shipping package is exploded, the aggregate weight of explosives, excluding ignition and delay charges, in this and all additional detonators in the outside packaging that explode may not exceed 25 grams. Detonators which mass detonate in the shipping package may not be classed as Class C explosives. For the purposes of this paragraph "mass detonate" means that more than 90 percent of the devices tested in a package explode practically simultaneously.

(hh) Detonating primers (§ 173.53(g)(2)) in which the total explosive charge per unit does not exceed 25 grams, and which will undergo only limited propagation in the shipping package, are classed as Class C explosives. For the purposes of this paragraph, limited propagation means that if one detonating primer near the center of a shipping package is exploded, the aggregate weight of explosives, excluding ignition and delay charges, in this and all additional detonating primers in the outside packaging that explode may not exceed 25 grams. Detonating primers which mass detonate in the shipping package may not be classed as Class C explosives. For the purposes of this

paragraph, "mass detonate" means that more than 90 percent of the devices tested in a package explode practically simultaneously.

10. Section 173.103 is revised to read as follows:

§ 173.103 Detonators, Class C explosives, and detonating primers, Class C explosives.

(a) It must be shown by actual tests that detonators and detonating primers which are to be offered for transportation as Class C explosives meet the appropriate definitions in paragraphs (gg) and (hh) in § 173.100. Testing must be performed or confirmed and the classification approved as specified in § 173.86. Substitution of a representative packaging in place of the actual shipping package for testing purposes may be authorized by one of the agencies specified in § 173.86(b).

(b) Detonators, Class C explosives, and detonating primers, Class C explosives, may only be offered for transportation if they are packed in packagings specified in §§ 173.66 and 173.68 that meet the requirements of paragraph (a) of this section, except that quantity limitations for devices in packagings (other than the gross weight limitation for the specification packaging used) do not apply.

(c) Detonators originally classed as Class C explosives in accordance with the requirements of paragraph (a) of this section, may be offered for transportation in an IME Standard 22 container as Class C explosives subject to the following conditions:

(1) Each detonator may contain no more than 1 gram of explosive (excluding ignition and delay charges);

(2) The detonators must be packed in accordance with the requirements and limitations of § 173.66, except paragraphs (a)(3) (ii) and (iii), and paragraph (e); and

(3) There are no more than 1,000 detonators in the container.

(d) Detonators, Class C explosives, and detonating primers, Class C explosives, may be offered for transportation on passenger-carrying aircraft only under the following conditions:

(1) They must be packed in accordance with the applicable requirements of §§ 173.66 and 173.68 except that the maximum gross weight of any completed package may not exceed 50 pounds or the maximum gross weight permitted by the specification for the outside packaging used, whichever is less; and

(2) Packages must have been tested in accordance with the requirements of paragraph (a) of this section, except that when one device near the center of the

package is detonated, no other device in the package may be caused to detonate and there must be no communication of detonation from one package to another.

PART 174—CARRIAGE BY RAIL

11. In § 174.81 paragraph (a), the table is amended by deleting the heading "Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers" in the fourth entry of both vertical and horizontal columns and substituting therefor "Detonators, detonating primers"; footnotes a and e are revised to read as follows:

§ 174.81 Segregation and separation requirements for hazardous materials in rail cars.

(a) * * *

* Detonators, Class C explosives, may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12, and 13. Loading and transportation of detonators or detonating primers, in any quantity, with articles named in vertical or horizontal columns b, c, e, or f are prohibited.

* Does not include blasting agents, ammonium nitrate-fuel oil mixtures, or ammonium nitrate, fertilizer grade, which may be loaded, transported, or stored with high explosives, or with detonators containing no more than 1 gram of explosive each, excluding ignition and delay charges.

12. In § 174.101 the first sentence of paragraph (h) is amended; paragraph (m) is deleted as follows:

§ 174.101 Loading explosives.

(h) Package containing any Class A explosives (see § 174.104), detonators or detonating primers must be securely blocked and braced to prevent the packages from changing position, falling to the floor, or sliding into each other, under conditions normally incident to transportation.

(m) [Deleted]

13. In § 174.106 paragraphs (a) and (b) are revised to read as follows:

§ 174.106 "Order-Notify" or "C.O.D." shipments, Class A explosives.

(a) A carrier may not accept for transportation Class A explosives, detonators, or detonating primers in any quantity when consigned to "order-notify" or "C.O.D.," except on a through bill of lading to a place outside the United States.

(b) A carrier may not accept for transportation Class A explosives, detonators, or detonating primers which the shipper consigns to himself unless the shipper has a resident representative to receive them at the delivery point.

14. In § 174.115 paragraph (a) is revised to read as follows:

§ 174.115 Loading Class C explosives.

(a) Class C explosives may be loaded into any closed car in good condition, or into any container car in good condition. Car certificates are not required. Packages of Class C explosives must be blocked and braced to prevent their movement and possible damage due to movement of other freight during transportation. For methods of recommended loading and bracing, see Bureau of Explosives Pamphlet No. 6.

PART 175—CARRIAGE BY AIRCRAFT

15. In § 175.320 paragraph (a), the Table is revised by deleting the entire first two entries entitled "Electric blasting caps (more than 1,000)" and "Electric blasting caps (1,000 or less)" and replacing those entries as follows:

§ 175.320 Cargo-only aircraft; only means of transportation.

(a) * * *

§ 176.9 "Order-Notify" or "C.O.D." shipments.

(a) A carrier may not transport Class A explosives, detonators, or detonating primers which are—

§ 176.83 [Amended]

17. In § 176.83, paragraph (a) Table 1 is amended by deleting the words "blasting caps, with or without safety fuse (including electric blasting caps)"; in the fourth entry of both the vertical and horizontal columns and in place thereof adding the word "detonators."

18. In § 176.105 the first sentence of paragraph (d) is revised to read as follows:

§ 176.105 Loading and unloading explosives.

(d) Detonators, detonating primers, detonating fuzes, fulminate of mercury, and other initiating or priming explosives defined in this subchapter constitute distinct types of explosives.

19. In § 176.177 paragraphs (c) and (e) are revised to read as follows:

§ 176.177 Magazine vessels.

(c) *Location of explosives.* Class A and Class B explosives, in excess of 5,000 pounds, stored in any magazine vessel must be stowed below deck. No explosive may be stowed on deck unless the vessel is fitted with a deck house having a stowage area which meets the requirements in this subpart for the stowage of explosives. Detonators, Class A explosives, and detonating primers, Class A explosives, may not be stored on the same magazine vessel with other Class A explosives or Class B explosives.

(e) *Initiating explosives, detonators and detonating primers.* No initiating or priming explosive may be stowed in the same compartment with any other explosive when there is any high explosive on the same magazine vessel. Detonators and detonating primers must be stowed at least 25 feet from any bulkhead forming a boundary of a compartment containing any other explosives.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

20. In § 177.835 the introductory text of paragraph (g), paragraphs (g)(2) (i) and (m) are revised to read as follows:

PART 176—CARRIAGE BY VESSEL

16. In § 176.9 the introductory text of

paragraph (a) is revised to read as follows:

Material description	Class	Conditions
Detonators and detonating primers	Class A explosives	Permitted only when no other hazardous material is aboard the aircraft.
Detonators and detonating primers	Class C explosives	Permitted only when there are no Class A explosives aboard aircraft.

§ 177.835 Explosives.

(g) No detonating primer may be transported on the same motor vehicle with any Class A or Class B explosive (except detonating primers). No detonator may be transported on the same motor vehicle with any Class A or Class B explosive (except detonators) unless—

(2) * * *

(i) The detonators are in packagings as prescribed in § 173.66 of this subchapter which in turn are loaded into suitable containers or separate compartments. Both the detonators and the container or compartment must meet the requirements of the Institute of Makers of Explosives Standard (IME Safety Library Publication No. 22).

(m) *Detonators or other explosives.* Any explosive, including desensitized liquid explosives as defined in § 173.53(e) of this subchapter, other than liquid nitroglycerin, desensitized nitroglycerin or diethylene glycol dinitrate, transported on any motor vehicle transporting liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, must be segregated, each kind from every other kind, and from tools or other supplies. Detonators must be packed in specification MC 201 (§ 178.318 of this subchapter) containers.

21. In § 177.848 paragraph (a), the table is amended by deleting the words "blasting caps, with or without safety fuse (including electric blasting caps)," in the fourth entry of both the vertical and horizontal columns and in place thereof adding the word "detonators"; footnotes a and e are revised to read as follows:

§ 177.848 Loading and storage chart of hazardous materials.

(a) * * *

* Detonators, Class C explosives, may also be loaded and transported with articles named in vertical and horizontal columns 3, 9, 10, 11, 12, and 13. Loading and transportation of detonating primers, or detonators, except as prescribed in § 177.835, in any quantity with articles named in vertical or horizontal columns b, c, e, or f is prohibited.

* Does not include blasting agents, ammonium nitrate-fuel oil mixtures, or ammonium nitrate, fertilizer grade, which

may be loaded, transported or stored with high explosives, or with detonators, containing not more than 1 gram of explosive each, excluding ignition and delay charges.

22. In § 177.870 paragraph (d) is revised to read as follows:

§ 177.870 Regulations for passenger carrying vehicles.

(d) *Hazardous materials on passenger carrying vehicles; quantity.* Where no other practicable means of transportation are available, the following articles in the quantities as shown may be transported in motor vehicles carrying passengers for hire in a space other than that provided for passengers: Not to exceed 100 pounds gross weight of any or all of the kinds of explosives permitted to be transported by passenger-carrying aircraft or rail car may be transported on a motor vehicle transporting passengers. *Provided, however,* That samples of explosives for laboratory examination, not to exceed two samples, or a total of no more than 100 detonators, Class C explosives at one time in a single motor vehicle, may be transported in a motor vehicle transporting passengers.

PART 178—SHIPPING CONTAINER SPECIFICATIONS**§ 178.318 [Amended]**

23. In § 178.318 the Heading, the first sentence of §§ 178.318-(a), and 178.318-2 (a) and (b) are amended by deleting the words "blasting caps, electric blasting caps" and replacing them with the word "detonators."

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this final rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available in the docket.

Issued in Washington, D.C., on November 30, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-37812 Filed 12-7-79; 8:45 am]

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INTERSTATE COMMERCE COMMISSION**49 CFR Part 1033**

[Directed Service Order No. 1398 (Sub-No. 1) ¹]

Kansas City Terminal Railway Company—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Directed Service Order No. 1398 (Sub-No. 1).

SUMMARY: Pursuant to 49 U.S.C. 11125(b)(1), the Commission is extending Directed Service Order No. 1398 for an additional 90 days, subject to certain reductions in scope and other modifications. The Kansas City Terminal Railway Company (KCT) is being retained as the sole "directed rail carrier" (DRC), subject to possible later modification. Interested rail carriers are encouraged to seek temporary operating authority, without government reimbursement, over portions of the Rock Island rail system. Directed service may be selectively discontinued over any portions of the Rock Island system as to which temporary operating authority is granted. Affected persons are cautioned that directed service will not be extended beyond March 2, 1980, and that they should therefore plan for the post-directed service period.

DATES: This directed service order will be effective at 12:01 a.m. (central time (CT)) on December 4, 1979. Unless otherwise modified by the Commission, this order shall expire at 11:59 p.m. (CT) on the 90th day after its effective date (March 2, 1980).

FOR FURTHER INFORMATION CONTACT: Richard Schiefelbein (202) 275-0826.

SUPPLEMENTARY INFORMATION:**Decision of the Commission**

Decided: November 30, 1979.

Background

On September 26, 1979, we directed the Kansas City Terminal Railway Company (KCT) to provide service as a "directed rail carrier" (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See Directed Service Order No. 1398, *Kansas City Term. Ry.*

¹ This directed service order embraces the Peoria Terminal Company (PTC), a wholly owned subsidiary of RI. All future references to RI shall include PTC.

Co.—Operate—Chicago, R.I. & P., 360 I.C.C. 289 (1979) and 44 FR 56343 (October 1, 1979). This action was necessary to prevent the severe transportation and economic dislocations which would have resulted from RI's lack of sufficient cash to operate and meet its common carrier obligations ("cashlessness" within the meaning of 49 U.S.C. 11125(a)(1)). *Id.* at 290-292.

In accordance with section 11125(b)(1), the initial directed service order was made effective for only 60 days. This initial directed service period expires at 11:59 p.m. (central time (CT)) December 3, 1979.² However, under section 11125(b)(1), we may extend the initial directed service period "for an additional designated period of not more than 180 days if cause exists."

The issue presently before us is whether we should extend directed service for an additional 180 days or less. For the reasons detailed below, we believe there is good cause to extend our initial directed service order for a period of 90 days with, however, a moderate reduction in the number of RI lines being operated under directed service.

Continued Directed Service

Need for Continued Directed Service—In our initial directed service order, we announced that public hearings would be held during the initial 60-day period to help us determine which RI lines and services are "essential" and require continued directed service. See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 293-94. Accordingly, public hearings were scheduled in seventeen midwestern cities and interested persons were invited to express their views on the essentially of RI service. See 44 FR 59999 (October 17, 1979).

The preponderance of the testimony indicated that most RI service is sufficiently "essential" to require at least a partial continuation of directed service. Cessation of directed service at the end of the initial 60-day period would produce a wide array of economic and transportation dislocations. Many businesses would possibly be forced to shut down or relocate if RI service were immediately discontinued. Many parts of RI's service territory are said to be poorly adapted to truck transportation due to such factors as poor road conditions, highway

²The initial 60-day directed service period began at 12:01 a.m. (CT) October 5, 1979, and expires at 11:59 p.m. (CT) December 3, 1979. See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 315, as modified by Supplemental Order No. 3 to DSO No. 1398 (served October 5, 1979).

inaccessibility, weight limitations, and the like. Where truck transportation is feasible, the higher rates associated with such transportation would not only burden RI shippers but could also exacerbate the present inflationary spiral. While KCT moved much traffic over RI's lines during the initial directed service period, many grain elevators are still near capacity due to the recent bumper harvest, and many of RI's shippers—1,700 according to the Kansas City Board of Trade—are "captive" shippers served exclusively by RI.

Additionally, we note that numerous rail carriers, RI's bankruptcy court, and the United States Department of Transportation (DOT) have all indicated that more time is needed for the development of long-range solutions to RI's present financial crisis. The Secretary of Transportation is presently engaged in the so-called "§ 401 planning process" to facilitate the transfer of RI properties and services to other rail carriers. See letter dated November 19, 1979, from DOT Secretary Goldschmidt (Appendix A to this decision); *accord* Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), Pub. L. No. 94-210, § 401, 90 Stat. 31 (February 5, 1976). As Secretary Goldschmidt states in his letter:

Continuation of directed service on the Rock Island system after December 3, 1979, should be compatible with and supportive of the 401 process now underway. * * * If directed service ended abruptly on December 3, we could not assume that other railroads which are interested in Rock Island properties would use their own resources to continue essential service over the Rock Island lines. * * * We recognize that certain strategic lines may indeed be sought by carriers for interim operation, but we are concerned that "cherry-picking" of the Rock Island system at this time would be disruptive to achieving an overall restructuring. * * * Directed service after December 3 should be structured to maximize our chance of reaching a long-range solution this winter and next spring and to assure continuation of gathering and through-line rail services. (See Appendix A, DOT letter at pages 2-3.)

In Secretary Goldschmidt's view, a 90-day extension of the basic directed service order would facilitate the § 401 planning process. Such an extension "would give all railroads interested in acquiring or using Rock Island lines a fair opportunity to study Rock Island traffic potential and how it would complement their own operations." See Appendix A, DOT letter at page 3.

Further, we are aware of the recently enacted Milwaukee Railroad Restructuring Act, Pub. L. No. 96-101 (November 4, 1979) (MRR Act). This new Act makes significant reorganization

measures possible for RI in the next 90 days. For example, section 17 of the MRR Act substantially expedites the processing of RI abandonments and property transfers. Further, section 17(b)(3) authorizes the RI bankruptcy court to permit potential purchasers to "operate interim service over the lines to be purchased." In view of the MRR Act—and the fact that the RI Trustee will submit a reorganization plan by December 10, 1979—it seems that directed service should be continued for another 90 days. This extension should provide ample time for the development of such long-range solutions to RI's difficulties as completion of the 401 process, implementation of a reorganization plan by the RI Trustee, submission of expedited abandonment and purchase applications under section 17 of the MRR Act, and acquisition of court-issued "temporary authority" (TA) under section 17(b)(3) of the MRR Act.

In order to obtain a court-issued TA under section 17(b)(3) of the MRR Act, a potential purchaser must first reach agreement with the RI Trustee. Then, the parties must submit the purchase proposal to the bankruptcy court and file an appropriate application with the Commission. Pending Commission review of the purchase application, the bankruptcy court "may, on a preliminary basis, authorize the sale or transfer proposed in such application * * * (and) permit the purchasing carrier to operate interim service over the lines to be purchased." See section 17(b) of the MRR Act. We believe that the 90-day extension period is needed to permit the necessary negotiations and agreements to be completed.

Operating Plan for Extended Directed Service—In formulating an operating plan for extended directed service, our paramount consideration has been "essentiality." Both Congress and the courts have made it clear that directed service is merely a vehicle to "ensure that essential rail service provided by the bankrupt carriers * * * would be continued pending development and implementation of a longer term reorganization of the bankrupt lines" (emphasis added). See *Lehigh & New England Ry. Co. v. ICC*, 540 F.2d 71, 74 (3d Cir. 1976), cert. denied 429 U.S. 1061 (1977) (analyzing the legislative intent behind the directed service statute). We cannot ignore Congress' earnest desire to economize where possible, as reflected in the legislation adopting the directed service provisions of 49 U.S.C. 11125 and its predecessor 49 U.S.C. 1(16)(b). See Regional Rail Reorganization Act of 1973 (3R Act), Pub. L. No. 93-236, sections 101(b)(6)

and 601(e), 87 Stat. 986 (1974) (45 U.S.C. § 701 *et seq.*); accord, *KCT—Operate—CRIP, supra*, 360 I.C.C. at 294 (44 FR 56344, 3rd column). Indeed, Congress has recently reaffirmed its commitment to having service directed only over "essential" lines. In the Conference Report on H.R. 4440 making appropriations for the Department of Transportation and related agencies, the Committee addressed the issue in explicit terms:

The conferees strongly believe that directed rail service should be only a temporary mechanism to continue essential rail service for a brief period of time until a permanent solution is implemented * * * The conferees believe that directed rail service should be continued only where it is essential to prevent severe economic disruption * * * The conferees direct the Commission to consider only essential services for further directed service orders and to limit the duration of any further directed service orders to the minimum period of time found necessary to implement a permanent solution. (See 125 Cong. Rec. H-10548 (November 9, 1979) (Conference Report on H.R. 4440).)

Accordingly, after analyzing the results of the public hearings and the staff's recommendations on essentiality, we have decided to extend the initial directed service order—with the partial cutback described below—for 90 days with KCT as the sole DRC, subject to possible later modification.

In deciding the extent to which directed service operations should be reduced, we have considered several options. We believe that one option reflecting a moderate reduction in the lines and services directed ("Option 1") provides the best accommodation between the needs of the shipping public and our duty to direct service only over essential lines. Under Option 1, directed service would continue only over 6,259 miles of RI's system (89% of total mileage). Based on 1978 operations, there would be a reduction of 7,449 originating-and-terminating (O&T) carloads out of a total of 774,000 carloadings. Based on 1978 revenues, this would project a reduction of 1 percent in revenues under Option 1. The number of RI employees needed to perform directed service would be reduced by 300-400 out of a total work force of 8,270. The specific lines excluded from directed service under Option 1 are described in Appendix B.³

³ Although we are ending directed service over the lines listed in Appendix B, we recognize that there may be substantial amounts of RI equipment and traffic en route on these lines. Accordingly, we shall give KCT 10 days to move all necessary RI rolling stock from these lines and to complete the routing of traffic (other than traffic originating or terminating on these lines) which was already en

While Option 1 may produce some hardships on certain RI shippers, we believe that the cutbacks envisioned in Option 1 are justified by present traffic patterns and national transportation needs. As we had stated in the initial directed service order, *KCT—Operate—CRIP, supra*, 360 I.C.C. at 294 (44 FR 56344, 3rd column), affected persons should "recognize the fiscal and time constraints on directed service and * * * prepare for a winding-down of many operations now being conducted over RI lines."

We have decided to extend the directed service period for only 90 days, rather than 180 days, for several reasons. In light of the bankruptcy court's schedule for the RI reorganization plan and the Federal Railroad Administration's (FRA's) anticipated timetable for the results of its section 401 planning process, it appears that a 90-day extension (through March 2, 1980) would be quite adequate to permit restructuring plans to be initiated. The RI reorganization plan is due to the court on December 10, 1979; comments on the plan are due on January 10, 1980. FRA and interested railroads can use the remainder of January to finalize purchase and sale plans. The railroads and the RI Trustee can use February to negotiate purchase agreements under the MRR Act, file purchase applications with the Commission and the bankruptcy court, and request temporary operating authority from the court pursuant to section 17(b)(3) of the MRR Act. Since we believe 90 days would be adequate for the development and initiation of long-range restructuring plans for RI, we are not disposed to require taxpayer-subsidization of directed service beyond this 90-day extension. See 125 CONG. REC. H-10548 (November 9, 1979) (Conference Report on H.R. 4440), *supra*.

We have determined that KCT should be retained as the sole DRC, at least initially, to operate all RI lines except those excluded from the directed service system under Option 1. See Appendix B for a comprehensive listing of the lines which will not be served under Option 1. For all the reasons stated in our initial directed service order, KCT is the logical choice for DRC. See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 295-297 (44 FR 56345-56346). Moreover, since KCT has been the sole DRC during the initial 60-day period, it is thoroughly familiar with the present directed service situation. The KCT management team is already in place and can ensure that

route along these lines at the end of the initial 60-day directed service period.

there is no interruption in service between the 60-day and 90-day periods.

In directing service for an additional 90 days, we shall retain and extend all the provisions and directions contained in the initial directed service order (DSO No. 1398), except as changed herein and except as such provisions and directions may have been modified in the various supplemental and authorization orders and letters interpreting DSO No. 1398. Thus, our initial directions regarding such matters as reimbursement, rates, rehabilitation, and accounting shall continue to be effective during the upcoming 90-day period and are hereby expressly incorporated by reference. All supplemental orders and authorizations interpreting DSO No. 1398 shall remain in effect during the next 90 days to the extent necessary to effectuate DSO No. 1398 (Sub-No. 1), except to the extent any particular supplemental order or authorization is expressly scheduled to expire at the termination of the initial directed service period. Authorization Order No. 15 (served November 23, 1979) (44 FR 69071, Nov. 30, 1979), which provides for continuation of FRA's car rebuilding program, is expressly extended. Appropriate agreements to extend this extension among the parties shall be filed with the Commission.

Our decision to direct service for another 90 days does not mean we shall not be receptive to requests from interested carriers to provide service over RI lines at no cost to the government. As we stated in the initial directed service order:

The issuance of this directed service order does not preclude interested rail carriers (including the DRC) from filing petitions with the Commission to operate all or part of the RI system on a noncompensated basis under 49 U.S.C. 11123 * * * or similar provisions. In addition, we urge the DRC to consider waiving its right to government reimbursement under 49 U.S.C. 11125(b)(5) where such reimbursement is not essential to the provision of directed service. (See *KCT—Operate—CRIP, supra*, 360 I.C.C. at 298.) (44 FR 56346, 1st and 2nd columns)

We hereby expressly reiterate this request and encourage all interested carriers to petition us for authority to operate all or part of the RI system on an unsubsidized basis.

In addition to filing requests with the Commission for "temporary authority" (TA) to operate parts of the RI system, we also note that the RI bankruptcy court has been empowered by section 17(b)(3) of the MRR Act to issue "TA's" to persons filing RI purchase applications under section 17(b). Accordingly, we encourage interested rail carriers to file purchase applications under section 17(b) and to request

temporary operating authority from the RI bankruptcy court.

We expressly retain jurisdiction selectively to discontinue directed service over those portions of the RI system as to which TA's are granted either by the Court or by the Commission. In this way, directed service may be phased out earlier than 90 days, while essential services are preserved. The process for filing TA requests and petitions for similar relief is described below under the heading "Long-Range Restructuring."

We caution affected persons that directed service will cease at the end of the 90-day period. Accordingly, appropriate arrangements should be made by such persons for the transition to the post-directed service period. For example, carriers interested in operating or purchasing portions of the RI system should immediately begin developing the plans and conducting the negotiations which are a condition-precedent to their operational or acquisitional intentions. Further, shippers concerned about the movement of their traffic should immediately begin to investigate the availability of alternative transportation modes.

Long-Range Restructuring

Section 401 Process—We encourage and support DOT's ongoing efforts under section 401 of the 4R Act, *supra*, to coordinate purchase and sale plans. We shall direct the Commission's Section of Rail Services Planning to assist DOT and interested parties in facilitating the section 401 planning process. We urge all parties interested in acquiring portions of the RI system to so notify DOT and our Rail Services Planning office, and to participate in the section 401 process.

RI Reorganization Plan—The RI bankruptcy court has set December 10, 1979, as the deadline for the RI Trustee's submission of a reorganization plan for RI. Under the court's timetable, comments on the plan may be filed until January 10, 1980. The reorganization plan will assist interested parties in determining which parts of the RI system will not be included in any RI "core" and which, therefore, will not be operated absent financial assistance or a change in ownership. We encourage all interested parties to study the Trustee's reorganization plan and to use this as a basis for developing their own purchase or subsidy plans. Both DOT and the Commission should be apprised of any such purchase or subsidy plans as soon as possible.

Abandonment and Purchase Applications—Under the newly enacted MRR Act, *supra*, an expedited process

has been established for handling RI abandonment and transfer requests. See sections 17(a-b) and 19 of the MRR Act. The Commission is currently developing special regulations, on an expedited basis, to govern the handling of such abandonment and purchase applications. These regulations will be published in the Federal Register as soon as possible under the following docket designations: (1) The abandonment regulations will be docketed as Ex Parte No. 274 (Sub-No. 4); and (2) the transfer regulations will be docketed as Ex Parte No. 282 (Sub-No. 4). Due to the extremely short time-frames envisioned by the MRR Act, these regulations shall be promulgated as final regulations without prior notice and comment, pursuant to the exemption in section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)).

Temporary Operating Authority—As previously indicated, the RI bankruptcy court has been authorized by section 17(b)(3) of the MRR Act to issue temporary operating authority to persons filing RI purchase applications under section 17(b) of the MRR Act. Moreover, under 49 U.S.C. 11123 and 11125, the Commission has authority—in certain emergency situations—to authorize temporary operations by one rail carrier over the lines of another. We encourage interested parties to seek such temporary operating authority either from the RI bankruptcy court or from this Commission as soon as possible. We have already expressed our willingness selectively to discontinue directed service over those RI lines as to which either Court-issued or Commission-issued TA's may be granted.

Conclusion

For the foregoing reasons, we have decided to extend the initial directed service order (DSO No. 1398) for an additional 90 days beyond the initial directed service period, with the moderate reduction in service contemplated by Option 1. In view of KCT's expertise and proximity to the situation, we have further decided to designate KCT as the sole DRC, subject to possible later modification. We expressly reserve jurisdiction, however, selectively to discontinue directed service over those RI lines as to which temporary operating authority may be granted to other interested carriers.

We find:

1. Good cause has been demonstrated to warrant an extension of the initial directed service order for an additional

90 days, pursuant to 49 U.S.C. 11125(b)(1).

2. Our action in this decision will not result in a violation of 49 U.S.C. 11125(b)(2)(A-B).

3. This action will not significantly affect either the quality of the human environment or conservation of energy resources. See 49 CFR Parts 1106, 1108 (1978).

4. Any findings made elsewhere in this decision but not specifically enumerated here are hereby expressly adopted.

It is ordered:

49 CFR 1033.1398 (Sub-No. 1), Kansas City Terminal Railway Company—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

1. KCT shall continue as sole DRC, unless otherwise ordered, over the RI system—as modified by "Option 1"—for a period of 90 days from the expiration of the initial 60-day directed service period.

2. The terms and directions of the initial directed service order (DSO No. 1398) are hereby retained and extended, except as changed in this order and except as such terms and directions may have been modified in the various supplemental orders and authorizations interpreting DSO No. 1398.

(a) All supplemental orders and authorizations interpreting DSO No. 1398 shall remain in effect during the next 90 days to the extent necessary to effectuate DSO No. 1398 (Sub-No. 1), except to the extent indicated in this decision.

3. All letters, pleadings and other submissions in this proceeding relating to the *initial* directed service order should bear the docket number "DSO No. 1398", and all submissions regarding this *extension* of the directed service order should bear the docket number "DSO No. 1398 (Sub-No. 1)".

(a) Copies of all submissions in this proceeding should be sent to the following Commission offices in the Commission's headquarters at 12th and Constitution Avenue, NW, Washington, DC 20423:

- Office of the Secretary (Room 2215) (original)
- Section of Finance (Room 5417)
- Office of Proceedings (3 copies)
- Section of Rail Services Planning (Room 7375) Office of Policy and Analysis (3 copies)
- Railroad Service Board (Room 7115)
- Bureau of Operations (3 copies)
- Bureau of Accounts (Room 6133) (3 copies)

4. All requirements specified in this decision but not specifically enumerated in the ordering paragraphs shall be followed as though specifically enumerated.

5. The Commission retains jurisdiction to modify, supplement or reconsider this order at any time.

6. This decision shall be served on all parties of record in DSO No. 1398, who are hereby made parties of record in DSO No. 1398 (Sub-No. 1) as well.

7. Notice of this decision shall be given to the general public by: (a) Depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC; and (b) filing a copy with the Director, Office of the Federal Register.

8. *Effective Date*—This decision and order shall be effective at 12:01 a.m. (CT) on December 4, 1979.

9. *Expiration Date*—Unless modified by the Commission, this decision and order shall expire at 11:59 p.m. (CT) on the 90th day after its effective date (March 2, 1980).

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Clapp concurring. Commissioners Gresham and Trantum dissenting.³

Agatha L. Mergenovich,
Secretary.

Appendix A

*The Secretary of Transportation,
Washington, D.C. 20590.*

November 19, 1979.

Hon. A. Daniel O'Neal, Jr.,
Chairman, Interstate Commerce Commission,
Washington, D.C. 20423.

Dear Mr. Chairman: I am taking this opportunity to provide you my recommendations as to the continuation of directed service on the Chicago, Rock Island and Pacific Railroad (Rock Island). During the initial 60-day period of directed service by the Kansas City Terminal Railroad Company (KCT) on the Rock Island, the Department of Transportation has begun "the 401 process" which is authorized by sections 5 (a)-(d) of the Department of Transportation Act to facilitate the transfer of Rock Island properties and services to other railroads. Also during the period, the Department has worked closely with the KCT team and the Rock Island Trustee to help restore rail service as quickly as possible and to facilitate the changeover to directed service operation.

The initiation of directed service on the Rock Island was a historic and complex event. The Commission's staff and the railroads owning the KCT cannot be praised highly enough for the success of the initial operation. Within days of the October 5th

directed service order, commuter ridership in Chicago was back to normal levels. One month after the order, 90 percent of the railroad was in operation, and carloadings thus far in November are running at 70 percent of the carloadings in November of 1978. This remarkable accomplishment is indicative of the management expertise of the KCT team and the cooperative spirit of Rock Island employees.

The initial 60-day period has stabilized the situation to the point where shippers have had the opportunity to consider or arrange for alternative transportation and employees have gone back to work under the President's Emergency Board order. The Commission, in extending directed service, should concentrate on achieving long-range restructuring at the lowest possible cost to the taxpayer and should specifically consider the likelihood of future acquisition or joint use by other railroads of Rock Island services and properties. Therefore, I want to advise the Commission of the results of our initial contacts with prospective purchasers and users and to recommend a policy for continuation of directed service consistent with the restructuring process now underway.

Sale and Transfer Process

On October 18 and 19, the Federal Railroad Administration met with 13 major railroads separately and later received proposals from two other railroads. The results of these meetings are presented in Attachment A, which identifies the specific line segments and facilities in which the prospective purchasers expressed an interest. The listings should be considered only as expressions of interest and not as specific offers to purchase, since the prospective purchasers did not have the benefit of detailed traffic data or complete knowledge as to the physical condition of the Rock Island facilities. We have since aided the Trustee in making available to these railroads the necessary information to the extent it is available.

A general review of the listings will indicate that nearly all Rock Island properties are being considered for prospective purchase. Some properties have several prospective bidders, and some bidders, if they choose to proceed, have not decided between acquisition of an entire line segment or only key Rock Island traffic points. In addition, we have not dismissed the possibility that transfers might take the form of trackage rights, with the Rock Island leasing its facilities to prospective users.

Over the next several months we will continue to use the 401 process to encourage and to facilitate sale and transfer proposals. We expect the Trustee to conduct active negotiations with potential purchasers of Rock Island lines, and will give our assistance to those negotiations. We also stand ready within the available funding authority and statutory requirements for obligation guarantees and preference shares to provide Federal assistance under Title V of the 4R Act for the purpose of helping acquiring railroads meet acquisition and rehabilitation costs.

At the direction of the Reorganization Court and with the concurrence of FRA and

the representatives of major creditor interests, the Trustee has undertaken an immediate study to determine whether a viable core of the Rock Island exists and whether such a core has a reasonable likelihood of becoming self-sustaining. The Court has limited the study, which is being conducted by an independent consultant, to the Rock Island service area extending from Des Moines north to the Twin Cities, south to Kansas City, west to Omaha and east to Chicago. A preliminary report is due to be presented to the Reorganization Court by December 10, and all parties of interest will have the opportunity to comment on the study's results until January 9, 1980.

Recommended Directed Service Policy

Continuation of directed service on the Rock Island system after December 3, should be compatible with and supportive of the 401 process now underway. An automatic extension of the current level of directed service for an additional 180 days is unnecessary from the standpoint of current traffic levels and would result in an excessive and unnecessary burden on the taxpayer. If directed service ended abruptly on December 3, we could not assume that other railroads which are interested in Rock Island properties would use their own resources to continue essential service over the Rock Island lines. This may not be the case where there are joint operating rights or pending applications before the commission for interim operating rights. Also, we recognize that certain strategic lines may indeed be sought by carriers for interim operation, but we are concerned that "cherry-picking" of the Rock Island system at this time would be disruptive to achieving an overall restructuring.

Directed service after December 3 should be structured to maximize our chance of reaching a long-range solution this winter and next spring and to assure continuation of gathering and through-line rail services. Thus, the Department recommends that the Commission divide its remaining 180-day authority into two segments. For the first 90 days, that is, from December 4 through March 2, we recommend continuation of directed service by the KCT. We believe extension of the existing type of directed service for this period is needed in order to give all railroads interested in acquiring or using Rock Island lines a fair opportunity to study Rock Island traffic potential and how it would complement their own operations. It is clear from our discussions with prospective purchasers that firm commitments concerning the substantial undertakings they are considering require reasonable time for careful analysis. Of course, during this 90-day period the Commission should be prepared to approve transactions that would shift the burden of continued service from the Government to private carriers, if these transactions do not significantly compromise any of the major options for final restructuring of the Rock Island system.

It is necessary to put new and more lasting arrangements in place for the period beginning March 3. We would not support continuation of a single carrier directed service operation after March 3, because that

³ Concurring and dissenting Statement of Chairmen Clapp, Gresham, and Trantum filed as part of the original document.

approach would consume all of the remaining transition time that should be used for implementation of a long-range solution.

In order to provide time to review proposals for acquisition or operation of Rock Island lines before termination of the 90-day extension of directed service, we must establish a firm deadline for receipt of such proposals. I have publicly stated that *bona fide* offers must be presented to the Trustee, the Rock Island Reorganization Court, the ICC and DOT no later than February 1, 1980. Since actions of the Trustee, the Court and the Commission based on these proposals may determine ownership and operating patterns long into the future, it is important that they be the subject of careful planning, meaningful negotiations with the Trustee, and all necessary corporate approvals. Filings or offers from prospective purchasers or operators could take a variety of forms.

(1) If applications are filed with the Commission after November 1 and if the applying carriers seek to acquire from the Rock Island specified line segments or jointly operate over lines for their own account, we would strongly support the granting of interim operating rights while the Commission considers the full application. However, we must expect competing interests, and decisions will have to be made. Interim operating authority where acquisition is the objective, may also come from the Rock Island's Reorganization Court under Section 17(b)(3) of Public Law 96-101, the recent Milwaukee Railroad Restructuring Act. If we are to support a request for interim operating rights, we will need to know, prior to filing, the proposed purchase price, the agreement on responsibilities for Rock Island employees related to the specific services, and detailed traffic, operational and competitive information associated with the transaction.

(2) If an actual contract is impossible to reach, but the major issues are resolved in principle by the end of February, the prospective acquiring or joint use carrier may offer to become a voluntary service operator under the terms of Section 11123 or 11124 of the Interstate Commerce Act. Offers of this type would have to be accompanied by a description of line segments and stations to be served, and since voluntary service orders do not require labor protection, the offering carrier would have to specify any labor accords that would facilitate implementation of voluntary service.

(3) A carrier may strongly desire to operate portions of the Rock Island, but not be ready to finance new service on March 3. Such a carrier may be considered as a directed service operator from March 3 through May 31. Again, the interested carrier should detail how its operation would fit into the carrier's normal operations and in addition should provide a cost estimate for the indicated period.

(4) If a reorganized Rock Island core railroad should be proposed by the Trustee, we would be willing of course to look at its feasibility.

Finally, the complex process of transferring rail properties from the bankrupt to stronger railroads will demand the full cooperation of all Federal and State agencies as well as the best efforts of the Trustee and acquiring

railroads. I am convinced that the process can work if we receive such cooperation, and I am particularly encouraged by the responses of those railroads which have made known their prospective interest in purchasing segments of the Rock Island.

We need to do much in a very short time. The policy I am recommending to you for a limited continuation of directed service by the KCT will provide sufficient time for critical decisions to be made as to sale, transfer and continued operation of specific Rock Island properties within the private sector railroad industry.

Sincerely,
Neil Goldschmidt.

Attachment A to Appendix A—Potential Interest in Acquisition of Rock Island Rail Lines by Other Carriers Exhibited at October 18-19 401 Sessions

Southern Pacific

1. Tucumcari line-Santa Rosa-Kansas City-St. Louis-Armourdale Yard.
2. Kansas City-Chicago. Would consider joint use of the line.
3. Memphis-Brinkley-Little Rock-Fordyce. Possibly Fordyce-Alexandria. Exclude Little Rock Shop.

Denver & Rio Grande Western

1. Denver and Colorado Springs-Council Bluffs and Kansas City.

Atchison, Topeka & Santa Fe—Major

1. Memphis-Tucumcari.
2. Topeka-Tucumcari.
3. Belfast-Quad Cities.
4. Atchison-St. Joseph.
5. Courtland-Omaha.
6. Ft. Worth-Dallas.

Minor

1. Chillicothe-Peoria.
2. McPherson area.
3. Salina, Kansas.
4. Amarillo-Bushland (Power Plant).
5. Eiler-Morris Junction, Texas.
6. Enid, Oklahoma.
7. Krimlin.
8. Oklahoma City—switching.
9. Wellington, Kansas.
10. Wichita (15-20 miles).
11. Hutchinson (local industry).
12. Ft. Worth (local industry).
13. Dallas.

Burlington Northern

1. Chicago-Davenport, including Peoria and Lafayette branches. Also Silvis yard.
2. Des Moines-Twin Cities. Would consider coordination.
3. Des Moines-Iowa Falls-Estherville-Superior.
4. St. Joseph-Topeka.
5. Burlington-Mediapolis. Preserve operating rights.
6. Fairfield-Davenport.
7. Keokuk industrial trackage.
8. Inver Grove Heights industrial trackage.
9. Iowana.
10. Fort Worth-Dallas, including yards.
11. Waxahatchie-Houston.
12. Amarillo industry, plus branch line to Liberal, Kansas.

Kansas City Southern

1. Kansas City-Twin Cities, including Iowa grain lines. Would consider route coordination with C&NW.
2. Kansas City-Chicago.
3. Winfield, La-Hodge.
4. Cadiz Yard in Dallas.
5. Dallas to Houston. Share with Fort Worth & Denver.

Missouri-Kansas-Texas

1. Topeka-Ft. Worth, plus trackage rights from Ft. Worth to Dallas.
2. Trackage rights McAlester-Oklahoma City.
3. The Rock Island interest in the HB&T (Houston).

Union Pacific

1. Not interested in overhead lines, but considering segments in Nebraska, Kansas and Colorado, and add-on stations in Iowa and Missouri.

St. Louis-San Francisco

1. Fort Worth-Dallas.
2. Carrollton-Irving, Texas.
3. Fort Worth-Enid, Oklahoma. Would save crews.
4. Oklahoma City-Clinton and O'Keena branch.
5. Norrick (serve carbon black plant).

Missouri Pacific

1. Malvern-Hot Springs.
2. Kansas City-St. Louis.
3. Trackage in North Little Rock.
4. Participate in split-up among existing carriers of line south of Little Rock.
5. Kansas City north (assuming no other railroad wants or if a railroad south of Kansas City wants to extend).
6. Trackage in Dallas.
7. Atchison, Kansas, to St. Joseph, Missouri.
8. Great Southwest railroad (Rock portion).
9. Hutchinson and Wichita gathering areas, and service to McPherson elevators.
10. Segments of Denver line.
11. Trackage in Topeka.
12. Mesa-Little Rock; Perry paper mill; branch to Stuttgart, Arkansas.

Chicago & North Western

1. Peoria-Bureau.
2. Clinton-Quad Cities plus West Liberty to Davenport.
3. Inver Grove Yard.
4. St. Paul-Kansas City.
5. Iowa Falls-Estherville, Rake-Albert Lea, Royal-Palmer, Earlham-Newton.
6. Armourdale Yard.

Illinois Central Gulf

1. Iowa Falls-Estherville-Superior plus branch to Buffalo Center.
2. Waterloo-Cedar Rapids-Davenport-Joliet.
3. Calumet Harbor.

Milwaukee Road

1. St. Paul-Kansas City or Mason City south.
2. Grain lines. Iowa Falls-Estherville-Sibley, Albert Lea-Estherville, Dows-Buffalo Center, and Hayfield Junction-Titonka.
3. West Davenport-Muscatine.
4. Seymour-Allerton.
5. Quad Cities industrial area via DRI&NW.

6. Washington, Iowa.

In addition, subsequent discussions have elicited the following interest:

Toledo, Peoria & Western

1. Iowa Junction-Hollis.
2. Peoria trackage of Peoria Terminal plus trackage rights over P&PU.
3. Keokuk industrial trackage, plus possibly part of line running northwest from Keokuk.

Peoria & Pekin Union

1. Bureau-Peoria.
2. Peoria Terminal.

Appendix B—Lines Excluded Under Option 1

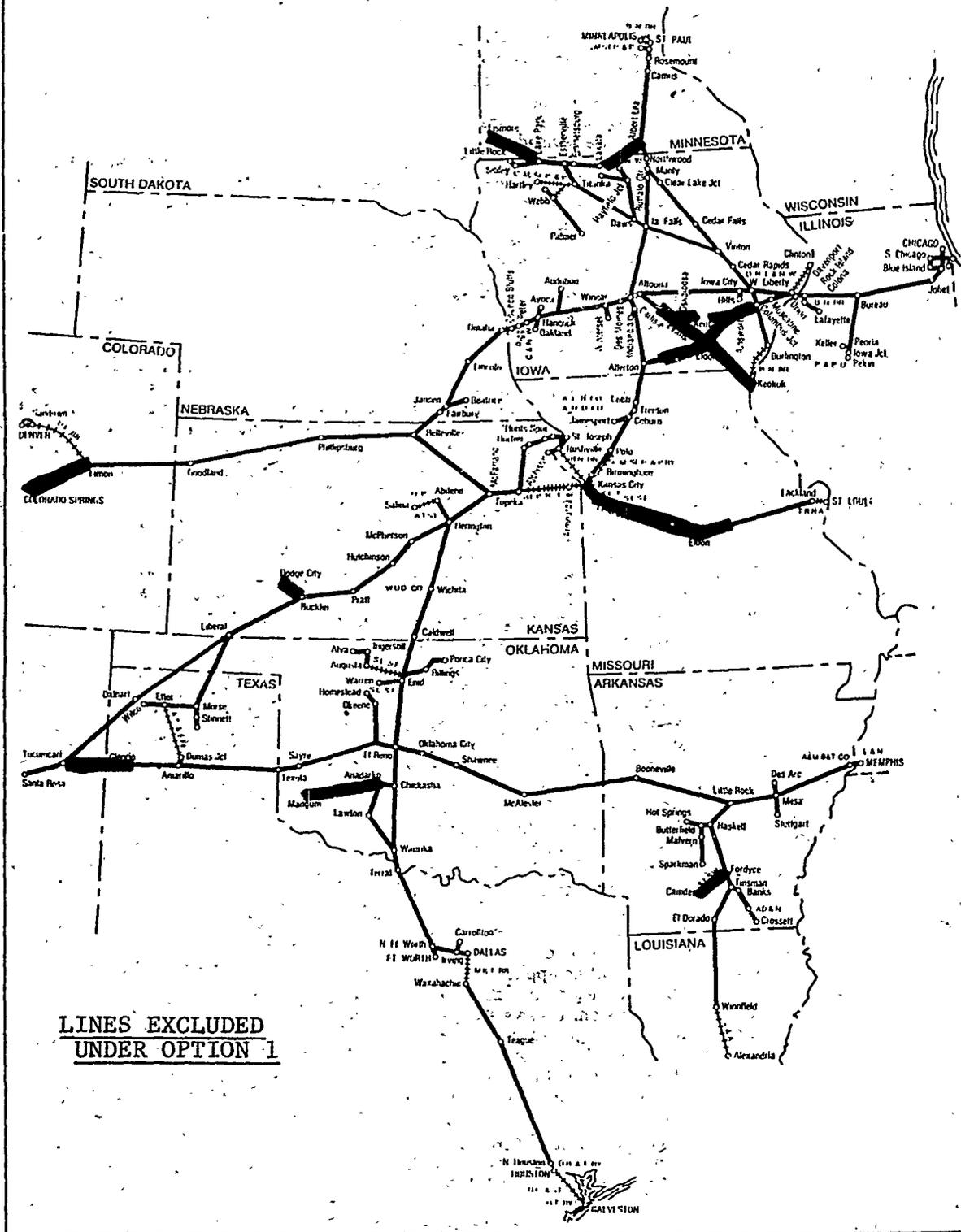
	<i>Miles</i>
Between Kansas and Owensville, MO.....	206.3
Between Albert Lea, MN and Rake, IA.....	26.0
Between Columbus Jct. and Centerville, IA.....	104.7
Between Adrian, TX and Tucumcari, NM.....	67.2
From Lake Park, IA to Lismore, MN.....	40.6
From Pella to Farmington, IA.....	88.8
From Anadarko to Mangum, OK.....	79.2
From Fordyce to Camden, AK.....	30.2
From Bucklin to Dodge City, KS.....	26.5
From Limon to Colorado Springs, CO.....	71.8

Total mileage excluded (11% of system).....	741.3

Definitions: As used in this Appendix, the terms "between * * * and" mean referenced points will continue to be served; "From" preceding the referenced point means that point will continue to be served; "To" preceding the referenced point means that point will not be served.

BILLING CODE 7035-01-M

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY



Proposed Rules

Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

Business and Industrial Loan Program; Amendment

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations pertaining to the administration of the Business and Industry (B&I) Loan Program. Changes involve: (1) Defining allowable fees and charges as eligible loan purposes; (2) Prohibiting the guarantee of tax-free bonds. The intended effect of the first action is to strengthen the program by setting acceptable parameters for fees and charges. The intended effect of the second action is to clarify FmHA's position on guaranteeing taxable bonds and tax-free bonds. These actions are being taken in response to agency recommendations to correct deficiencies in the regulation as suggested by the Department's Office of Inspector General.

DATES: Written comments on or before February 8, 1980.

ADDRESSES: Submit written comments in Duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the address given above.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Director, Business Management and Development Division, telephone 202-447-4150.

SUPPLEMENTARY INFORMATION: FmHA proposes to amend various sections of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations. These changes are being proposed to strengthen the B&I program and are

made by FmHA at the recommendation of the Department's Office of Inspector General. The following specific revisions are proposed.

1. The Table of Sections and § 1980.488 are revised to clarify FmHA's position on guaranteed bond issues with regard to interest income being taxable. The revision will refer to guaranteeing any class or series of bonds.

2. Section 1980.411 (a)(13) and (14) are revised to include acceptable parameters for fees and charges and § 1980.423(a) is revised to conform to the proposed changes. When the B&I program was first implemented in late 1973 the regulations had certain restrictions on fees and charges. At a later date, when it was found necessary to help make FmHA loan guarantee paper saleable in the secondary market, part of the strategy was to allow fees which would encourage all private, interested parties to greater efforts. Therefore, FmHA's approach to determining the amount of fees was shifted in 1975 from one of rather rigid limits to one that was more flexible—with the standard being changed to "reasonableness." We now believe it appropriate to define "reasonableness" in measurable terms because in some instances we believe the standard of reasonableness is being misconstrued.

Since implementation of the 1975 regulations, FmHA has noted an increase in the number and amounts of fees.

The following are three general categories of fees which FmHA—B&I Division will recognize together with the valuation standards for each:

(a) *"Loan Origination" or "Packaging" Fees*—For services rendered by other than the lender in connection with preparation of an application and seeing the project presentation through to final FmHA decision. These services are ordinarily performed by a business consultant or an investment banker.

The schedule of allowable fees for loan origination or packing fees are as follows:

On principal amount of original loan amount: Up to \$1 million—2% all over \$1 million—¼% with a total maximum fee allowable of \$50,000.

(b) *Professional Fees*—These fees apply to services rendered by professionals generally licensed by individual state or Accreditation Associations, such as Engineers,

Architects, Lawyers, Public Accountants, Appraisers and the like. Allowable fees will be what is customary in a particular community; for example, Architects and Engineers customarily charge a fee based on a percentage of estimated project costs. Lawyers, Accountants, and Appraisers customarily charge for services rendered on an hourly basis, with special consideration given for additional charges in connection with extraordinary services performed.

(c) *Lenders' Fees*—These fees refer to all services performed by the lender, most generally classified as loan origination actions, marketing of the loan and loan servicing actions. The total of such fees and the interest charged can not exceed 1½% or 150 basis points over the highest published yield on Government National Mortgage Association (GNMA) securities at the date of loan closing.

Since the borrower is the entity that provides the job opportunities which enables FmHA to meet its objectives for rural development, FmHA believes the borrower should be given every opportunity to enhance the program's objectives by maintaining the borrower's true interest cost at reasonable rates. FmHA's investigation into the fees, charges, and interest rates has shown that the secondary market rate is on an average 50 basis points above the (GNMA) yield.

3. In § 1980.413 dealing with transactions which will not be guaranteed by FmHA a new subparagraph (c) has been added. This addition will prohibit guaranteeing loans when the financing arrangements include tax-free bond issues, since this form of financing would provide two benefits, (i.e. the government guaranteeing a loan and tax-free interest bonds sold to the general public to cover financing of a private business or industry). FmHA proposes to restrict any projects which provide either directly or indirectly financing through the use of tax free bond issues because of such double benefits to private business.

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted to the Chief, Directives Management Branch.

As proposed, Subpart E of Part 1980 is amended as follows:

PART 1980—GENERAL

1. The Table of Contents is amended to change the title of § 1980.488 to "Guaranteed bond issues."

2. Section 1980.488 is amended to change the title of the section and to amend paragraph (a) as follows:

§ 1980.488 Guaranteed bond issues.

(a) Loans to public bodies will be guaranteed only in connection with the issuance of any class or series of bonds (as defined in Section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under IRC. No part of the loan guaranteed by FmHA may extend to any class or series of bonds the interest on which is excludable from gross income under Section 103(a)(1) of such Code. Before the execution of any Loan Note Guarantee, the lender will furnish FmHA evidence regarding the interest on the bonds. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service.

3. Section 1980.411(a) (13) and (14) are amended and read as follows:

§ 1980.411 Loan purposes. * * ***(a) Private entrepreneurs * * ***

(13) Reasonable fees, charges and rates only if specifically listed on Form FmHA 449-1 "Application for Loan and Guarantee," or on an addendum to the application at the time the request is submitted to FmHA for processing. Authorized professional fees include fees rendered by professionals generally licensed by individual state or accreditation Associations, such as Engineers, Architects, Lawyers, Accountants, appraisers and the like. Allowable fees will be what is customary in the community or region where the project is located for example, Architects and Engineers, customarily charge fees based on a percentage of estimated project costs. Lawyers, Accountants and appraisers customarily charge for services on an hourly basis. Any fee for professional or expert services are to be fully documented and justified, and are subject to FmHA approval. Loan Origination or packaging fees include services rendered in connection with preparation of an application and seeing the project presentation through to final FmHA decision. When not performed by the lender, these services are ordinarily performed by a consultant or an investment banker. The schedule of allowable fees are 2 percent of the total

principal amount of the loan up to \$1 million and on all amounts over \$1 million an additional ¼ percent up to a total maximum fee of \$50,000.

(14) Lender's rate includes all fees and services performed by the lender, most generally classified as loan origination actions, marketing and servicing actions in connection with the project. The total of such fees and the interest charged can not exceed 1½% or 150 basis points over the highest published yield on Government National Mortgage Association securities at the date of loan closing. Lenders will provide a calculation of the estimated rate at time the application is submitted to FmHA for approval. At loan closing the final rate will be calculated and submitted to FmHA. No other fees are permitted, except the FmHA guarantee fee.

4. In § 1980.413 a new paragraph (c) is added and reads as follows:

§ 1980.413 Transactions which will not be guaranteed. * * *

(c) The guarantee of any loan(s) when any planned source of the funding for the project will be raised thru the issuance of tax free bonds, the interest which is excludable from gross income under Section 103(a)(1) of the Internal Revenue Code of 1954, as amended. This includes bonds issued for the purpose of purchasing any portion of a loan or which will be secured by any portion of the loan.

5. In § 1980.423 paragraph (a) and the last sentence in paragraph (a)(1) are amended and read as follows:

§ 1980.423 Interest rates.

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower; however, the rate determined must be tied to the over all rate as set forth in § 1980.411(a)(14). If legally permissible, the interest rate can be either fixed or variable, but not both.

(1) * * * There will be no floor on the variable interest rates, however, the maximum ceiling is limited to that interest rate which is no more than 1½% or 150 basis points, over the highest published yield on GNMA securities at the date of loan closing.

(7 U.S.C. 1989; delegation of authority of Secretary of Agriculture, 7 CFR 2.23; delegation of authority by Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70)

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal

action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190; and Environmental Impact Statement is not required.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An approved Draft Impact Analysis is available from the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6340, Washington, D.C. 20250.

Dated: November 30, 1979.

Alex P. Mercure,

Assistant Secretary for Rural Development.

[FR Doc. 79-37730 Filed 12-7-79; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 79-ASW-55]

Alteration of Transition Area; Ruston, La.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Ruston, La. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing instrument approach procedures to the Ruston Municipal Airport. The circumstances which created a need for the action is that a review of the current transition area revealed the controlled airspace is not properly described and inadequate for the protection of aircraft executing instrument approach procedures. In addition, higher performance aircraft are utilizing the airport which requires additional controlled airspace.

DATES: Comments on or before January 9, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Ruston, La., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before January 9, 1980 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area

at Ruston, La. The FAA believes this action will enhance IFR operations at the Ruston Municipal Airport by providing controlled airspace for aircraft executing instrument approach procedures to the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Ruston, La., transition area by deleting the present description and substituting the following:

Ruston, La.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Ruston Municipal Airport (latitude 32°30'45"N., longitude 92°37'45"W.), and within 3 miles each side of the 089° bearing from the airport extending from the 6.5-mile radius area to 7.5 miles east; and within 3.5-miles each side of the Ruston, La., VOR (latitude 32°27'54"N., longitude 92°36'30"W.), 159° radial extending from the 6.5-mile radius area to 11.5 miles south of the VOR. (Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on November 29, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-37808 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 19793; Notice No. 79-20]

General Operating and Flight Rules; Airplane Tires

Correction

In FR Doc. 79-36645, published at page 68759, on Thursday, November 29, 1979, make the following corrections.

1. On page 68759 the heading should read as set out in the heading of this document.

2. On page 68761, in the first column insert "Part 91—General Operating and Flight Rules" before "§ 91.59 Airplane tires".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2303

[Docket No. 79-2]

Reimbursement of Public Participation Expenses

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, seeks public comment on proposed rules and policies to govern the reimbursement of public participation expenses to individuals and groups participating in its proceedings. This action is taken pursuant to the President's Memorandum to the Heads of Executive Departments and Agencies, dated May 16, 1979, 15 Weekly Comp. of Pres. Doc. 867-68 (May 25, 1979), and is authorized under Title III of the Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979, Pub. L. 95-431, 92 Stat. 1021 (1979); the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405 (1978); and 15 U.S.C. 1525. This rulemaking has been approved by the Plain English Officer of NTIA as prescribed by Department Administrative Order 205-1, Amendment 4, § 6.03 (1971).

DATES: Comments should be submitted on or before January 9, 1980. Reply comments should be submitted on or before February 8, 1980.

ADDRESS: An original and seven copies of comments should be sent to the National Telecommunications and Information Administration, Office of the Chief Counsel, Room 703, 1800 G St., NW., Washington, D.C. 20504.

FOR FURTHER INFORMATION CONTACT: Robert Hunter (202) 377-1866.

SUPPLEMENTARY INFORMATION: In the matter of Reimbursement of Public Participation Expenses: *Notice of Proposed Rulemaking.*

1. In a Memorandum to the Heads of Executive Departments and Agencies,¹ President Carter stated:

[C]itizen groups often find the cost of meaningful participation in agency proceedings to be prohibitive. Many citizen groups are unable to pay the costs of experts and attorney's fees, clerical costs, and the cost of travel to agency proceedings. As a result, the views and interests of consumers, workers, small businesses, and others often go unrepresented, or underrepresented, in proceedings that may have substantial impacts on their health, safety, or economic well-being.

Consequently, the President directed each Executive Department and Agency that has not already established a public participation funding program to determine whether it has the explicit or implicit authority necessary to establish a program to provide assistance to persons:

(1) whose participation in a proceeding could reasonably be expected to contribute to a fair disposition of the issues and (2) who would be unable to participate effectively in the proceeding in the absence of such assistance.

The President further directed that each such department or agency evaluate its need for a public participation funding program and establish such a program, if the department or agency has the statutory authority to establish a funding program and public participation in that agency's or department's proceedings is determined to be necessary or appropriate for a fair resolution of the issues involved.

2. NTIA has determined that it has the legal authority to establish a public participation funding program. That determination is based on our interpretation of NTIA's statutory authorizations found in Title III of the Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act, 1979,² the Public Telecommunication Financing Act of 1978,³ and 15 U.S.C. 1525.⁴

¹ 15 Weekly Comp. Pres. Doc. 867 (May 1979).

² Pub. L. 95-431, 92 Stat. 1021. Section 391 of that Act allows NTIA to expend the appropriated funds for our "necessary expenses, as provided by law." 92 Stat. at 1034.

³ Pub. L. 95-567, 92 Stat. 2405, 47 U.S.C. 390, *et seq.* (PTFA). The PTFA provides that the Secretary of Commerce may expend funds appropriated under the Act "to cover the costs of administering this subpart." 47 U.S.C. 391. The powers and responsibilities of the Secretary of Commerce are delegated to the Assistant Secretary for Communications and Information pursuant to Departmental Organizational Order 10-10 and are further delineated in Departmental Administrative Order 25-7 (attached as Appendices A and B respectively).

⁴ Section 1525 provides that NTIA may expend funds for the purposes detailed in that section.

Viewing these authorizations in light of the Comptroller General's statements⁵ and the acquiescence of the Department of Justice in the views expressed by the Comptroller General, it is clear that NTIA has the necessary authority to fund individuals and groups desiring to participate in its proceedings, provided that it is determined that the participation of particular individuals or groups is reasonably necessary for the fair disposition of issues before the agency and that the participation of these individuals or groups would not be effective without financial assistance.⁶

3. In assessing the need for developing and instituting a program to fund public participation in NTIA proceedings, it must be noted that until recently NTIA performed no rulemaking functions that would require or be appropriate for public participation. However, with the transfer of the functions of the Educational Broadcasting Facilities Program from the Department of Health, Education, and Welfare to the Public Telecommunications Facilities Program (PTFP) of NTIA, it is now appropriate for NTIA to establish a public participation funding program such as that described by the President in his memorandum.⁷ NTIA has therefore issued this *Notice* to consider and receive public comment on its adoption

which include the undertaking of special studies on matters within the authority of the Department of Commerce, and engaging in joint projects of mutual interest with non-profit organizations, research organizations or public organizations. That section also authorizes the Secretary to equitably apportion the costs of these projects between the Department of Commerce and such organizations and to waive payment of these costs when authorized to do so under regulations approved by the Office of Management and the Budget.

⁵ See: *Comptroller General, Opinion B-139703*, July 24, 1972 (Federal Trade Commission could pay attorney, transcript, witness and attendance expenses incurred); *Comptroller General, Opinion B-92288*, February 19, 1976 (Nuclear Regulatory Commission has the authority to pay costs of indigent intervenor groups). See also *Comptroller General, letter to Congressman William Clay*, File B-139703, September 22, 1976. The Comptroller General's letter specified that it must be determined that "both the participation itself and payment therefore are necessary," at 3.

⁶ See Comments and Reply Comments of NTIA in Matter of Reimbursement of Expenses for Participation in Commission Proceedings, before the Federal Communications Commission, Gen. Doc. No. 78-205 (filed October 16, and November 15, 1978 respectively), for a thorough discussion of the decisions of the Comptroller General. See also *Financial Compensation of Participants in Administrative Proceedings*, 43 FR 17806 (1978), in which the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, established a program based on an analysis of its own statutory authorization.

⁷ NTIA has in fact already funded the participation of several public telecommunications entities in some policy development matters under the PTFP where it was felt their participation was reasonably necessary to a fair disposition of the issues.

of the Proposed Rules Relating to the Reimbursement of Public Participation Expenses set out below.

4. In developing the proposed rules three areas have been identified in which public participation would seem to be most appropriate: agency inquiry and rulemaking proceedings, and termination proceedings under the PTFP. It would appear that these areas exist primarily in connection with the PTFP, and therefore that public participation will probably be confined to that program. However, we now believe that it is advisable to cast the coverage of funding public participation in a general manner so as to reach all agency matters that may be determined to be appropriate for public participation. This discretionary ability would enable NTIA to fund public participation in its various proceedings and thereby obtain the benefits of public participation in any of its policy development matters where such participation is necessary or appropriate, even though a particular matter might not be properly categorized as an inquiry, rulemaking or termination proceeding.⁸

With regard to termination proceedings under Section 392(g) of the PTFA, a local public interest group may desire to participate and be able to make substantial contributions in those proceedings. In such a case NTIA and the public would benefit significantly from the funding of that group's participation, if the group would otherwise be unable to effectively participate. In view of possible due process claims by impoverished recipients of PTFP facilities grants, the question arises as to whether NTIA should provide some compensation for those recipients who are the subjects of termination proceedings and are unable to afford legal representation. We are of the opinion that some degree of compensation should be available to

⁸ Thus, NTIA, as the lead Administrative agency, has held informal public sessions to assist in the development of the Administration's position on the entry of the Postal Service into the electronic message service, *Electronic Communications Policy in Postal Area*, 43 FR 60184 (December 26, 1978), and NTIA's development of proposed legislation regarding privacy. These could arguably have been classified as inquiries, but regardless of the procedural label, NTIA believes that the agency should have the discretion to fund public participation in such matters where appropriate. We stress, however, that we will not fund public participation in the development of NTIA positions before other administrative agencies, e.g. the FCC. Administrative agencies, such as the Commission, are themselves decisional bodies, and while NTIA would welcome (and has already welcomed) any and all discussions with the public in formulating its position, it would be wholly inappropriate for us to hold "inquiries" paralleling the process of the independent agency to whom Congress has delegated the decisional authority.

individuals and groups who can make a *bona fide* showing that they would be unable to effectively participate without reimbursement and that their interests would not otherwise be represented in the proceedings. Consequently, applications for reimbursement from grant recipients for legal representation in termination proceedings will be considered.

6. It must be emphasized, however, that NTIA is not to be considered as an initial source of funding in any case. In making an application for reimbursement under paragraph (d), it will not be considered sufficient for an applicant merely to state that it is a public telecommunications entity (or a public interest group) affected by the proposed agency action with no funds budgeted or presently available to meet the expenses of participation. All applicants for assistance must first seek funds from members of the public generally. Organizations representing similar interests are encouraged to pool their resources. In denying or partially granting an application for funding, the Associate Administrator of the program office initiating an agency action shall, to the extent possible, indicate when other groups or individuals present similar interests. Such individuals or groups should be contacted as alternate or supplementary sources of funding. In proceedings involving public telecommunications entities funded by a State or a subdivision of a State, it will be presumed that adequate funding will be available for participation expenses (including legal representation in termination proceedings), unless a compelling showing to the contrary is made by the applicant.

7. In discussing the proposed rules, participants should direct their comments toward what they believe should be the appropriate areas for public participation in NTIA proceedings. Commenters should be aware that the proposed rules, set out below, have been adapted from the rule⁹ promulgated by the Federal Trade Commission (FTC) pursuant to the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.¹⁰ In view of the experience of that agency with this type of rule, participants should comment on the necessity or advisability of imposing a ceiling on funds available to a single entity in one proceeding or over each fiscal year. Although NTIA would not ordinarily be subject to the adversarial interests commonplace at the FTC, prudence and a due respect for the fiscal integrity of

the PTFP and the agency itself suggest that some guidelines for the exercise of our discretion are appropriate. Toward that end, we have proposed to limit agency payments for attorney's fees in termination proceedings to 50 percent of the cost of such representation. Perhaps it would be sufficient for us to establish a ceiling on the amount of funds available to a single entity in one proceeding. Perhaps in termination proceedings the total amount of reimbursement should be limited to a percentage of the Federal interest at stake in those proceedings. In commenting on the propriety and adequacy of establishing such limitations, parties should keep in mind that funds for reimbursement of public participation in PTFP proceedings are very limited.

Ex Parte Rules

8. Because the proceeding could be regarded as largely procedural in nature, there is, in all likelihood, little need for a provision dealing with *ex parte* contact. Nevertheless, we think it sound simply to adhere to our established practice in this regard. Our desire is to "foster genuine and fair dialogue" between interested parties and the agency while simultaneously creating a full administrative record. This objective provides interested parties with an opportunity to contribute information and arguments regarding a proposal while preserving both basic fairness and the agency's flexibility in informal rulemakings. To further this end, NTIA has adopted guidelines to govern rulemaking proceedings in our PTFP *Notice of Proposed Rulemaking*, 44 FR 13262 (1979). NTIA decision-making personnel will be permitted to engage in communications with the public regarding the rulemaking. However, the public will be advised that copies of written communications and summaries of conversations and meetings will be placed in the public file. such a procedure will give us the benefit of the fullest possible public input into our decisions, will assure basic fairness and will create a record of all discussion, thus facilitating any judicial review.

9. Interested parties are encouraged to submit comments on this Notice. An original and seven copies of any comments should be filed by January 9, 1979 with: Office of Chief Counsel, NTIA/DOC, 1800 G Street, NE., Washington, D.C. 20504. Reply comments must be submitted on or before February 8, 1979. Parties having questions concerning this proceeding should contact Robert Hunter, Office of the Chief Counsel, Room 703, telephone 377-1866.

10. All parties intending to file comments in this matter are requested to file a Notice of Intent to Participate with the Office of Chief Counsel at the above address ten (10) days prior to the date for filing comments in this proceeding. We must stress, however, that the filing of a Notice of Intent to Participate is not a condition for participation in this proceeding. The name and address of each party filing such a notice will be available from the NTIA Office of Public Affairs five (5) days prior to the date for filing of comments. A certificate of service reflecting that a copy of the comments has been served on each party listed as having filed a Notice of Intent to Participate should be attached to the comments. Comments will be available for inspection during regular business hours in Room 703 at the above address.

11. The foregoing is in the nature of a continuing experiment to determine whether we can facilitate the exchange of information among the filing parties. By doing so we would be enhancing our ability to "genuinely deal with the public"¹¹—a purpose which is central to this proceeding. Consequently, we have decided to adopt these procedural requirements for this proceeding. Our belief is that these requirements will not prove overly burdensome or costly and, rather, will be welcomed by parties who will then be able to obtain timely and complete information regarding the rule making. Nevertheless, we would appreciate any suggestions as to how we might improve this procedure by lessening the burden on commenting parties while accomplishing the goals set out above.

Dated: December 5, 1979.

Henry Geller,
Administrator, National Telecommunications
and Information Administration.

PART 2303—REIMBURSEMENT FOR PUBLIC PARTICIPATION EXPENSES

§ 2303.1 Compensation for representation in proceedings.

(a) *Purpose of compensation.* The National Telecommunications and Information Administration (the agency) may provide compensation for reasonable attorneys fees, expert witness fees and other costs of participation, including costs necessary for the preparation of oral or written presentations, to any person who has or represents an interest which would not otherwise be adequately represented in any proceeding, described in paragraph

¹¹ Wright, Skelly, J., *The Courts and the Rulemaking Process: The Limits of Judicial Review*, 59 Cornell L. Rev. 375, 381 (1974).

⁹ 40 CFR 1.17

¹⁰ Pub. L. 93-637, 88 Stat. 2183 (January 4, 1975).

(b) of this section, and representation of which is necessary or appropriate for a fair determination of the proceeding taken as a whole, and who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of making oral presentations, conducting cross-examination, and making rebuttal submissions in such proceeding.

(b) *Proceedings covered.*

Compensation for participation in agency proceedings may be made available in proceedings initiated by a Notice of Inquiry, a Notice of Proposed Rulemaking, a Notice of Termination or in any proceeding initiated by the agency and determined by the agency to be appropriate for public participation. Such determination shall be made by the Office of Chief Counsel at the request of the Associate Administrator of any program office within the agency.

(c) *Level of funding.* At or after the time of the initial Notice of Inquiry, Notice of Proposed Rulemaking or Notice of Termination, the agency may announce a tentative total level or funding for compensation for participation in that proceeding. In cases involving the reimbursement of attorneys' fees for representation in termination proceedings, agency payments shall not exceed 50 percent of the total costs for such representation.

(d) *Applications.* An application for compensation for participation in a rulemaking proceeding may be filed at any time after the publication of the initial Notice of Inquiry, Notice of Proposed Rule Making, Notice of Termination or other public notice. An application for compensation shall be filed prior to the time when the costs for which compensation is sought are incurred. Such application shall contain the following:

(1) A description of the interest the applicant has or represents in the rulemaking proceeding;

(2) A statement of the reasons representation of such interest is necessary for a fair determination of the proceeding taken as a whole;

(3) Insofar as possible, the reasons why such an interest would not otherwise be adequately represented in the proceeding;

(4) A statement of the reasons the applicant is unable effectively to participate in the proceeding without financial assistance including information relating to:

(i) The interest involved as compared with the costs of participation;

(ii) The feasibility of contributions to the costs of participation by individual representatives of the interest;

(iii) The resources of the applicant, or of the interest represented by the applicant for financial assistance;

(5) Insofar as possible, a specific statement of the expenses to be incurred for which compensation is sought, including an estimate of the total anticipated expenses; and

(6) A statement of the organizational and financial status of the individual (or group) applying for compensation in such form as the agency may prescribe.

(e) *Determination of applications—(1)*

By an Associate Administrator. The Associate Administrator of the program office initiating an action described in paragraph (b) of this section shall consider applications for compensation filed with his or her office under this section and forward initial findings to the Office of the Chief Counsel as to whether the applicant meets the criteria of paragraph (a) of this section. In determining whether the representation of an interest is necessary for a fair determination of the proceeding taken as a whole, the Associate Administrator shall consider, among other factors, the number and complexity of the issues involved and the importance of a fair, balanced representation of all interests. In determining whether an applicant can afford to pay the costs of participation, the Associate Administrator shall consider the interest involved as compared with the costs of participation; the resources of the applicant for financial assistance; and the feasibility of obtaining contributions from other parties who share the same interest as the applicant for financial assistance. In connection with the making of this determination the Associate Administrator may conduct such inquiry or investigation, or require the production of documents by the applicant for financial assistance.

(2) By the Office of the Chief Counsel. The Office of the Chief Counsel shall review applications and the initial findings of the Associate Administrator of the program office initiating an action described in paragraph (b) of this section and determine to what extent compensation shall be authorized under this section.

(f) *Payment of compensation—(1) In general.* The agency will compensate the applicant only for those authorized expenses actually incurred. Appropriate proof of actual expenditures may be required by the agency. The agency may make any payments under this section in advance where necessary to permit effective participation in the proceedings described in paragraph (b) of this section. Advanced payments will be conditioned upon the execution by each applicant for financial assistance

of an appropriate agreement setting forth the terms and conditions of the compensation.

(2) *Attorneys' fees; expert witness fees.* Attorneys' fees at a rate in excess of \$50.00 per hour will be considered presumptively unreasonable and compensation will not be provided for such excess in the absence of special justification. Experts and consultants will be compensated at a rate not to exceed the highest rate at which experts and consultants to the agency are compensated—such rate shall be evaluated annually by the Associate Administrator of each program office within the agency.

(President's Memorandum of May 10, 1979, vol. 15 of the weekly Compilation of Presidential Documents, pages 867-868, May 25, 1979; Title III of the Department of State, Justice and Commerce, the Judiciary and Related Agencies Appropriation Act of 1979, Pub. L. 95-431, 92 Stat. 1021; the Public Telecommunications Financing Act of 1978, Pub. L. 95-567, 92 Stat. 2405; and 15 U.S.C. 1525)

Appendix A

Note.—This Appendix A is being published for informational purposes only and will not be published in the Code of Federal Regulations.

Department of Commerce

Office of the Secretary

[Dept. Organization Order 10-10]

Assistant Secretary for Communications and Information; Statement of Organization Functions, and Delegations of Authority

Section 1. Purpose

.01 This order establishes the National Telecommunications and Information Administration (NTIA) and prescribes the scope of authority and the functions of the Assistant Secretary, NTIA. The organizational structure and the assignment of functions are prescribed in Department Organization Order 25-7.

.02 This order also shares an authority for the investigation of non-ionizing radiation between NTIA and NBS (subparagraph 5.01c.).

Section 2. Administrative Designation

The position of Assistant Secretary of Commerce for Communications and Information (the "Assistant Secretary") was established by Section 4 of Reorganization Plan No. 1 of 1977. The Assistant Secretary is appointed by the President by and with the advice and consent of the Senate.

Section 3. Scope of Authority

.01 The National Telecommunications and Information Administration is hereby established as an operating unit of the Department of Commerce.

.02 The Assistant Secretary shall head NTIA as the Administrator.

.03 The Deputy Assistant Secretary for Communications and Information, who shall

also serve as the Deputy Administrator, of NTIA, shall perform such functions as the Assistant Secretary shall from time to time assign or delegate, and shall act as Assistant Secretary during the absence or disability of the Assistant Secretary or in the event of a vacancy in the office of the Assistant Secretary.

Section 4. Transfer of Functions

Pursuant to the authority vested in the Secretary of Commerce by Reorganization Plan No. 5 of 1950, Sections 4 and 5.B of Reorganization Plan No. 1 of 1977 and Executive Order No. 12046 of March 26, 1978:

a. The functions, personnel, funds, property, and records transferred to the Secretary of Commerce pursuant to Reorganization Plan No. 1 of 1977 are hereby transferred to the NTIA.

b. The functions, personnel, funds, property, and records of the Office of Telecommunications, Department of Commerce, are hereby transferred to the NTIA.

c. The effective date of such transfers shall be determined by the Assistant Secretary for Administration, in consultation with the Assistant Secretary.

Section 5. Delegation of Authority

.01 Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary may prescribe, the Assistant Secretary is hereby delegated the authority vested in the Secretary of Commerce under:

a. Section 5.B of Reorganization Plan No. 1 of 1977, and by Executive Order No. 12046, including:

1. Subsection 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 701 *et seq.*) as amended to advise and assist the President in connection with the functions previously conferred upon the President as described more particularly in Part B, Section 7 of Executive Order No. 12046.

2. Subsection 305(a) of the Communications Act of 1934 (47 U.S.C. 305(a)) to assign frequencies to, and amend, modify, and revoke frequency assignments for radio stations belonging to and operated by the United States, subject to the disposition of appeals by the Director, Office of Management and Budget (OMB), and make frequency allocations.

3. Subsection 305(d) of the Communications Act of 1934, as amended, (47 U.S.C. 305(d)), to authorize a foreign government to construct and operate a radio station at the seat of government. Authorization for the construction and operation of a radio station pursuant to this subsection and the assignment of a frequency for its use shall be made only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairperson of the Federal Communications Commission.

b. 15 U.S.C. 272(12) and (13), which relate to the investigation of the conditions which affect transmission of radio waves and to the compilation and distribution of information about such transmissions;

c. 15 U.S.C. 272(9), the functions which relate to the investigation of non-ionizing radiation, its uses, and means of protection of

persons from harmful effects, to the extent appropriate to coordination of research throughout the Executive Branch.

.02 The Assistant Secretary may exercise other authorities of the Secretary to the extent applicable to performing the functions assigned in this order. This includes the use of administrative and monetary authorities contained in 15 U.S.C. 271 *et seq.*, as may be necessary or desirable to perform the NTIA functions; and the authority to foster, promote, and develop the foreign and domestic commerce of the United States in effecting, and as such commerce may be affected by, the development and implementation of telecommunications and information systems.

.03 The Assistant Secretary may redelegate any authority conferred by this order to any employee of the NTIA, and may authorize further redelegation by any such employee as appropriate, subject to such conditions as may be prescribed.

Section 6. General Functions and Objectives

The Assistant Secretary shall:

.01 Serve as the President's principal advisor on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

.02 Advise the Director, OMB on the development of policies for procurement and management of Federal telecommunications systems.

.03 Conduct studies and evaluations concerning telecommunications research and development, the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and programs, and make recommendations concerning their scope and funding to appropriate agency officials and to the Director, OMB.

.04 Develop and set forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations. The Assistant Secretary shall coordinate economic, technical, operational, and related preparations for U.S. participation in international telecommunications conferences and negotiations; provide advice and assistance to the Secretary of State with respect to international telecommunications policies to strengthen the position and serve the best interests of the United States in the conduct of foreign affairs.

.05 Provide for the coordination of the telecommunications activities of the Executive Branch and assist in the formulation of policies and standards for the telecommunications activities of the Executive Branch including considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

.06 Develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and the regulation of the telecommunications industry.

.07 Ensure that the Executive Branch views on telecommunications matters are

effectively presented to the Federal Communications Commission and, in coordination with the Director, OMB, to the Congress.

.08 Assign frequencies to, and amend, modify, and revoke frequency assignments for radio stations belonging to and operated by the United States, make frequency allocations, establish policies concerning spectrum assignment allocation and use, and provide the various departments and agencies with guidance to assure that their conduct of telecommunications activities is consistent with these policies.

.09 Develop, in cooperation with the Federal Communications Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources, including jointly determining the National Table of Frequency Allocations.

.10 Conduct studies and develop, set forth or recommend policies concerning the impact of the convergence of computer and communications technology and the emerging economic and social implications of the greater ability to originate, manipulate and move information.

.11 Coordinate Federal telecommunications assistance to State and local governments; conduct studies to identify and provide assistance to remove barriers to telecommunications applications; conduct needs assessments to aid in the design of telecommunications services and provide experimental and pilot tests of telecommunications applications to fulfill national goals; and provide for the application of telecommunications technologies and services to avoid waste and achieve an efficient delivery of public services in the furtherance of national goals.

.12 Participate with and perform staff services for the National Security Council and the Director, Office of Science and Technology Policy in carrying out their functions under Executive Order No. 12046.

.13 Participate in evaluating the capability of telecommunication resources in recommending remedial actions and in developing policy options.

.14 Review and coordinate research into the side effects of non-ionizing electromagnetic radiation and coordinate, develop and set forth plans, policies, and programs therefor.

.15 Acquire, analyze, synthesize and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation and the conditions which affect propagation, on the nature of electromagnetic noise and interference, and on methods for the more efficient use of the electromagnetic spectrum for telecommunications purposes; and prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions.

.16 To the extent it is deemed necessary to continue the Interdepartment Radio Advisory Committee (IRAC), that Committee shall serve in an advisory capacity of the Assistant Secretary.

.17 Perform analysis, engineering, and administrative functions, including the maintenance of necessary files and data

bases, as necessary in the performance of assigned responsibilities for the management of electromagnetic spectrum.

.18 Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum, in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

.19 Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other government agencies.

.20 Conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned responsibilities.

.21 Make grants, enter into cooperative agreements, or make proposals for contracts related to any aspect of assigned responsibilities, in accordance with Department rules.

.22 Issue such rules and regulations as may be necessary to carry out the functions delegated by this order.

.23 Conduct such other activities as are incident to the performance of telecommunications and information functions assigned in this order.

Section 7. Support Services

The Assistant Secretary for Administration, in consultation with the Assistant Secretary, shall ensure that other organizations of the Department provide to NTIA, as appropriate, specified personnel and other administrative support services, and accounting and payroll services after consultation with the head of the operating unit concerned.

Section 8. Transitional Provisions

All rules, regulations orders, determinations, authorizations, contracts, grants agreements, proceedings, hearings, investigations, or other actions issued, undertaken, pending, or entered into by or for OT, or OTP with respect to functions transferred to the Secretary by Section 5.B of Reorganization Plan No. 1 of 1977, shall continue and remain in full force and effect until they expire in due course or are revoked or amended by appropriate authority.

Section 9. Effect on Other Orders

This order supersedes Department Organization Order 30-5A, Office of Telecommunications, of July 13, 1972, and constructively amends all Department orders which refer to the Office of Telecommunications.

Date of issuance and effective date: May 9 1978.

Juanita M. Kreps,
Secretary of Commerce.

Appendix B

Note.—This Appendix B is being published for informational purposes only and will not be published in the Code of Federal Regulations.

Department of Commerce

Office of the Secretary

Dept. Organization Order 25-7

National Telecommunications and Information Administration; Statement of Organization; Function and Delegation of Authority

Section 1. Purpose

This order prescribes the organization and assignment of functions within the National Telecommunications and Information Administration (NTIA). The functions and scope of authority of NTIA are set forth in Department Organization Order 10-10.

Section 2. Organization and Structure

The principal organization structure and line of authority shall be as depicted in the attached organization chart (Exhibit 1).

Section 3. Office of the Administrator

.01 The Assistant Secretary for Communications and Information shall be the Administrator of NTIA (the "Administrator") and shall determine policy, direct programs, and be responsible for all activities of NTIA.

.02 The Deputy Assistant Secretary for Communications and Information shall be the Deputy Administrator of NTIA (the "Deputy Administrator"), shall assist the Administrator in the formulation of policies and in the management and direction of NTIA, and shall perform the functions of the Administrator in the latter's absence or disability or in the event of a vacancy in that office.

Section 4. Special Staff Offices

.01 The Office of Planning and Policy Coordination shall be headed by the Director of Planning and Policy Coordination and shall assist the Administrator and Deputy Administrator in performing their policy and management responsibilities. In performing these functions it shall:

a. As directed represent the Administrator in the development and implementation of telecommunications and information policies and in all other program activities of NTIA.

b. Assist the Administrator and the Deputy Administrator in developing program priorities, goals and objectives, in the allocation of resources, and in the evaluation of NTIA telecommunications and information policies and those of other agencies.

c. Coordinate the activities and programs of the Associate Administrators and other offices in the performance of their missions and in interdepartmental activities.

d. Provide overall guidance, planning and policy direction on the management and organization of NTIA and on the performance of NTIA programs, including the direction of organizational and management studies, the development and promulgation of management procedures and the coordination on such matters with other Departmental offices.

e. Provide policy and program guidance on the formulation, preparation and presentation of NTIA budgets and on the integration of policy goals and program plans into budget documents. Coordinate on such matters with the Departmental offices.

f. Develop, propose, and coordinate long and short-term program and policy directions; and program plans for NTIA and incorporate such considerations into the programmatic and administrative functions of NTIA.

g. Perform such other tasks as shall from time to time be assigned by the Administrator and Deputy Administrator.

.02 The Office of the Chief Counsel shall be headed by the Chief Counsel of NTIA who shall have full responsibility for the development and administration of the NTIA legal program. The Office shall:

a. Provide legal advice and general counselling to the Administrator and all components of NTIA with regards to the powers, duties, and responsibilities of NTIA and its relationship with other government departments and agencies (particularly, the Federal Communications Commission (FCC)), Congress, business, industry and private organizations; and the development and administration of NTIA policies and programs.

b. Prepare or review legislative proposals and statements concerning pending legislation or oversight to be made before committees of Congress, and prepare or review regulatory proposals and comments before regulatory agencies.

c. Carry out additional policy development functions with significant legal orientation as the Administrator shall from time to time direct.

These activities shall be carried out subject to the overall authority of the Department's General Counsel as provided in DOO 10-6.

.03 The Office of International Affairs shall be headed by the Director of International Affairs and shall provide the Administrator with broad overview and advice on international telecommunications and information affairs. To perform this function it shall:

a. Assist in the formulation and recommendation to the Administrator of policies and plans for U.S. participation in international telecommunications and information activities.

b. Coordinate NTIA and interdepartmental economic, technical, operational and related preparations for U.S. participation in international telecommunications conferences and negotiations.

c. Maintain liaison with government agencies and private organizations engaged in activities involving international telecommunications and information matters and maintain cognizance of activities of U.S. signatories to international telecommunications treaties, agreements and other instruments.

d. Provide for NTIA representation to international telecommunications and information meetings and to domestic activities preparatory to such meetings excepting for matters specifically assigned to other officers by the Administrator or Deputy Administrator.

e. Provide for NTIA advice and assistance to the Secretary of State with respect to international telecommunications policies to strengthen the position and serve the best interests of the United States in the conduct of negotiations with foreign nations.

These activities shall be carried out in close consultation with, and with the assistance of, the Associate Administrators.

.04 The *Office of Administration* shall be headed by the Director of Administration and shall provide administrative management and support services for all components of NTIA, except for field operations that are directed by the Administrator to provide such services for themselves, exercise functional supervision over such field administrative service operations, and provide regular reports to the Administrator on the utilization of NTIA resources. To perform these functions it shall:

a. Manage grants, contracts, cooperative agreements, property, and supplies, in accord with and as may be authorized by Department rules.

b. Provide systems analysis, reporting, administrative ADP services and programming support to NTIA's executive and administrative management functions.

c. Coordinate with the Departmental Office of Personnel to obtain the full range of personnel management services.

d. Provide for centralized financial accounting for all components of NTIA, and maintain a resource management reporting system.

e. Formulate, prepare, present and execute NTIA budgets under the overall policy and program guidance of the Office of Planning and Policy Coordination, and coordinate on such matters with other Departmental offices.

f. Conduct and implement management organization and systems analyses, coordinate activity under the Freedom of Information Act and the Privacy Act of 1974; and develop and maintain the internal administrative management control systems of NTIA.

.05 The *Office of Congressional and Public Affairs* shall be headed by the Director of Congressional and Public Affairs and shall recommend objectives and policies relating to public affairs, plan and conduct information and educational programs to insure that the public and staff are properly informed of NTIA's activities, and in conjunction with the Department's Office of Congressional Affairs shall coordinate liaison with the Congress and develop plans and programs for, and assist in, the presentation of NTIA's views and policies to appropriate Congressional bodies. In carrying out these functions, the Director of Congressional and Public Affairs shall maintain liaison with the Departmental Offices of Congressional Affairs and Public Affairs, shall act consistently with the overall policy directives of those offices, and shall be responsive to their inquiries.

Section 5. Office of Telecommunications Applications

The *Office of Telecommunications Applications* shall be headed by the Associate Administrator for Telecommunications Applications and shall, on behalf of the Administrator, conduct programs to assist public service agencies and other groups in more effectively using telecommunications technologies to better achieve public service and other national goals. To perform this function it shall:

a. Coordinate Federal telecommunications assistance to State and local governments.

b. Identify public service and other users' needs and develop methods of efficiently and effectively serving such needs through telecommunications services.

c. Develop policies for the continuing development of public broadcasting, including the use of new technologies.

d. Develop and maintain relationships with Federal agencies so as to assist them in determining ways in which innovative telecommunications technologies can contribute to the more effective delivery of public services; work with them in adapting such technologies to their own needs; and identify ways in which they can facilitate applications by others to meet public service and other national goals.

e. Conduct or coordinate interagency experimental and pilot testing of telecommunications uses.

f. In coordination with other Associate Administrators, work to remove barriers to the orderly introduction of innovative telecommunications technologies in the private sector, and provide for the application of such technologies to avoid waste and achieve an efficient delivery of public services in the furtherance of national goals.

Section 6. Office of Federal Systems and Spectrum Management

The *Office of Federal Systems and Spectrum Management* shall be headed by the Associate Administrator for Federal Systems and Spectrum Management and shall:

a. On behalf of the Administrator, advise the Director of the Office of Management and Budget (OMB) on the development of policies for procurement and management of Federal telecommunications systems. Conduct studies and evaluations concerning telecommunications research and development, the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and programs, and make recommendation to appropriate agency officials and to the Director, OMB, concerning the scope and funding of such programs.

b. Provide for the coordination of the telecommunications activities of the Executive Branch and assist in the formulation of policies and standards for the telecommunication activities of the Executive Branch including consideration of interoperability, privacy, security, and emergency preparedness.

c. Participate with, and perform staff services for, the National Security Council and the Director, Office of Science and Technology Policy, in carrying out their functions under Executive Order No. 12046.

d. Participate in evaluating the capability of telecommunication resources in recommending remedial action and in developing policy options.

e. Assign radio frequencies to, and amend, modify or revoke frequency assignments for radio stations belonging to and operated by the United States, make frequency allocations, and develop and maintain techniques, data bases, measurements, files and procedures necessary for such allocation.

f. Establish policies concerning spectrum assignment, allocation and use, and provide the various Departments and agencies with guidance to assure that their conduct of telecommunications activities is consistent with these policies.

g. Develop, in cooperation with the FCC, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources including jointly determining the National Table of Frequency Allocations.

h. Provide a chairperson and secretariat functions for the Interdepartment Radio Advisory Committee.

i. Authorize, upon the recommendation of the Secretary of State and after consultation with the Attorney General and the Chairperson of the FCC, the construction and operation of radio stations by foreign governments at the seat of government, and assign frequencies for their use.

j. Advise and assist the Administrator on technical and policy issues surrounding the security of national telecommunications and systems and means to assure such security.

k. Provide advice and assistance to the Administrator and the Director of International Affairs in carrying out spectrum management related aspects of NTIA's international policy responsibilities and perform such other duties related to those responsibilities as the Administrator shall designate.

Section 7. Institute for Telecommunication Sciences

The *Institute for Telecommunication Sciences* shall be headed by the Associate Administrator for Telecommunication Sciences and shall, on behalf of the Administrator, manage the telecommunications technology research programs of NTIA and provide technical research support to other elements of NTIA as well as other agencies on a reimbursable basis. To perform these functions it shall:

a. Conduct and coordinate technical analyses of telecommunications and information policy options.

b. Acquire, analyze, synthesize and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation and the conditions which affect propagation, on the nature of electromagnetic noise and interference, and on methods for the telecommunications purposes; prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions; develop methods of measurement of system performance and standards of practice for telecommunications.

c. Conduct research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of electromagnetic spectrum, in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility.

d. Conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies and State and local governments.

e. Provide scientific engineering and technical expertise, as the central Federal Government laboratories for research on transmission of radio waves.

f. Coordinate or undertake, on behalf of and at the direction of the Administrator, policy programs with major scientific or technical content.

g. In coordination with the Office of Federal Systems and Spectrum Management, provide advice and assistance to the Administrator and the director of International Affairs in carrying out spectrum management related aspects of NTIA's international policy responsibilities and perform such other duties related to those responsibilities as the Administrator shall designate.

Section 8. Office of Policy Analysis and Development.

The *Office of Policy Analysis and Development* shall be headed by the Associate Administrator for Policy Analysis and shall, on behalf of the Administrator, be responsible for the analysis, review, and formulation of domestic and international telecommunications and information policies and, at the direction of the Administrator, may present domestic and international policy before the FCC, the Congress and elsewhere. To perform these functions it shall:

a. Conduct or obtain analyses incorporating economic and other aspects of domestic and international telecommunications policy issues. For analyses involving legal and technical aspects of those issues draw upon and coordinate with the Office of the Chief Counsel and the Institute for Telecommunications Sciences. Integrate the results of these activities for the purposes of policy formulation.

b. Provide advice and assistance to the Administrator and the Director of International Affairs in carrying out NTIA's international telecommunications and information policy responsibilities and perform such other duties related to those responsibilities as the Administrator shall designate.

c. Provide other policy research, analysis and development in support of the policy research needs of other elements of NTIA.

Section 9. Effect on other orders.

This order supersedes Department Organization Order 30-5B of September 20, 1970, as amended.

Date of issuance: May 12, 1978.

Effective date: May 11, 1978.

Henry Geller,

Administrator, National Telecommunications and Information Administration.

Approved:

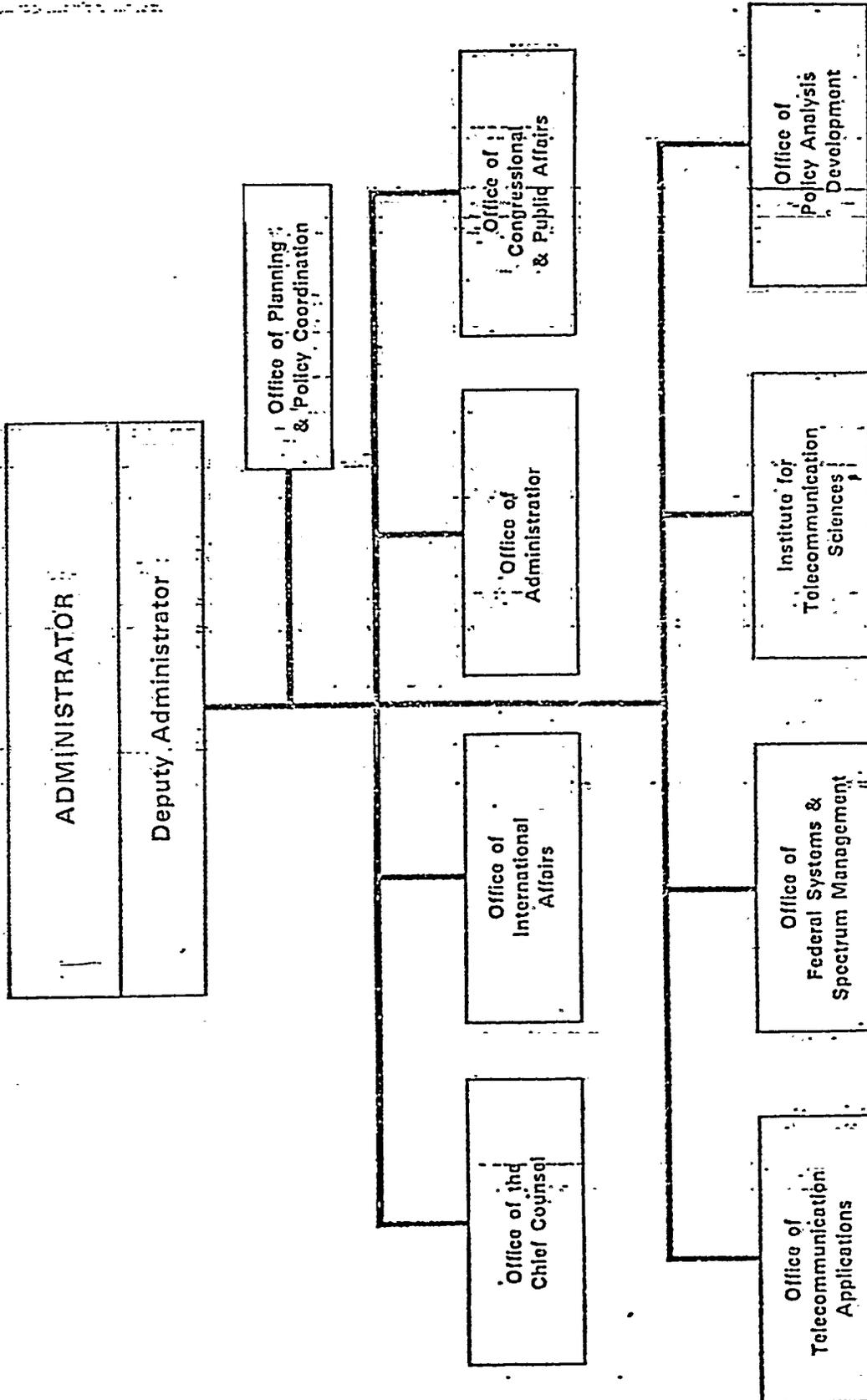
Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

BILLING CODE 3510-60-M

Exhibit 1 to DOO 25-7

U.S. DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration



DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

18 CFR Ch. I

[Docket No. RM80-13]

Price Squeeze Rules Applicable to the
Natural Gas Industry; Inquiry

December 5, 1979

AGENCY: Federal Energy Regulatory
Commission, Department of Energy.**ACTION:** Notice of inquiry.

SUMMARY: On November 19, 1979, the Federal Energy Regulatory Commission (Commission) issued companion notices of proposed rulemakings (Docket Nos. RM79-79, 44 FR 67154, November 23, 1979; and docket No. RM79-80, 44 FR 67158, November 23, 1979), proposing to amend its Regulations under the Federal Power Act (18 CFR Part 35) by adding new §§ 35.30 and 35.32 which would establish the procedural and substantive rules governing Commission proceedings involving an issue of price squeeze in the electric industry. Commission proceedings in which price squeeze has been an issue have been almost exclusively proceedings involving the electric industry. However, the Commission specifically solicits comments from members of the public on whether it should promulgate rules applicable to the natural gas industry, similar to those contained in the proposed §§ 35.30 and 35.32.

DATE: Written comments by January 24, 1980.**ADDRESSES:** Written comments should be filed with the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 and should reference Docket No. RM80-13**FOR FURTHER INFORMATION CONTACT:** Angela Lancaster, Office of the Chairman, Federal Energy Regulatory Commission, Room 9000, 825 North Capitol Street NE., Washington, DC 20426, (357-8333, or Bonnie Cord, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8104-A, 825 North Capitol Street NE., Washington, DC 20426, (202) 357-8170.**SUPPLEMENTARY INFORMATION:** The Commission invites interested persons to submit written data, views, and other information with respect to the desirability of promulgating rules governing price squeeze in the natural gas industry, similar to proposed §§ 35.30 and 35.32 in Docket Nos. RM79-79 and RM79-80. All comments reference Docket No. RM80-13, and

should be submitted by January 24, 1980 to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An original and 14 conformed copies should be filed.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, DC 20426, during regular business hours:

A public hearing on proposed §§ 35.30 and 35.32 will be held in Washington, DC., beginning at 9:30 a.m. on January 14, 1980 and continuing if necessary to the following day. Details of that hearing were noticed by the Commission in Docket Nos. RM79-79 and RM79-80, which appear elsewhere in the Proposed Rules Section of this Federal Register. At the public hearing, only the proposed rules, applicable to the electric industry, will be discussed.

Kenneth F. Plumb,
Secretary.[FR Doc. 79-37827 Filed 12-7-79; 8:45 am]
BILLING CODE 6450-01-M

18 CFR Part 35

[Dockets Nos. RM79-79 and RM79-80]

Price Squeeze—Procedural and
Substantive Rules; Extension of
Comment Period and Notice of Public
Hearing Date, Location, and
Procedures

December 5, 1979.

AGENCY: Federal Energy Regulatory
Commission, Department of Energy.
ACTION: Extension of comment period
and establishment of public hearing
date, location and procedures.**SUMMARY:** The Federal Energy
Regulatory Commission (Commission) is
extending until January 24, 1980, the
deadline for comments on its notices of
proposed rulemakings relating to price
squeeze in the electric industry. The
public hearing on these proposed rules
will be held in Washington, DC,
beginning at 9:30 a.m. on January 14,
1980, and continuing if necessary to the
following day.**DATES:** Public hearing on January 14,
1980; written comments by January 24,
1980.**ADDRESSES:** Written comments should
be filed with the Office of the Secretary,
Federal Energy Regulatory Commission,
825 North Capitol Street NE,
Washington, DC 20426 and should
reference Docket Nos. RM79-79 and RM
79-80. The public hearing will be held inHearing Room A, 825 North Capitol
Street NE, Washington, DC 20426.**FOR FURTHER INFORMATION CONTACT:**
Angela Lancaster, Office of the
Chairman, Federal Energy Regulatory
Commission, Room 9000, 825 North
Capitol Street NE, Washington, DC
20426, (202) 357-8333, or Bonnie Cord,
Office of the General Counsel, Federal
Energy Regulatory Commission, Room
8104-A, 825 North Capitol Street NE,
Washington, DC 20426, (202) 357-8170.**SUPPLEMENTARY INFORMATION:** On
November 19, 1978, the Commission
issued companion notices of proposed
rulemaking (Docket No. RM79-79, 44 FR
67154, November 23, 1979; Docket No.
RM79-80, 44 FR 67158, November 23,
1979) proposing to adopt regulations
governing Commission proceedings
involving price squeeze in the electric
utility industry. The Commission is
hereby extending the deadline for the
filing of written comments on matters
contained in those notices from
December 24, 1980 to January 24, 1980.

A public hearing will be held in
Washington, DC on matters contained in
both notices, beginning at 9:30 a.m. on
January 14, 1980 and continuing if
necessary on the following day. The
members of the panel at that hearing
will be designated by the Chairman of
the Commission. Any person interested
in this proceeding or representing a
group or class of persons interested in
this proceeding may make a
presentation at the hearing provided a
written request to participate is received
by the Secretary of the Commission
prior to 4:30 p.m. on January 9, 1980.

Requests to participate in the hearing
should include a reference to Docket
Nos. RM79-79 and RM79-80, as well as
a concise summary of the proposed oral
presentation and a number where the
person making the request may be
reached by telephone. Prior to the
hearing, each person filing a request to
participate will be contacted by the
Secretary or a designee for scheduling
purposes. To aid the staff in preparation
for the hearing, persons participating are
requested to submit at least ten copies
of their statements to the Secretary of
the Commission prior to 4:00 p.m. on
January 10, 1980. Additional copies of
statements may be brought to the
hearing for distribution to members of
the audience.

The presiding officer is authorized to
limit oral presentation at the public
hearing both as to length and as to
substance. The hearing will not be a
judicial or evidentiary-type hearing.
There will be no cross-examination of
persons presenting statements.
However, the panel may question such

persons and any interested persons may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Persons may ask questions of the panel in order to obtain a clarification of any aspect of the proposed rules; however, the panel will not respond to questions seeking justification or explanation of the policies behind the proposed rules. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information. Copies of the transcript may be purchased by members of the public.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37826 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 656

[FHWA Docket No. 79-28]

Carpool and Vanpool Projects; Proposed Revision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the revision of existing carpool and vanpool procedures to reflect changes required by the Surface Transportation Assistance Act of 1978 (STAA). The STAA changes the Federal share for carpool and vanpool projects from 90 percent to 75 percent, permits the use of Federal-aid secondary system funds for such projects, changes these projects from demonstration projects to regular Federal-aid highway projects, and declares that special efforts should be made to promote commuter modes of transportation that conserve energy, reduce pollution and reduce traffic congestion. The proposed regulation does not concern grants and loans made pursuant to subsections (d), (e) and (f) of section 126 of the STAA.

DATES: Comments must be received on or before January 24, 1980.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA

Docket No. 79-28, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Barbara Reichart, Chief, Ridesharing Branch, Office of Highway Planning, 202-426-0210, or Ruth R. Johnson, Attorney, Office of the Chief Counsel, 202-426-0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This proposal sets forth the basic criteria for determining whether carpool and vanpool projects are eligible for Federal-aid funding under 23 U.S.C. 146. Eligible projects include nonconstruction work as well as typical Federal-aid construction projects. Suggestions for expanding the list of eligible projects in proposed § 656.5(c) are invited.

To help promote modes of transportation that conserve energy, reduce pollution, and reduce traffic congestion, the FHWA is proposing in § 656.5(c)(6) that Federal-aid primary, secondary and urban highway system funds can participate in the construction, including the acquisition of land, of carpool or vanpool fringe parking facilities. Comment is particularly invited on the eligibility of parking facilities for Federal-aid funds as proposed in this section. We have not proposed that Federal-aid Interstate System funds participate in such construction of parking facilities. Interstate funds may participate where the facilities serve existing or planned public transportation as provided in 23 U.S.C. 142 and 23 CFR Part 810.

This proposed regulation will have no significant economic effect as it will not increase spending. The proposed regulation will merely implement the policies set forth in the STAA. For these reasons the FHWA has determined that this document does not contain a significant regulatory proposal under the criteria established by the U.S. Department of Transportation pursuant to Executive Order 12044. A draft regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Barbara Reichart of the program office at the address specified above.

In consideration of the foregoing, and under the authority of 23 U.S.C. §§ 146

and 315, and § 126 of the STAA (Pub. L. 95-599, 92 Stat. 2689), and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), it is proposed to revise Chapter I of Title 23, Code of Federal Regulations, Part 656 as set forth below.

Issued on: December 4, 1979.

John S. Hassell, Jr.,
Deputy Administrator.

PART 656—CARPOOL AND VANPOOL PROJECTS

Sec.

656.1 Purpose.

656.3 Policy.

656.5 Eligibility.

656.7 Property management.

Authority: 23 U.S.C. § 146 and 315; § 126 of the Surface Transportation Assistance Act of 1978, Pub. L. 95-599, 92 Stat. 2689; 49 CFR 1.48(b).

656.1 Purpose.

The purpose of this regulation is to prescribe policies and general procedures for administering a program of ridesharing projects using Federal-aid primary, secondary, and urban system funds.

656.3 Policy.

Section 126(d) of the Surface Transportation Assistance Act of 1978 declares that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion.

656.5 Eligibility.

(a) Projects which promote ridesharing programs need not be located on but must serve a Federal-aid system to be eligible for Federal-aid funds. Such projects may be financed with Federal-aid primary, secondary, or urban system funds depending on the system served. The Federal share payable will be in accordance with the provisions of 23 U.S.C. 120. Except for paragraph (c)(3) of this section for all purposes of this regulation, the term "carpool" includes "vanpool."

(b) Projects shall not be approved under this part if they will have an adverse effect on any mass transportation system.

(c) The following types of projects and work are considered eligible under this program:

(1) Systems, whether manual or computerized, for locating potential participants in carpools and informing them of the opportunities for participation. Eligible costs for such systems may include costs of use or rental of computer hardware, costs of software, and installation costs

(including both labor and other related items);

(2) Specialized procedures to provide carpooling opportunities to elderly or handicapped persons;

(3) The costs of acquiring vanpool vehicles and actual financial losses that occur when the operation of any vanpool is aborted before scheduled termination date for reasons, concurred in by the State, that its continuation is no longer productive. The Cost of acquiring a vanpool vehicle is eligible under the following conditions:

(i) The vanpool vehicle is a four-wheeled vehicle manufactured for use on public highways for transportation of 8-15 passengers (no buses, passenger cars or station wagons),

(ii) Provision is made for repayment of acquisition cost to the project within the passenger-service life of the vehicle. Repayment may be accomplished through the charging of a reasonable user fee based on an estimated number of riders per vehicle and the cost of reasonable vehicle depreciation, operation, and maintenance;

(4) Work necessary to designate existing highway lanes as preferential carpool lanes or bus and carpool lanes. Eligible work may include preliminary engineering to determine traffic flow and design criteria, signing, pavement markings, traffic control devices, and minor physical modifications to permit the use of designated lanes as preferential carpool lanes or bus and carpool lanes. Such improvements on any public road may be approved if such projects facilitate more efficient use of any Federal-aid highway. Eligible costs may also include costs of initial inspection or monitoring of use, including special equipment, to assure the project is fully developed and operating properly.

(5) Signing of and modifications to existing facilities to provide preferential parking for carpools inside or outside the central business district. Eligible costs may include trail blazers, on-site signs designating highway interchange areas or other existing publicly or privately owned facilities as preferential parking for carpool participants; and initial or renewal costs of leasing parking space or acquisition of easements or restrictions, as, for example, at shopping centers and public or private parking facilities. The lease or acquisition cost may be computed on the demonstrated reduction in the overall number of vehicles using the facility, but not on a reduction of the per-vehicle user charge for parking.

(6) Construction of carpool parking facilities outside the central business district. Eligible costs may include

acquisition of land, normal construction activities, trail blazers, on-site signing, and passenger shelters. Such facilities need not be located in conjunction with any existing or planned mass transportation service, but should be designed so that the facility could accommodate mass transportation in the event such service may be developed. Except for the requirement of the availability of mass/public transportation facilities, fringe parking construction shall be subject to the provisions of 23 CFR 810.106.

(7) Reasonable public information and promotion expenses, including personnel costs, incurred in connection with any of the other eligible items mentioned herein.

656.7 Property management.

All of the applicable provisions of OMB Circular A-102, Appendix N, concerning property management standards shall apply.

[FR Doc. 79-37811 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-22-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1371-8]

Approval and Promulgation of State Implementation Plans; Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this notice is to discuss the results of the Environmental Protection Agency's (EPA's) review of a proposed revision to the New York State Implementation Plan (SIP) and to invite public comment on EPA's proposed determinations regarding the SIP's adequacy. The Clean Air Act, as amended, requires that the SIP applicable to an area not in attainment of a national ambient air quality standard be revised by January 1, 1979 to provide for attainment of the standard. The revision received from New York State is intended to meet this requirement for two pollutants, carbon monoxide and ozone, in the New York City metropolitan area, which encompasses the City of New York and the Counties of Nassau, Suffolk, Rockland and Westchester.

DATES: Comments must be submitted on or before February 8, 1980.

ADDRESSES: Copies of the SIP revision are available during normal business

hours for inspection at the following locations:

Environmental Protection Agency, Region II, Room 1642, 26 Federal Plaza, New York, New York 10007.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12233.

New York State Department of Environmental Conservation, Region 1, SUNY, Building 40, Stony Brook, New York 11790.

New York State Department of Environmental Conservation, Region 2, Two World Trade Center, New York, New York 10047.

New York State Department of Environmental Conservation, Region 3, 211 South Putt Corners Road, New Paltz, New York 12561.

New York State Department of Environmental Conservation, Region 3, 202 Mamaroneck Avenue, White Plains, New York 10601.

Written Comments Should be sent to: Richard T. Dewling, Acting Regional Administrator, Environmental Protection Agency—Region II, 26 Federal Plaza, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency—Region II, 26 Federal Plaza, New York, New York 10007, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

I. Introduction

The 1977 Amendments to the Clean Air Act added part D to Title I of the Act. This new part requires that for each area within a State designated as not meeting a national ambient air quality standard, a revision to the State Implementation Plan (SIP) must be adopted by the State and submitted for approval to the Environmental Protection Agency (EPA) by January 1, 1979. The SIP revision is to provide for attainment of the contravened standard by December 31, 1982 or, for ozone and carbon monoxide under certain conditions specified by the Act, no later than December 31, 1987. As discussed in greater detail in Section II.A of this notice, the New York City metropolitan area has been designated as not attaining the ozone, carbon monoxide and particulate matter standards; therefore, a revision to the New York SIP for these pollutants and this area is required. The required contents of such a SIP revision are described in Part D and, more generally, in Section 110(a) of the Clean Air Act. These requirements are further discussed and elaborated upon in a "General Preamble for

Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas" published in the April 4, 1979 issue of the Federal Register at 44 FR 20372. The reader is referred to this Federal Register notice for a complete discussion of SIP revision requirements; these are not repeated in great detail in this notice.

The reader is also referred to several supplements to this April 4, 1979 notice which were published in the Federal Registers of July 2, 1979 at 44 FR 38583, August 28, 1979 at 44 FR 50371 and September 17, 1979 at 44 FR 53761. Among other things, the July 2, 1979 Federal Register notice discusses conditional approval of SIP's. EPA proposes to conditionally approve a plan where there are minor deficiencies and the State provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved and on the deadlines for submittal specified in this notice. The restrictions on new major stationary source construction, also discussed in a July 2, 1979 Federal Register notice (44 FR 38583 and 44 FR 38471), will not apply where conditional approvals are granted unless the State fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA. The August 28 and September 17, 1979 Federal Register notices provide discussion on Control Technology Guidelines for stationary sources of volatile organic compounds. This requirement is further discussed in Subsection III.D.2 of this notice.

On May 16, 1979 the Governor of the State of New York formally submitted a SIP revision intended to meet the Clean Air Act requirements for the nonattaining portions of the New York City metropolitan area. The revision was transmitted to EPA by the Commissioner of the New York State Department of Environmental Conservation on May 24, 1979. In addition, on May 23, 1979, May 31, 1979, June 12, 1979, June 18, 1979, June 26, 1979, July 30, 1979, August 6, 1979, August 10, 1979, August 20, 1979, August 31, 1979, September 21, 1979, October 1, 1979, October 17, 1979, November 5, 1979, and November 13, 1979, the State submitted to EPA additional information for inclusion in its SIP revision proposal. Notice of EPA receipt of the proposed SIP revision was announced in the Federal Register on June 25, 1979 at 44 FR 37087.

The information in this notice is presented in five sections entitled, "Introduction," "Background," "SIP Revision Content and Review,"

"Summary of Unfulfilled Requirements," and "Public Comment." The "Background" section provides information on the nonattainment areas dealt with by this notice, reviews the history of the development of the SIP for the New York City metropolitan area and of this proposed revision and describes the general content of the State's proposed revision. The "SIP Revision Content and Review" section identifies the specific requirements for an acceptable SIP, summarizes how the proposed SIP revision attempts to address each requirement, and discusses the adequacy of the proposed SIP revision with respect to each requirement. The "Summary of Unfulfilled Requirements" section summarizes the proposed findings made in Section III of this notice with regard to the adequacy of the proposed SIP revision to meet the requirements of the Clean Air Act. The final, "Public Comment," section solicits comments on EPA's proposed action with respect to the State's revision.

II. Background

A. Nonattainment Areas

Under the provisions of Section 107(d) of the Clean Air Act, as amended, EPA published in the Federal Register (44 FR 5119, January 25, 1979) a list of the attainment status designations with respect to each national ambient air quality standard for every area within New York State. These designations represent revisions, corrections and elaborations to designations originally published in the March 3, 1978 issue of the Federal Register at 43 FR 8962. Additional revisions to ozone designations in New York State which do not affect those for the New York City metropolitan area were also proposed on August 3, 1979 (44 FR 45650). The reader is referred to the January 25, 1979 Federal Register for a detailed description of the nonattainment designations for the New York City metropolitan area (the City of New York and the Counties of Nassau, Suffolk, Westchester and Rockland); they are summarized as follows:

- Carbon Monoxide:
 - the City of New York.
 - the City of Yonkers.
 - the City of Mount Vernon.
 - the County of Nassau (southwestern).
- Ozone:
 - the entire New York City metropolitan area.
- Particulate Matter (Secondary Standard)
 - the Borough of Manhattan.
 - the Borough of Brooklyn (part).
 - the Borough of Queens (part).
 - the Borough of the Bronx (part).

B. Early Efforts

In 1970 Congress amended the Air Quality Act of 1967 and by doing so mandated EPA to establish national ambient air quality standards at a level sufficient to protect the public health and welfare. The states were required to develop SIP's to attain these standards by adopting requirements, where necessary, for the control of transportation and stationary sources of air pollution.

To meet the requirements of the 1970 Clean Air Act, in 1972 the State of New York submitted a proposed SIP to EPA which was designed to demonstrate the attainment of the then applicable national ambient air quality standards for particulate matter, sulfur oxides, hydrocarbons, photochemical oxidants (ozone), carbon monoxide and nitrogen dioxide. Through its review EPA found this plan deficient in its ability to control two of the transportation-related pollutants, carbon monoxide and ozone. Consequently, the State was given additional time to submit a revised plan for these pollutants. The revised SIP was submitted in 1973 and subsequently approved by EPA (38 FR 16560, 16567, June 22, 1973). The 1973 ozone and carbon monoxide SIP revision contained many measures for controlling the use of private automobiles and for improving public transportation in the metropolitan area. However, for various reasons, much of the plan was never implemented. The current status of the measures contained in State's 1973 SIP revision is discussed in Subsection III.D.1.e of this notice.

C. Development of the SIP Revision

In accordance with the provisions of Section 174 of the Clean Air Act, primary responsibility for preparing carbon monoxide and ozone SIP revisions was identified by the Governor of the State of New York as belonging to specific organizations of local elected officials in the State. For the New York City metropolitan area, in a March 30, 1978 letter, the Governor designated the Tri-State Regional Planning Commission (Tri-State) acting through its three subregional Transportation Coordinating Committees (TCC's) (the three TCC's are: The Mid-Hudson South (Westchester and Rockland Counties), New York City and Nassau-Suffolk) as the lead planning organization to prepare the proposed SIP revision. The State itself assumed responsibility for providing technical support to involved agencies, for development of mobile source emission inspection and maintenance programs, for development

of stationary source emission control regulations, for new source review, and for other programs encompassing areas beyond the traditional role of local governments.

In addition, the Governor of New York State, the Mayor of New York City and the Region II Administrator of EPA entered into a Memorandum of Understanding on June 24, 1978 in order to establish principles by which the SIP revision would be developed. The Memorandum of Understanding established an Oversight Committee to monitor the development of the SIP revision. It also described the responsibilities of Tri-State and various State and local agencies regarding the development of the proposed SIP revision.

D. General Content of the SIP Revision

That part of the proposed SIP revision which was submitted to EPA on May 24, 1979 provides the following principal control strategies aimed at attainment of the ozone and carbon monoxide standards: The normal replacement of old automobiles by newer vehicles, the implementation of an automobile emission inspection and maintenance program, the requirement for the installation of emission controls on stationary sources of volatile organic compounds and the institution of transportation control measures. In addition, the plan contains procedures for the development of future transportation control measures through an ongoing transportation—air quality planning process. As permitted under the provisions of the Clean Air Act, in his letter of May 18, 1979, the Governor also requested an eighteen-month extension, until July 1, 1980, to submit the State's plan to attain the secondary standard for particulate matter in the New York City metropolitan area.

The May 24, 1979 proposed SIP revision consists of seven volumes and four appendices. (The appendices are noted in the submittal as being provided for background information only). These documents are entitled:

- Volume I—New York State Air Quality Implementation Plan for Control of Carbon Monoxide and Hydrocarbons in the New York City Metropolitan Area.
- Volume II—Detailed Descriptions of Reasonably Available Control Measures.
- Volume III—Air Quality and Emission Inventory.
- Volume IV—Public Participation.
- Total Suspended Particulates Secondary Standard: New York City Extension Request.

- New York State Air Quality Implementation Plan, the Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area.
- New York State Air Quality Implementation Plan, Statewide Summary and Program.
- Appendix A—TCC RACM Evaluations, New York City.
- Appendix B—TCC RACM Evaluations, Nassau-Suffolk.
- Appendix C—TCC RACM Evaluations, Mid-Hudson South.
- Appendix D—TCC RACM Evaluations, Department of Environmental Conservation.

III. SIP Revision Content and Review

This section describes the content of the proposed SIP revision for the New York City metropolitan area, evaluates it with respect to each of the major criteria used by EPA to determine approvability and discusses the deficiencies found by EPA through its evaluation and corrective actions which should be undertaken by the State in order to make its SIP revision fully approvable. Unless each of the Part D requirements listed below are either approved or conditionally approved the growth limitations under Section 110(a)(I) remain in effect.

A. *SIP revisions shall be adopted by the state after reasonable notice and public hearing.* The proposed SIP revision was adopted by the Governor of New York after public hearings were held at the following locations on the following dates. Each public hearing was held after at least 30 days of notice.

Location and date (1979): New York City—January 29. Plainview—January 30. White Plains—January 31.

The State has provided documentation to identify that the necessary notices, public hearings and adoptions were carried out in such a manner as to be found acceptable to EPA.

B. *The SIP revisions shall demonstrate that both primary and secondary national ambient air quality standards will be attained within the nonattainment area as expeditiously as practicable, but for primary standards no later than the following final deadlines:*

—December 31, 1982, except that
—For ozone or carbon monoxide, December 31, 1987, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonably available measures.

1. *SIP Content.*—The New York SIP revision includes a demonstration that it

is not possible to attain the carbon monoxide and ozone standards by the end of 1982. Such a demonstration is prerequisite to the granting of attainment date extensions for both pollutants and means that another SIP revision demonstrating attainment by the extended date must be submitted by the State on or before July 1, 1982.

a. *Carbon Monoxide.* The proposed SIP revision contains a request for an extension of the attainment date of the carbon monoxide ambient air quality standard from December 31, 1982 to December 31, 1987 for all of the nonattainment areas in the New York City metropolitan area. The replacement of older vehicles with newer, lower polluting vehicles (vehicle turnover) was found to be the most significant measure for reducing carbon monoxide emissions. The proposed SIP revision concludes that vehicle turnover alone would provide for the eventual attainment of the carbon monoxide standards; however, this would not occur by December 31, 1982.

To augment the emission reduction benefits of vehicle turnover the State proposes a motor vehicle emission inspection and maintenance program to commence on January 1, 1982 (this program is discussed in detail in Subsection III.D.1.c(1)(b) of this notice). The proposed SIP revision does not claim any carbon monoxide emission reduction credit except for vehicle turnover and inspection and maintenance. Through the use of a simple rollback modeling technique, these two control measures are calculated to result in attainment of the carbon monoxide standard by 1984, 1983 and 1982 for Midtown Manhattan, Downtown Manhattan and the remainder of the nonattainment areas, respectively.

In addition to the limited number of known carbon monoxide problems in the New York City metropolitan area, numerous "hotspots" of higher concentrations may also exist. Therefore, in order to better define the true magnitude and extent of the carbon monoxide problems in this area, the State, in cooperation with EPA and Tri-State, is adopting a work plan for a "hotspot" identification study. The study tasks are identified in the proposed SIP revision.

b. *Ozone.* The State claims that, for a variety of reasons, the demonstration of ozone attainment for the New York City metropolitan area is not possible at this time. The proposed SIP revision further states that the adoption of extreme measures to effect significant organic compound emission reductions would be premature as well as unproven in terms

of its ultimate effect. Consequently, the proposed SIP revision does not propose comprehensive programs indicating how the ozone standard will be met.

The only measures for which the proposed SIP revision credits specific organic compound emission reductions are vehicle turnover, motor vehicle emission inspection and maintenance, and stationary source "vapor" controls. The proposed SIP revision does not credit transportation control measures with any significant potential to reduce ozone concentrations and does not propose to rely upon them for obtaining additional future emission reductions to meet the ozone standard. Furthermore, the proposed SIP revision states that there is no available method to estimate additional organic compound emission reductions achievable from stationary source controls until EPA publishes "Control Technology Guideline" documents on additional source categories to be regulated. (These documents, which provide the information on reasonably available control technology for selected stationary source categories, are discussed in Subsection III.D.2.a of this notice).

However, the proposed SIP revision does state that the implementation of all measures for which specific emission reductions are credited by the State will not achieve the 47 to 69 percent organic compound emission reduction estimated to be necessary for attainment of the ozone standard by December 31, 1982. Attainment by December 31, 1987 is depicted based on strategies "to be developed for 1982 Plan."

c. *Particulate Matter.* Section 110(b) of the Clean Air Act provides for an extension in the time allowed for the submission of SIPs for areas which are in violation of a secondary standard. According to EPA policy (44 FR 20372, April 4, 1979), if a state demonstrates that the installation of reasonably available control technology on traditional stationary sources located in the secondary standard nonattainment area will not be sufficient to bring about attainment, then the state may be granted an extension of up to eighteen months to the plan revision submittal date. The Governor of New York has requested such an extension until July 1, 1980, with regard to State's plan revision to meet the secondary particulate matter standard in the New York City metropolitan area. The proposed SIP revision submittal contains the requested demonstration justifying his request.

2. *Adequacy.*—a. *Carbon Monoxide.* EPA recognizes that better information than currently exists regarding the

magnitude and geographic extent of the carbon monoxide problems in the New York City metropolitan area is needed and expects that the "hotspot" study committed to in the SIP will provide this information. The attainment date extension requested by the proposed SIP revision is considered by EPA to be reasonable based on existing information concerning the area's carbon monoxide problems and the effectiveness of the control measures contained in the plan. Consequently, EPA proposes to accept the State's demonstration, but expects it will be reevaluated in light of the new information which will become available. EPA further expects that the State will apply all reasonably available control measures to carbon monoxide problems as they are identified.

b. *Ozone.* The proposed SIP revision does not adequately assess the potential organic compound emission reductions that could be obtained from the adoption of all reasonably available control measures, including transportation control measures. Consequently, as additional information is obtained (e.g., from studies and demonstration projects contained in the proposed plan) regarding the effectiveness of control measures and the nature of the ozone problem, EPA expects that the State will reevaluate its claim that the ozone standard cannot be attained by December 31, 1982 and will, in the interim, apply all reasonably available control measures as expeditiously as is practicable. In this light, EPA proposes to accept the proposed plan's contention that an attainment date extension is required.

c. *Particulate Matter.* On the basis of the reasonably available control technology demonstration contained in the state's submittal, EPA proposes to grant the eighteen-month extension for plan revision requested by the state.

C. *The SIP revision shall require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date.* 1. *SIP Revision Requirements.*—In the case of a plan revision for ozone or carbon monoxide demonstrating the need for an extension of the attainment date, reasonable further progress may be considered to be, at a minimum, the rate of emission reduction up to the end of 1982 that, if continued, would provide for attainment by the end of 1987 or sooner. In addition, in order to describe the contribution to reasonable further progress of each measure contained in a SIP revision, a target emission reduction for each should be provided (44 FR

20372, April 4, 1979). Emission reduction targets are essential to effective planning for the attainment of air quality standards.

2. *SIP Content.*—a. *Carbon Monoxide.* The proposed SIP revision graphically depicts, for three principal nonattainment areas (Midtown Manhattan, Downtown Manhattan and the remainder of the nonattainment areas), carbon monoxide emission reductions that are expected to be obtained from the plan's control measures. The graphs show that reasonable further progress toward attainment of the standards will be provided. However, emission reduction targets for each measure or combination of measures are not provided.

b. *Ozone.* The proposed SIP revision also graphically depicts the reduction in organic compound emissions expected to result from selected stationary and mobile source control measures. This presentation shows that reasonable further progress toward attainment of the ozone standard will be provided. For stationary sources, new volatile organic compound control requirements produce emission reductions beginning in late 1979; but, after 1982, the proposed SIP revision shows no further emission decreases resulting from the further control of stationary sources. As is the case for carbon monoxide, emission reduction targets were not provided in the proposed SIP revision.

3. *Adequacy.*—a. *Carbon Monoxide/Ozone.* EPA proposes to find the State's demonstration of reasonable further progress toward attainment of standards acceptable. However, reasonable further progress for carbon monoxide may have to be reassessed at a later date after the results of the "hotspot" monitoring study, discussed in subsection III.B.1.a of this notice, are available.

EPA accepts the fact that emission reduction targets for measures or combination of measures are not available at this time. However, these targets will be essential for ensuring that reasonable further progress is provided after 1982. Such targets must be development for inclusion in the 1982 revision to the SIP. Targets are particularly important since the proposed SIP revision does not identify where additional emission reductions might be obtained after 1982.

D. *The SIP revision shall provide for implementation of all reasonably available control measures as expeditiously as practicable insofar as is necessary to assure reasonable further progress and attainment by the required date. This requirement includes (1) reasonably available*

transportation control measures and (2) reasonably available control technology for stationary sources. 1. *Transportation Control Measures.*—a. *SIP Revision Requirements.* Section 108(f)(1)(A) of the Clean Air Act lists those transportation control measures which are presumed by EPA to be reasonably available (this list of measures is not intended to be exhaustive). With the exception of motor vehicle emission inspection and maintenance (which is specifically required by Section 172(b)(11)(B) of the Clean Air Act when an extension beyond December 31, 1982 for attainment of the carbon monoxide or ozone standards is being requested); if a state believes that one or more of these measures is not reasonably available, the state may elect to demonstrate this fact and not implement the measure. Such a demonstration must show that substantial adverse impact would result from implementation, or that extensive time is needed to analyze and develop the measure (44 FR 20372, April 4, 1979).

A proposed SIP revision must contain schedules for implementation of currently planned reasonably available transportation control measures, and schedules for the analysis, selection, adoption, and implementation of additional transportation control measures sufficient to achieve the emission reductions ascribed to the transportation system in the demonstration of reasonable further progress towards attainment of standards. A proposed SIP revision should also include a schedule for the implementation of a representative selection of reasonable transportation control measures, at least on a pilot or demonstration basis, before the end of 1980 (44 FR 20372, April 4, 1979).

Provisions for an integrated transportation-air quality planning process which gives priority consideration to air quality concerns should also be included in a proposed SIP revision. The planning process should investigate and compile data on the control strategies needed to attain air quality standards. The scope of the investigation must be commensurate with the scope and severity of the air quality problem (44 FR 33473, June 11, 1979).

b. *General Discussion of Transportation Control Measures & Studies.*—(1) *Categorization of Measures.* The proposed SIP revision presents a series of transportation-related air quality control measures designed to improve air quality in the New York City metropolitan area. Each measure was categorized in the proposed plan under one of four

headings. The measures in each category are depicted in Table 1. In its plan revision, the State generally described the nature of its commitment to implementation of specific actions under a measure through that measure's categorization as follows:

Reasonably Available Control Measures: Those measures defined as "reasonably available" are those to which the State and local governments have given their full commitment to implementation. These measures "are funded and enforceable or will be by the scheduled date of implementation."

Demonstration Projects: These are projects which will be undertaken in the immediate future to determine the feasibility for widespread implementation of a measure. Each has the full commitment of the State and of the agency responsible for its development. If a measure proves to be infeasible, the SIP will be revised to eliminate the measure.

Reasonably Available Control Measures Subject to Transportation Planning Process Action: These are measures which the State and local governments agree are feasible, but which lack sufficient funding at this time to be executed. They are all eligible for federal funding and will be considered in the transportation planning process. "Reasonableness" will be defined by funding availability as determined by the Transportation Coordinating Committees. Once funds are made available, the State and local governments are committed to implementation of the measure.

Measures Not Reasonably Available: These measures are defined by the State as "not reasonably available" because they were found to be: (1) Unnecessary for attainment or maintenance of air quality standards or (2) infeasible because the measure's social, political or economic costs are believed to outweigh its benefits.

Problems which EPA has found with this method of categorization are discussed in Subsection III.D.1.d(3) of this notice.

Table 1—Air Quality Control Measures

Reasonably Available Control Measures

1. Vehicle Turnover.
2. Vehicle Inspection and Maintenance.
3. Transit Improvements.
4. Land Use and Development Controls.
5. Parking Restrictions.
6. Freight Transportation.
7. Heavy Duty Gasoline Truck Retrofit.
8. Vapor Recovery.

Demonstration Projects To Determine Implementation Feasibility

1. Limitation on Authorized Parking.
2. 42nd Street Transitway Project.

3. Eastside Avenue Exclusive Local Bus Lane.
4. Business District Peripheral Parking Facilities.
5. 49th-50th Streets Corridor: Improved Service for Public Transportation Vehicles.
6. Bike Lanes.

Reasonably Available Control Measures Subject to Transportation Planning Process Action

1. Express Bus and Carpool Lanes.
2. Pedestrian Priority Zones.
3. Traffic Flow Improvements for Arterials.
4. Traffic Flow Improvements for Limited Access Highways.
5. Alternate Work Schedules.
6. Bicycle Lanes and Storage Facilities.
7. Employer Based Programs.
8. Private Car Restrictions.
9. Park-and-Ride and Fringe Parking.

Measures Not Reasonably Available

1. Extreme Cold Start Reduction.
2. Controls on Extended Vehicle Idling.
3. Alternate Fuels.
4. Road Pricing.

(2) *Studies.* In addition to the specific projects which are committed to implementation under the various measures in the proposed SIP revision, the plan also presents a program of further study "to identify additional applications of the measures." The studies generally will analyze the applicability and feasibility of the measures. More than 100 studies are proposed in the SIP revision, covering both specific projects and general problem areas.

The proposed plan identifies "top priority" studies which are "commitments." Other air quality studies are also identified for funding consideration and additional studies are expected as the planning and implementation program progresses. Study outlines are noted by the State as being preliminary in nature and study costs are expected to be refined and are subject to change as project scopes are further defined and cost estimates updated.

(3) *General Adequacy of Measures.* In its review, EPA has found several shortcomings in the program contained in the proposed SIP revision for implementation of mobile source related control measures. These include: (a) The inclusion of imprecise schedules for the implementation of projects intended to carry out the measures, (b) the lack of a systematic program for the further study of the measures, (c) insufficient documentation of the reasons for the rejection of certain measures, and (d) the use of an inconsistent and potentially confusing format to describe the measures. Specific instances of these deficiencies, which must be corrected, are included in the discussions of the

individual measures which appear in Subsection III.D.1.c of this notice. What follows is a general elaboration on these shortcomings and an identification of the conditions which must be met by the State in order for the proposed SIP revision to receive full EPA approval.

(a) *Imprecise Schedules.* The proposed SIP revision does not sufficiently define the State's schedule for the implementation of projects related to the transportation control measures. In order to correct the vagueness that exists in this regard, a more complete identification of significant milestones for project implementation is needed. Such milestones should include, as appropriate, dates for the following actions:

- Financial
 - inclusion of the project in the Transportation Improvement Program Annual Element.
 - inclusion of the project in the State's Section 105 application to the Federal Highway Administration.
 - inclusion of the project in the State and local budgets.
- Political
 - endorsement of the project by principal elected officials.
 - endorsement of the project by the appropriate Transportation Coordinating Committee.
 - Passage of State or local enabling legislation, or regulations, where needed.
- Social
 - presentation of the project to Community or Borough Boards.
 - presentation of the project to the Citizens' Advisory Committee.
 - endorsement of the project by public referendum, when needed (e.g., transit bond issue).
- Technical
 - completion of preliminary engineering studies.
 - acquisition of any necessary right-of-way.
 - initiation and completion of construction.

Financial, political and social requirements are discussed further in Sections III.G, I and J of this notice.

Measures which have a particular need for the identification of additional milestones with regard to their proposed actions include:

- Parking Restrictions.
- Freight Transportation.
- Limitation on Authorized Parking.
- Bike Lanes (Demonstration Project).
- Express Bus and Carpool Lanes.
- Pedestrian Priority Zones.
- Traffic Flow Improvements for Arterials.
- Traffic Flow Improvements for Limited Access Highways.
- Employer Based Programs.
- Private Car Restrictions.
- Alternate Work Schedules.
- Bicycle Lanes and Storage Facilities.
- Park and Ride and Fringe Parking.

In order to correct this deficiency, dates for initiation and completion of the significant milestones discussed earlier and any other key milestones which are appropriate must be identified in the SIP. Consequently, EPA proposes to conditionally approve the proposed SIP pending submission to EPA by August 1, 1980 of key milestones for those projects associated with transportation control measures which are a part of the SIP.

(b) *Systematic Study.* The deficiency just discussed emphasizes the importance of the proposed SIP revision's program for the further study of the application of measures. The study program can be used to correct this deficiency through identifying the milestones needed for implementation of projects. In addition, studies can be used to determine a measure's "reasonableness" and opportunities for its further application. EPA considers that all the studies contained in the proposed SIP revision as well as any additional studies needed to correct cited deficiencies in the SIP, are essential for the development of the 1982 SIP revision, addressed in Subsection III.B.1 of this notice:

The proposed SIP revision often lacks information concerning a study's schedule, its funding source, its anticipated products, its relationship to measures, projects and other studies, and procedures for tracking its progress and reporting on its findings. It should be noted that these deficiencies, for the most part, will be addressed by Tri-State in a program that is being funded by an EPA Urban Air Quality Planning Grant authorized under Section 175 of the Clean Air Act. Measures which contain an inadequate program of study include:

- Freight Transportation.
- Express Bus and Carpool Lanes.
- Pedestrian Priority Zones.
- Employer Based Programs.
- Private Car Restrictions.
- Alternate Work Schedules.
- Bicycle Lanes and Storage Facilities.

EPA proposes to conditionally approve the proposed SIP revision pending improvement of the program of study by February 1, 1980 to include studies directed toward the broader application of measures, and to include the above noted detailed information where missing. In this regard, it is particularly important that the schedule for completion of a study include a milestone relating to action on the study's recommendations by principal elected officials. At the completion of a study, an explicit decision must be made as to what further actions are called for.

Such a decision should be forthcoming shortly after the study's completion.

(c) *Rejected Measures.* Several measures discussed in the proposed SIP revision were found by the State not to be reasonably available (these are discussed in Subsection III.D.1.c of this notice). EPA recognizes that these findings were made after State review. However, in one case, "Controls on Extended Vehicle Idling," the measure was found to be reasonable in one part of the metropolitan area and not reasonable in another. Adequate justification was not provided in the proposed SIP revision to explain this measure's general categorization.

Because of the importance which EPA places on the development of adequate documentation to justify the rejection of a measure, EPA proposes to conditionally approve the proposed plan provided that additional documentation to support the finding that "Controls on Extended Vehicle Idling" is "unreasonable" is submitted to EPA by August 1, 1980.

(d) *Confusing Format.* The format of the proposed SIP revision, especially as it relates to the discussion of transportation control measures, leads to confusion that might hinder the ability of responsible agencies and the interested public to understand what the plan contains. Part of this problem results from the fact that control measures are discussed in two separate volumes. The information presented in Volume I appears to be complete and self-contained and Volume II appears to provide supportive data to Volume I. However, Volume I states that, "State and local governments are committed also to implementation of the measures as described in Volume 2." Therefore, in this regard, Volume II would appear to serve as a critical component of the SIP. Moreover, in Volume I it is stated that, "a description of each study, responsible agency, legal authority, cost, source of funding and a schedule for the study, are given in Volume II." But Volume I also contains a discussion of each measure.

When the content of these two volumes are compared, conflicts and omissions appear among descriptive materials, evaluation details, and other items. Thus, the question arises, does the material in Volume I take precedence over that in Volume II in the case of conflicts? Unless given specific instructions by the State to the contrary, EPA will assume that the material found in Volume I serves as an overview and outline for the proposed SIP revision, and, in cases of inconsistency, material in Volume I will be considered to take precedence over that of Volume II.

This format problem is further complicated by the use of inconsistent terminology in the proposed SIP revision. For example, it is often unclear whether an element in the plan is a study, a permanent project, or a demonstration project. Thus, uncertainty exists as to what actions are being committed to. Extensive technical editing is needed.

While EPA believes that portions of the proposed SIP revision need to be extensively rewritten in order to correct these problems, such an effort would be a significant drain on State and local governmental resources. However, in order for the SIP to be a usable document, it must be clarified. Therefore, EPA proposes to conditionally approve the SIP revision provided that by February 1, 1980 the State provides three separate listings covering, respectively, all of the transportation-related studies, demonstration projects and permanent projects committed to in its plan. Any action currently appearing in the proposed SIP revision must appear in this listing. As discussed in Subsections III.D.1.b(3)(a) and (b) of this notice, adequate milestones for these projects and studies must be developed if they do not already exist.

c. Description and Adequacy of Specific Transportation Control Measures

The following is a description of the mobile source related measures presented in the proposed SIP revision. The measures are described using the same categorizations which were used by the State in the proposed SIP revision and which were discussed in Subsection III.D.1.b(1) of this notice.

Subsection III.D.1.b(3) of this notice discussed in general the deficiencies EPA has found with the State's program for implementation of mobile source related control measures. These deficiencies are elaborated upon here, where the adequacy of each separate measure is discussed along with specific corrective actions which EPA believes must be taken by the State in order for the measure to be found acceptable. However, it should be noted that, in a general sense, EPA found the State's treatment of the measures adequate.

(1) *Reasonably Available Control Measures*—(a) *Vehicle Turnover* Description: Since 1968 the Federal Motor Vehicle Control Program (FMVCP) has required that all new vehicles sold in the United States meet increasingly more stringent federal emission standards. To meet these federal standards, manufacturers have modified the design and operation of automobile and light-duty truck engines

and have added emission control systems and devices to these vehicles. Thus, as new vehicles replace vehicles currently in use, emissions will be reduced and air quality improved.

Adequacy. This measure is implemented and enforced by the federal government and, consequently, requires no State action.

(b) *Vehicle Inspection and Maintenance* Description: Automobile emission inspection and maintenance (I/M) commonly refers to a program requiring the periodic testing of the emissions of in-use vehicles against state established standards set so as to account for vehicle age and class. Any vehicle failing such an inspection must undergo a tune-up and, in some cases, repair in order to reduce its emissions to the level of the applicable standard.

An inspection and maintenance program is intended to supplement the existing FMVCP. In order for motor vehicles not to have excessive emissions after they have been in use, they must receive periodic maintenance; an inspection and maintenance program would ensure this. The program increases the frequency and quality of the maintenance of motor vehicles and thereby reduces their average emissions. Thus, other things being equal, total vehicle related pollutant emissions will be significantly lower than they would be without a program.

The Clean Air Act requires the implementation of all reasonably available control measures and specifically an I/M program where attainment of either the ozone or the carbon monoxide standards by December 31, 1982 cannot be demonstrated.

The proposed SIP revision presents two substrategies related to this measure. The first initiates an I/M program for light duty vehicles, which is planned to commence on January 1, 1982, and continues a thrice-yearly medallion taxi I/M program implemented by the City of New York. This latter program was originally included in the 1973 SIP and was implemented in its present form in October 1977. (See Subsection III.D.1.e for a discussion of the 1973 SIP). The second substrategy is an "anti-Tampering Pilot Program" which is intended to determine the extent and nature of tampering with automotive emission control systems in New York State. These two substrategies are discussed below.

Inspection and Maintenance Program

The key elements for SIP approval with respect to a proposed I/M program are as follows:

- **Legal Authority.** States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the I/M program (Section 172(b)(10)).
- **Commitment.** The appropriate governmental unit(s) must be committed to implement and enforce the I/M program (Section 172(b)(10)).
- **Resources.** The necessary finances and personnel resources to carry out the I/M program must be identified and committed (Section 172(b)(7)).
- **Schedule.** A specific schedule to establish the I/M program must be included in the SIP (Section 172(b)(11)(B)). Interim milestones to be included in this schedule are to be in accordance with the general requirement of 40 CFR 51.15(c). Such milestones appropriate to an I/M program have been specified by EPA in a guidance memorandum published in the July 17, 1978 Federal Register at 44 FR 20372.
- **Program Effectiveness.** As set forth in the July 17, 1978 guidance memorandum the I/M program must achieve a 25 percent reduction in passenger car exhaust emissions of hydrocarbons and a 25 percent reduction of carbon monoxide emissions. In order to determine the required reductions, the emission levels as of December 31, 1987 with the I/M program in place are compared with the emission levels as of December 31, 1987 without I/M. This policy is based on Section 172(b)(2) of the Clean Air Act which states that, "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *". This level of effectiveness is based on the evaluation of the New Jersey and Arizona I/M programs, which have effectively demonstrated practical operation of their programs with 20 percent stringency factors. (A stringency factor is a measure of the rigor of a program based on the estimated fraction of the vehicle population whose emissions would exceed cutpoints were no improvements in maintenance habits or quality of maintenance to take place as a result of the program.) It is EPA policy to use a 25 percent emission reduction as the criterion to determine compliance of the I/M portion with the provisions of Section 172(b)(2).

The I/M program described in the proposed SIP revision will require the annual emission inspection of all gasoline-powered light duty vehicles in

the New York City metropolitan area. (Diesel-powered vehicles and heavy duty gasoline-powered trucks would be exempted). A provision is also made for the study of the feasibility of waiving certain vehicles. The inspection will be of the "pass/fail" type designed to check vehicle idle exhaust emission levels with respect to certain emission standards. These standards will be set to reflect the emissions expected from a vehicle engine that is in a tuned condition. The standards are expected initially to be set at a level at which approximately 10 percent of the vehicles tested would fail the test. After the program has been in effect for an unspecified period of time, the standards will be tightened. A vehicle failing the emission test normally would have to receive adjustments or repairs in order to pass a reinspection.

The proposed SIP revision presents three alternative approaches to conducting the inspection and maintenance program. The first alternative uses State or contractor operated facilities to conduct emission inspections and the existing private garages to conduct safety inspections. The second alternative is to conduct safety and emissions inspections at the same place and time in a State or contractor operated facility. The third alternative is to add the new emission inspection program to the current private garage safety inspection program. Advantages and disadvantages of each of the alternatives are discussed in the proposed SIP revision.

The proposed SIP revision presents a schedule for implementation of a contractor operated emission inspection and maintenance program. However, the ability of the State to meet the schedule was contingent upon State passage of new enabling legislation by July 1, 1979. Such legislation has not yet been passed.

On November 5, 1979 the State submitted additional information on its I/M program for the New York City metropolitan area. In this submission the State indicated its choice to implement and enforce a decentralized idle emissions inspection program using the existing licensed garages which now perform the mandatory safety inspection. Details of the State's proposed I/M program are as follow.

• Legal Authority

The State indicates that sufficient legislative authority exists to implement an I/M program. Under Title III, Article 5, Section 301(c)(3) of its Vehicle and Traffic Law an I/M program can be established " * * * as soon as the commissioner [of the Department of

Motor Vehicles], in consultation with the commissioner of environmental conservation determines that it is technologically feasible and economically practical to conduct inspection * * * Such a determination has been made and was included in the State's submittal. In addition, the Commissioner of the Department of Motor Vehicles has the authority under Section 215 and by Article 5, Section 302(e) specifically of the Vehicle and Traffic Law to amend and/or promulgate the necessary regulations so as to incorporate the emissions test into the safety test.

• System Description

The program will cover all light duty vehicles registered in the New York City metropolitan area except motorcycles, diesel powered vehicles, certain special purpose commercial, farm and historical vehicles. The inspection will consist of an annual idle exhaust emission check of carbon monoxide and hydrocarbons conducted at state licensed private garages employing certified inspectors. Vehicles failing inspection must be adjusted or repaired and reinspected.

Noncomplying vehicles will be prohibited from operation on the public roads through the current vehicle registration system and the use of unique window inspection stickers, pursuant to Section 306(b) and (c) of the Vehicle and Traffic Law. Emission inspections will be mandatory beginning on January 1, 1981, but repair will be voluntary; beginning on January 1, 1982 inspection and repair will both be mandatory. While specific program stringency factors are not provided in the submittal, the State commits to achieving a 25 percent reduction in passenger car exhaust emissions of hydrocarbons and a 25 percent reduction in carbon monoxide emissions.

• Regulations

New York State currently has regulations for conducting and enforcing its annual safety inspections. The emission test would be added to the specific list of items to be inspected and thereafter all registration and enforcement procedures would apply. Regulations currently exist for licensing inspection stations which specify specific space, equipment and reporting requirements. Individuals performing inspections must meet specific requirements in order to gain certification.

• Emission Test Procedure

In addition to the required idle exhaust emission test, the State is considering the desirability of conducting visual checks of automotive air pollution control equipment. This

anti-tampering program is discussed further later in this subsection.

• Public Information and Education

The State considers a public information program essential to the successful implementation of an I/M program. Details on a specific public information program have not been provided in the proposed SIP revision; however, the State commits to developing such a program and has included milestones for this work in its I/M implementation schedule. The proposed SIP revision states that the New York State Department of Environmental Conservation would conduct a free exhaust emission test program from June 7, 1979 through August 25, 1979 throughout the New York City metropolitan area. This program was designed to begin to educate the public on the benefits of an exhaust emission test.

• Mechanic Training

Since under existing authority the State does not have a mechanism to require mechanic training, certification, or licensing, the State has committed itself to study the feasibility of conducting a voluntary program.

• Assignment of Responsibility

In order for the New York State Departments of Motor Vehicles (DMV) and Environmental Conservation (DEC) to develop, implement and maintain an effective I/M program, a memorandum of understanding allocating responsibilities will be developed between them.

• Monitoring and Quality Control

The State will use several methods to monitor and control the inspection facilities and ensure quality inspections. These include: periodic unannounced inspections (once every 60 days), concealed investigations (utilizing unmarked vehicles), contractor supplied, serviced and maintained exhaust gas analyzers and data recorders (contractor calibration at least once per month), periodic data analysis of inspection station records and followup investigations, and investigation of consumer complaints involving inspections (exhaust analyzers will be used to handle complaints and concerns regarding proper emission inspections).

It is EPA policy to require a periodic inspection of decentralized licensed garages to insure proper calibration and maintenance of exhaust gas analyzers. The State has included in its proposed revision a requirement that exhaust gas analyzers be calibrated once per month. The State, in addition, will require periodic calibration of the exhaust gas analyzers by the licensed inspection stations.

Currently the State is monitoring and controlling the safety inspection program. Therefore, all that is necessary when adding the exhaust inspection is to extend that system with an appropriate increase in the number of DMV automotive facilities inspectors to handle the more frequent and expanded inspections.

• **Request For Proposal for Test Equipment**

In order to obtain better control over the exhaust gas analyzers used to perform the exhaust test and the quality of maintenance and service, the State will issue a single request for proposal on such equipment and service. In addition, this equipment will have data storage capability for accurate and complete recordkeeping.

• **Financing**

In order to successfully operate and monitor the proposed I/M program the State has determined that it will be necessary to increase the current safety inspection fee and provide additional State funds to administer the program. Under existing authority the DMV Commissioner can raise the inspection fee to cover the additional cost of the exhaust inspection. The State also has identified methods of securing funds for the additional DMV administrative costs. Included in the State's submission is a general commitment to fund the I/M program as outlined.

• **Waiver Provisions From Exhaust Standards**

The State will include waiver provisions, which are yet to be determined, in the interest of fairness and public acceptance. Nevertheless, a waiver will not be granted for a vehicle that has had its emission control system tampered with.

• **Implementation Schedule**

A schedule has been included in the State's submission for the implementation of the decentralized I/M program. Milestones to achieve the January 1, 1982 commencement date for mandatory emissions inspection and mandatory repair are provided in the following schedule.

- 9/14/79—Coordination begins between DMV and DEC.
- 10/1/79—Prepare notification to all currently licensed stations informing them of the new requirements. Provide them with any information currently available on how they will be affected on continuing basis.
- 10/1/79—Begin identifying all exhaust analyzer equipment supplies to establish a mailing list for the request for proposal.
- 10/1/79—Begin, in coordination with DEC, preparing request for proposal for equipment supply, maintenance, and training.
- 10/15/79—Begin continuous public information and public education campaign

by forming task force; use current DEC and EPA material.

- 10/31/79—Submit amended DMV budget request.
- 11/15/79—Mail request for proposals to prospective bidders.
- 11/15/79—Begin draft of Commissioner's regulations.
- 11/15/79—Begin study of waiver provisions.
- 1/4/80—Bids received.
- 1/4/80—Complete study of waiver provisions and select procedures, if any.
- 1/4/80—Begin public promulgation process for the Commissioner's regulations on Part 79 including pass/fail standards for emission test and fee increase.
- 1/4/80—Submit legislation to raise DMV inspection sticker fee from 25 to 50 cents.
- 1/18/80—Select successful bidder.
- 1/18/80—Begin public information and education program.
- 2/4/80—Begin feasibility study of mechanic training program.
- 2/18/80—Formally sign contract with successful bidder on request for proposal.
- 4/1/80—DMV to receive funds from either amended budget request or legislation raising sticker fee to 50 cents (or both), or obtain funding from some other source.
- 4/1/80—Determine necessary DEC level of staffing.
- 6/2/80—Report on feasibility of mechanic training course and begin planning any new program.
- 7/1/80—Memorandum of understanding between DEC and DMV completed.
- 7/1/80—Determine funding mechanism for DEC.
- 8/1/80—Amended Part 79 promulgated.
- 9/1/80—Additional DMV monitoring staff on board.
- 10/1/80—Receive funding for DEC portion of program.
- 10/11/80—Distribute new inspection forms, supplies and procedures including new New York City metropolitan area inspection stickers and revised certified inspector training class.
- 12/1/80—Exhaust gas analyzers in hands of stations and automotive facilities inspectors (including data recorders if available at this time).
- 1/1/81—Begin one year of mandatory emissions inspection/voluntary repair.
- 10/1/81—Data recording devices attached to all gas analyzers used for emissions inspection.
- 1/1/82—Begin mandatory emissions inspection/mandatory repair.

Anti-Tampering Pilot Program

The second substrategy relating to inspection and maintenance is a pilot program involving the inspection of vehicles with the objectives of determining the extent of tampering with emission control systems, determining the effect of such tampering on vehicle emissions, determining how tampering is occurring, and developing inspection procedures to detect tampering in the I/M program just discussed. The State believes that the effectiveness of an I/M program to reduce exhaust emissions can be

increased if a tampering inspection is added to the standard exhaust test. The pilot program began on June 18, 1979 and is to be completed by March 1, 1980. At the completion of the pilot program, a written report will be issued relating to the above objectives.

Adequacy: The State was required to certify by June 30, 1979 that authorizing legislation existed for a vehicle emission I/M program. Since the State has decided to implement a decentralized emission program by incorporating it into the current State decentralized safety inspection program, they have been able to provide documentation demonstrating State authority to implement this type of program. EPA has reviewed this authority and agrees with the State's determination that it is adequate to implement an exhaust emission inspection and to require vehicles failing the test to be repaired.

Since the State will include in its request for proposal a requirement to calibrate test instruments once per month, and since State DMV inspectors will be checking calibration of the exhaust gas analyzer once every sixty days, EPA accepts this calibration frequency as adequate to ensure emission test integrity.

While the State has committed to achieving the 25 percent emission reduction of hydrocarbons and carbon monoxide in 1987, specific details as to how this will be accomplished have not been provided to EPA. As long as the State provides this information on schedule, EPA is satisfied with this commitment.

The specific finances and resources to carry out the I/M program have not been identified in the proposed SIP revision, but the State commits to fund the program. EPA is satisfied with this commitment, along with the milestones in the implementation schedule which will provide the details on funding and manpower resources.

The implementation schedule submitted by the State contains the necessary milestones and is acceptable to EPA.

Based on the State's submissions, EPA proposes to approve the State's proposed I/M program.

Although the taxi inspection program has been in operation in its present form since October 1977, an evaluation of the program's effectiveness in reducing air pollution emissions has never been submitted to EPA. Consequently, no documentation is available to verify the emission reduction credits assigned to this program. In order for EPA to fully evaluate the existing taxi I/M program, as well as the State's demonstration of reasonable further progress and

attainment of the air quality standards, EPA requests that the State submit such information as soon as possible.

(c) *Transit Improvements.*—

Description: This measure includes the following substrategies to improve public transportation: maintenance of the current 50-cent transit fare, rehabilitation of public transit, and improvement and promotion of mass transit.

- Maintenance of 50-cent transit fare—The proposed plan indicates that the Governor of New York and the Mayor of New York City intend to maintain the present transit fare. This objective is to be met through increased federal funding, funds from the State's operating assistance budget, and by efforts such as those outlined by a proposed Metropolitan Transportation Authority Management Study.
- Rehabilitation of public transit—The proposed SIP revision describes the rehabilitation of the existing New York City Transit Authority's subway and bus systems as an on-going program. According to the proposed SIP revision, the Governor and the Mayor have agreed upon an accelerated program of improvements to the existing system, conditioned on the receipt of additional federal capital assistance.
- Improving and Promotion of Mass Transit—This substrategy is intended to improve transit service by reducing travel time, improving coordination, providing information, and promoting transit service improvements. Various projects and studies are proposed to effect service improvements.

Estimates of the air quality impact of this measure are presented in the State's document, "The Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area," May 1979. Reduction in vehicle-miles-travelled and organic compound emissions of 0.4 percent are anticipated.

Adequacy: The measure, "Transit Improvements," will be discussed in a separate notice concerning the State's "Moynihan/Holtzman" submission which will appear in a future issue of the Federal Register. The Clean Air Act requirement for this document is discussed in detail in Subsection III.K.4 of this notice.

(d) *Land Use and Development*

Controls.—Description: This measure deals with a proposed change to New York City's zoning ordinance affecting the construction of off-street parking facilities. Its goal is to reduce air pollution and traffic congestion without adversely affecting the City's economic base. Changes in the zoning ordinance

will reflect the results of on-going studies (e.g., a Parking Management Study) and an evaluation of the air quality benefits of the off-street parking restriction programs that have been previously implemented. The Parking Management Study will describe the relationship between parking availability and traffic in Manhattan's central business districts. Justification for not applying this measure outside of the Manhattan central business districts is provided by the State.

Adequacy: The schedule for implementation of sections associated with this measure appears to be adequate.

(e) *Parking Restrictions.*—

Description: By restricting the availability of on-street parking spaces, the implementation of this measure aims to reduce the total number of vehicles entering the central business districts so as to improve traffic flow and thus improve air quality. The SIP revision proposes to examine three major options under this measure: (1) The strict enforcement of existing parking regulations, (2) the control of daytime commuter parking in residential areas, and (3) the reduction in the number of parking spaces in Manhattan's business districts. It is stated in the proposed SIP revision that the implementation of some programs under these options has already begun. In addition, this measure may be further implemented based in part on the findings of the carbon monoxide "hotspot" monitoring study, discussed in Subsection III.B.1.a. of this notice. Parking restrictions will be explored as a means to attain standards in areas where violations are identified by this study.

Adequacy: This measure is deficient with respect to its schedule for implementation. Many actions called for by this measure lack starting dates, completion dates, and interim dates describing key milestones.

(f) *Freight Transportation.*—

Description: The objective of this measure is to reduce emissions through improving truck and rail freight transportation in the City of New York. The following six elements are included in the proposed SIP revision for consideration:

- Consolidation of Trucking Activities
- Development and Fostering of Improvements in Goods Movement Technology and Management Systems
- After Hours Delivery to Stores and Office Buildings
- Provisions of Off-Street Loading Facilities
- Use of Rail for Transporting Commodities
- Development of Waterfront Facilities

These six elements correspond to strategies contained in the 1973 SIP.

Parts of two of the six elements were found by the State to be not reasonably available. These are:

- Element No. 2—Moving freight on the New York City subway system was found to be unreasonable because of the inability of the passenger oriented systems to accommodate freight. In addition, the use of Conrail's tunnels under the Hudson River for freight was also found to be unreasonable.
- Element No. 3—The "mandating" of after hours delivery of freight in Lower Manhattan was found to be unreasonable, but the "encouraging" of voluntary after hours delivery was considered to be reasonably available. Programs to encourage after hours delivery will be studied.

Four projects will be implemented under this measure, as follows:

- Construction of a trailer on flat car terminal at High Bridge Terminal in the Bronx and the provision of increased bridge clearance for rail cars north of the High Bridge Terminal.
- Establishment of a full clearance link between High Bridge and the Oak Point rail yard in the Bronx.
- Establishment of a rail link to the Brooklyn waterfront.
- Designation of new truck routes in New York City.

Adequacy: This measure is deficient in that schedules for various projects and studies under it are deficient with respect to starting dates, interim milestones, and completion dates.

(g) *Heavy Duty Gasoline Truck*

Retrofit.—Description: This measure proposes to determine the feasibility of retrofitting heavy duty gasoline powered trucks with air pollution control devices, primarily catalytic converters. The 1973 SIP (See Subsection III.D.1.e of this notice for a discussion of the 1973 SIP) contains a heavy duty gasoline retrofit strategy. While developmental work on it was carried out, substantial questions still remain to be answered regarding its technical and administrative feasibility.

In order to resolve the questions of availability of devices, durability of devices, certification procedure, and costs, the State has included a proposed schedule for a demonstration program. Funding for the program is being sought from EPA and other sources. Full implementation of this measure is in part dependent upon the results of the demonstration program.

The proposed SIP revision states that the effectiveness of this measure depends upon adoption of similar programs in Connecticut and New Jersey. This is considered necessary because of the nature of the interstate shipping business and to prevent New

York truck owners from registering vehicles in these other states to avoid retrofit requirements.

Adequacy: Consistent with the fact that the 1973 SIP contains a heavy duty gasoline retrofit strategy, the State has designated this measure in the "Reasonably Available Control Measure" category. However, unlike other measures in this category, the State does not appear ready to provide for its implementation at this time, but only to begin a demonstration program which will provide answers to outstanding issues. In addition, EPA questions the State's commitments to this measure because legislative authority for heavy duty gasoline truck retrofit in New York State is contingent upon New Jersey and Connecticut obtaining legal authority to implement the measure. If in fact a recategorization of this strategy is in order, this should be done in conformance with the procedures for revising the 1973 SIP discussed in Subsection III.D.1.e of this notice.

The demonstration program appears dependent on the availability of federal funds and the cooperation of catalyst manufacturers in providing prototype devices. Both of these contingencies have not been resolved as yet. It is not clear from this measure who would be conducting the demonstration program and the adequacy of manpower commitments. This could significantly affect the availability of federal funds.

(2) Demonstration Projects to Determine Implementation Feasibility.

(a) **Limitations on Authorized Parking.**—*Description:* In the City of New York, individuals, private corporations and domestic or foreign government agency employees are, in certain cases, extended special on-street parking privileges, sometimes combined with special license plates or other insignias which immunize the vehicle from having to comply with generally applicable parking regulations. However, these privileges are at times abused through double parking or parking in unauthorized areas. Such abuses block or slow the free movement of traffic in congested areas.

In the proposed SIP revision, the New York City Department of Transportation is committed to investigate and report on the extent of this problem and to develop a program to correct it. The report will contain recommendations for changes in procedures, regulations and legislation to limit such authorized parking and to locate it in places which minimize traffic flow interferences.

Adequacy: This demonstration project is inadequate with respect to its schedule for implementation. The

project fails to identify a starting date, interim milestones and a completion date.

(b) **42nd Street Transitway Project.**—*Description:* The New York City Planning Commission and the New York City Department of Transportation are currently studying the financial and technical feasibility of establishing a transitway along the 42nd Street corridor. The proposed SIP revision includes a schedule for bringing this project to fruition. The last milestone in this schedule indicates that the project would be considered for inclusion in the Transportation Improvement Program in the fall of 1980.

Adequacy: EPA believes that this project has been miscategorized by the State because the project is well underway and will require future federal funding for implementation. Hence, it would appear more appropriate to categorize it as a "Reasonably Available Control Measure Subject to Transportation Planning Process Action."

(c) **East Side Avenue Exclusive Local Bus Lane.**—The proposed SIP revision contains a commitment to conduct a demonstration project to test the feasibility of an exclusive bus lane on an East Side Avenue in Manhattan. The proposed SIP revision further states that this commitment is conditioned on the results of a feasibility analysis to be completed by February 1, 1980 and, if found feasible, the project will be considered for inclusion in the Transportation Improvement Program in the fall of 1980.

Adequacy: The City of New York has recently obligated itself to institute exclusive bus lanes on two Manhattan avenues by entering into a Stipulation in *United States of America v. State of New York et al.*, 76 Civ. 837. This Stipulation (and accompanying court Order) represents settlement of litigation concerning a strategy in the 1973 SIP which required medallion taxicabs to meet rigorous emission standards (Strategy A-11 shown in Table 2 of this notice). The 1973 SIP identifies the City of New York as bearing responsibility for implementation of Strategy A-11. It was, therefore, appropriate for the City of assume responsibility for implementation of the exclusive bus lane strategy as it did by entering into the Stipulation.

The existence of the referenced Stipulation and Order makes implementation of two exclusive bus lanes an absolute legal requirement. The State's categorization of this project in the proposed SIP revision is, therefore, inappropriate. As the City of New York was the State's delegate for

implementation of the former Strategy A-11, and has committed to the institution of exclusive bus right-of-way as a partial substitute for that strategy, the State's proposed SIP revision should be changed to reflect the obligations and the relevant dates that are set out in the Stipulation and Order.

(d) **Business District Peripheral Parking Facilities.**—*Description:* A demonstration project to test the feasibility of locating at least one special parking facility peripheral to the Midtown Manhattan Central Business District is included in the proposed SIP revision. An essential part of this demonstration project is the concurrent establishment of an efficient public transportation link from the peripheral facility to the Midtown Central Business District. The Cruise-Shipping Terminal parking lot in the west side of Manhattan is one of several sites being considered. The New York City Department of Transportation, the Taxi and Limousine Commission and the Metropolitan Transportation Authority share responsibility for this project.

Adequacy: EPA finds the program for implementation of this demonstration project is adequate.

(e) **49th-50th Streets Corridor: Improved Service for Public Transportation Vehicles.**—*Description:* A program to improve the level of transportation service in the 49th and 50th Street corridor, which is identified as having the lowest transit speeds in Manhattan, is proposed to be developed by the SIP revision. Potential actions to be investigated include the establishment of a bus lane, a public transportation corridor and turn restrictions. The plan commits the New York City Department of Transportation to start implementation of recommendations resulting from this investigation by July 1979.

Adequacy: This project was implemented on June 12, 1979 and apparently is operating satisfactorily. EPA recommends timely application of this demonstration project to other transit improvement projects.

(f) **Bike Lanes.**—*Description:* In the proposed SIP revision four bike routes linking Brooklyn, Queens and Staten Island with the Midtown and Downtown areas of Manhattan are proposed for implementation. These bike lanes, which will be carefully monitored for their effectiveness, are considered by the State to constitute the first phase of a bikeway implementation strategy. The New York City Department of Transportation has responsibility for this project.

Adequacy: This proposed bike lane from Queens to Manhattan over the

Queensboro Bridge was implemented on July 3, 1979. The proposed SIP revision indicates that construction of all four of the bike lanes would begin in June 1979. However, no further details of the implementation schedule are provided.

(3) Reasonably Available Control Measures Subject to Transportation Planning Process Action.

(a) *Express Bus and Carpool Lanes.*—*Description:* Discussion of this measure in the proposed SIP revision includes a reference to several different types of projects. Besides those providing for exclusive bus and carpool lanes on major arterials and limited access highways, there are projects that relate to local bus operations (e.g., local bus lanes, construction of bus shelters), the establishment of exclusive bus and taxi lanes, increased traffic enforcement with respect to bus lanes, and the establishment of parking facilities where buses can "lay over" between their scheduled trips to and from Manhattan. A listing of specific projects and studies in the New York City, Nassau-Suffolk and Mid-Hudson South areas is provided. In addition, the governmental agencies responsible for these projects and studies are identified. The State has indicated to EPA that some of the projects presented as a part of this measure appropriately belong under the "Transit Improvements" measure discussed in Subsection III.D.1.C(1)(c) of this notice. Such projects as bus shelters and signs belong to this category. To a limited extent, schedules for actions on projects are presented in Volume II of the proposed SIP revision.

Adequacy: Insufficient information is included in the proposed SIP revision for EPA to evaluate the adequacy of the program of specific projects and studies presented under this measure. It is not possible to determine the products which are expected to result from each study. The proposed SIP revision fails to identify any necessary sequencing of the studies. Finally, starting dates, interim milestones and completion dates are not specified for many projects and studies.

(b) *Pedestrian Priority Zones.*—*Description:* The proposed SIP revision identified two types of projects as being applicable to this measure: pedestrian malls closed to all traffic except for emergency and limited services delivery vehicles, and transit malls designed to accommodate pedestrians, buses, emergency and service delivery vehicles. Of the various jurisdictions in the New York City metropolitan area, Suffolk County and Rockland County found pedestrian priority zones to be unreasonable based upon their relatively low populations densities.

Adequacy: EPA believes that the schedules for implementation of studies and projects do not adequately provide starting dates, interim milestones and completion dates.

(c) *Traffic Flow Improvements for Arterials.*—*Description:* Projects under this measure seek to improve traffic flow by utilizing a variety of traffic control and engineering measures. The proposed SIP revision contains a listing of various projects and studies to be undertaken in the New York City metropolitan area. Moreover, the plan points out that, "throughout the area, traffic flow improvements are undertaken on a continuous basis, with most of the funding coming from federal sources. Therefore, most traffic flow improvement projects are reviewed and selected according to the ongoing transportation planning process." Under this measure the State also considers projects related to reducing the number of vehicle trips which go through Manhattan, improving the movement of goods in Manhattan, and reducing unnecessary travel by taxis.

The State considers that those types of projects commonly referred to as traffic engineering on TOPICS (Traffic Operations Program to Increase Capacity and Safety) reduce vehicle emissions by improving traffic flow without significantly increasing vehicle-miles-travelled. Such projects include signal improvements, signs, turning lanes and other pavement modification for traffic engineering purposes short of adding additional travel lanes between intersections. In this regard, the State has proposed that the traffic flow projects identified in the proposed SIP revision that exceed the definition of traffic engineering type projects (i.e., arterial reconstruction projects in Yonkers and Nassau County) not be considered as part of the SIP.

Adequacy: The schedule of implementation is inadequate with respect to providing starting dates, interim milestones, and completion dates for the various projects and studies under the measures.

(d) *Traffic Flow Improvements for Limited Access Highways.*—

Description: The proposed SIP revision specifically describes only two projects under this measure. The first is a "Traffic Surveillance and Control System" which is under construction on the Van Wyck Expressway in New York City. The evaluation of this system is expected to be completed in 1981. The second is an "Integrated Motorist Information System" which is under development in the Northern Long Island corridor including the Long Island Expressway, Northern and Grand

Central Parkways and some parallel roads. Construction of this project is expected to be completed in 1982.

These two projects are proposed as demonstrations to be used to further evaluate this measure. The State does not intend to propose additional projects of this nature until their air quality benefit can be determined.

Adequacy: EPA believes that any future highway projects that may be presented by the State for inclusion in its SIP must be carefully evaluated as to their air quality impact. To do otherwise might undermine gains in air quality resulting from other strategies and result in less than expeditious attainment of standards.

(e) *Alternate Work Schedules.*—*Description:* Projects developed under this measure are intended to encourage employers to voluntarily alter employee work schedules away from the predominant 9:00 am–5:00 pm work period. Because employees would not be traveling to and from work during peak periods, improvements to mass transit service would be experienced and traffic congestion would be reduced. Several specific projects and studies in the New York City metropolitan area are described in the proposed SIP revision under this measure.

Adequacy: The schedules for implementation of various projects and studies are deficient with respect to providing starting dates, interim milestones, and completion dates.

(f) *Bicycle Lanes and Storage Facilities.*—*Description:* Specific related projects categorized in the proposed SIP revision as "Demonstration Projects to Determine Implementation Feasibility" have already been discussed in Subsection III.D.1.C(2)(f) of this notice. Additional projects and studies in the major jurisdictions of the New York City metropolitan area are also discussed under this heading in the proposed SIP revision.

Adequacy: The schedule for implementation for various projects and studies described under this measure are deficient with respect to providing starting dates, interim milestones, and completion dates.

(g) *Employer Based Programs.*—*Description:* The proposed SIP revisions discuss several past and current efforts to encourage carpooling and vanpooling in the New York City metropolitan area. For example, the New York State Department of Transportation provides keypunched carpooling data and computer summaries to employers in Nassau County.

Adequacy: With the exception of a general discussion of one project and

three studies, the proposed SIP revision does not provide the necessary information for implementation of any new employer programs. Also, starting dates, interim milestones and completion dates are needed for the new studies and projects mentioned.

(h) Private Car Restrictions.—

Description: Projects developed under this measure would be directed at reducing congestion through the restriction of private vehicle use in specific areas within a central business district. The proposed SIP revision commits the New York City Department of Transportation to conduct an eighteen-month study of the feasibility of various private car restriction policies for the central business districts of the City. The Nassau-Suffolk TCC has determined that this measure is not applicable to the two counties under its jurisdiction because of their low density of development. Rockland County also rejected this measure as ineffective. In Westchester County, the City of Yonkers will conduct a study of "transit streets" to determine feasibility. Nevertheless, the State believes that this measure could have application in carbon monoxide nonattainment areas in Nassau and Westchester Counties, if such areas are identified as a result of the "hotspot" monitoring study discussed in Subsection III.B.1.a of this notice.

Adequacy: It will be necessary for the State to provide more specific information on the nature and the extent of these two studies, and on the key milestones associated with them.

(i) Park-and-Ride and Fringe Parking.—Description: Projects developed under this measure are intended to divert automobile drivers to convenient parking facilities at express transit service stops. In addition, particularly in suburban areas, such parking facilities can be used as carpool staging areas. The proposed SIP revision commits the New York City Department of Transportation to the analysis and implementation of several park-and-ride pilot projects. A study of Manhattan Central Business District peripheral parking will be completed by November 1980. By June 1979 two park-and-ride lots in addition to the three already existing in New York City were to have been established. A park-and-ride study undertaken by the New York State Department of Transportation will be completed by mid-1981. Within this period the State will construct, expand or upgrade at least fourteen park-and-ride lots, encompassing 3000 new spaces in Rockland, Westchester, Nassau and Suffolk Counties.

Adequacy: The schedule for implementation for various projects and studies described under this measure are deficient with respect to providing starting dates, interim milestones and completion dates.

(4) Measures Not Reasonably Available. (a) Extreme Cold Start Reduction.

EPA has informed the State that the New York City metropolitan area does not qualify as an "extreme cold climatic" area and, consequently, investigation of this measure would not be required. Therefore, EPA proposes to accept the State's classification of this measure as not being reasonably available.

(b) Controls on Extending Vehicle Idling. Description: The intent of this measure is to impose limits on the length of time that a vehicle would be permitted to idle unnecessarily. This measure was determined by the State to be not reasonably available in New York City largely due to the contention that the existing City regulation limiting idling is unenforceable and ineffective. Data supporting this contention were not provided in the proposed SIP revision. With the exception of Suffolk County, the other jurisdictions in the New York metropolitan area, Nassau, Westchester and Rockland Counties, will attempt to continue to limit unnecessary idling.

Adequacy: It is not clear from the proposed SIP revisions whether or not this measure should be considered not reasonably available for the entire New York City metropolitan area or just for New York City. Its categorization by the State would seem to imply the former, but the discussion of the measure in the proposed plan seems to imply the latter. Before eliminating this measure the State should submit evidence to EPA which clearly demonstrates the proposed plan contention that the measure is unreasonable.

(c) Alternate Fuels. Description: The intent of this measure is to promote the investigation of the use of new or modified vehicular fuels. However, discussion in the proposed SIP revision centers solely around the increased use of diesel engines. Because of the potential health impact of diesel engine exhaust no action concerning this measure is contained in the proposed plan.

Adequacy: EPA recommends that further evaluation of this measure be conducted by the State and that the State explore other alternate fuels (e.g., electric vehicles) besides diesel fuel.

(d) Road Pricing. Description: This measure is directed at establishing new or modified tolls or taxes to encourage

auto drivers to use mass transit or carpools. Five specific substrategies are discussed in the proposed SIP revision. They are: (1) East and Harlem River Bridge Tolls, a strategy originally included in the State's 1973 SIP, (2) the establishment of new toll collection locations, (3) the elimination of commuter toll discounts on Port Authority of New York and New Jersey facilities, (4) the institution of lower tolls or no tolls for high occupancy vehicles on existing tolled facilities, and (5) mileage charges or gasoline taxes. Each of these actions was considered by the State not to be reasonably available based on existing published evaluations which are cited in the proposed plan.

Adequacy: EPA proposes to agree with the State is conclusion regarding the availability of these particular substrategies but recommends that the State further explore in the light of changed conditions their current viability. In this regard, the concept of mileage charges or gasoline taxes should particularly be subject to reevaluation.

d. Transportation Planning Process.

(1) Introduction and Definitions. The preponderance of the funding necessary to support the transportation-related projects and studies contained in the proposed SIP revision will be made available through existing U.S. Department of Transportation programs. The ongoing transportation planning process, which organizes and provides direction to these programs, is therefore key to the expeditious implementation of the proposed SIP revision. Consequently, in order for this process to function in a manner which is supportive of the SIP, air quality concerns must be integrated into it. This subsection discusses the transportation-air quality planning process which will be necessary to ensure that this objective is met.

To aid the reader in understanding the terminology used in discussing the existing transportation planning process, the following definitions are provided. These have been taken from Appendix D, "Definitions," to U.S. Environmental Protection Agency and U.S. Department of Transportation *Transportation—Air Quality Planning Guidelines*, June 1978.

"Annual Element": A list of transportation improvement projects proposed for implementation during the first program year of the Transportation Improvement Plan (23 CFR 450.304(b)).

"Conformity" (as related to transportation): A determination under Section 176(c) of the Clean Air Act, as amended, that the Department of Transportation has assured that transportation plans and programs in an

area conform to the transportation-related requirements of the SIP.

"Consistency": The requirement in 23 U.S.C. 109(j) that proposed transportation plans and projects be consistent with the approved SIP.

"Metropolitan Planning Organization": That organization designated by the Governor as being responsible, together with the state, for urban transportation planning under the Federal-Aid Highway Act (23 U.S.C. 101 *et seq*) and the Urban Mass Transportation Act (49 U.S.C. 1601 *et seq*). This organization is the forum for cooperative decision making by principal elected officials of general purpose local governments (23 CFR 450.104(b)).

"Prospectus": That part of the Unified Planning Work Program which summarizes the planning program and generally describes the status and anticipated accomplishments of each element, the procedures to be used in carrying out each element and the functional responsibilities of each participating agency (23 CFR 450.114(b)).

"Regional Transportation Plan": The plan that must be developed under the Department of Transportation urban transportation planning process to satisfy the requirements of 23 CFR 450.116. The Transportation Plan includes a transportation systems management element and a long range element and must be consistent with the area's comprehensive long-range land use plan and overall social, economic, environmental, system performance and energy conservation goals and objectives.

"Transportation Improvement Program": A staged multi-year program of transportation improvements including an annual element listing transportation improvement projects proposed for implementation during the first program year (23 CFR 450.304(b)).

"Transportation Systems Management Element": That part of the Regional Transportation Plan which provides for the short-range transportation needs of the urbanized area, not including new transportation facilities or major changes in existing facilities (23 CFR 450.116(b)).

"Unified Planning Work Program (UPWP)": The document that must be developed by the Metropolitan Planning Organization under 23 CFR 450.112(a) and satisfy the requirements of 23 CFR 450.114(c). The UPWP describes all urban transportation-related planning activities within the area during the next one or two year period, regardless of funding sources and documents work to be performed with planning assistance under Section 8 of Urban Mass Transportation Act (49 U.S.C. 1607a) and 23 U.S.C. 104(f) and 307(c).

(2) *SIP Content*. Chapter IV of Volume I of the proposed SIP revision presents a program for integrating air quality considerations into the ongoing urban transportation planning process of Section 134 of Title 23 of the United States Code. In describing this planning process, the State points out that the current transportation planning process is both complex and cumbersome, yet workable.

The Metropolitan Planning Organization designated by the

Governor of New York for transportation planning in the New York City metropolitan area is the Tri-State Regional Planning Commission. As discussed in Section II.C of this notice, Tri-State was also identified by the Governor as the lead planning organization to prepare the required SIP revision. The proposed SIP revision commits to having Tri-State review the transportation planning process by the end of 1979 and to propose such modifications as may be necessary to ensure that air quality concerns receive high priority and that programs contained in the SIP are followed.

The following are key actions that the State has committed to in its proposed revision with regard to the planning process:

- That EPA and the New York State Department of Environmental Conservation become members of key transportation decision making bodies;
- That New York City provide for public review of the Transportation Improvement Program (TIP) during its update (public forums are already underway in the suburban counties);
- That studies to evaluate the air quality impact and feasibility of potential control strategies be given priority in the Unified Planning Work Program
- That projects with significant air quality benefit be identified and given priority in the region's Transportation Improvement Program.

The proposed SIP revision presents a description of the major elements of the transportation—air quality planning process and how they are coordinated with the SIP. The following discussion summarizes this information.

(a) *Prospectus*. The Prospectus will reflect increased recognition of air quality issues and outline the responsibilities of the environmental agencies which have been formally added to the planning process as a result of the provisions of the proposed SIP revision. It will call for the establishment of schedules for studies in the UPWP with the dates in the proposed SIP revision. The Prospectus will include a commitment to improve the methods for assessing the progress made toward meeting of air quality related objectives.

(b) *Unified Planning Work Program*. Federal and State environmental agencies are now members of the Transportation Coordinating Committees and, therefore, can participate in the process of proposing studies and in the process of refining, ranking, and selecting them. A mechanism has been established whereby an agency which disagrees with the priorities set forth in a proposed UPWP can formally convey its

recommendations to the Tri-State Standing Committee on Transportation, to which the TCCs submit programs for endorsement. The proposed SIP revision recommends that studies to evaluate air quality impacts and the reasonability of potential control measures to given priority in the UPWP. Progress reports will be issued concerning that status of air quality related studies.

(c) *Regional Transportation Plan*. Tri-State will assess the Regional Transportation Plan ("Maintaining Mobility") for consistency with the SIP. The assessment will include a review of progress being made under the SIP. If the assessment uncovers a conflict between the transportation plan and the SIP, the State is committed to "consider" a revision to the Regional Transportation Plan that would eliminate the conflict.

(d) *The Transportation Improvement Program*. Environmental agency members of the TCCs can recommend projects for inclusion in the Transportation Improvement Program (TIP). Projects proposed in the Annual Element of the TIP for right-of-way acquisition or construction will be reviewed at these stages of commitment to determine whether or not they are consistent with the SIP. A project may be included in the TIP in an earlier stage of its development (e.g., preliminary engineering) without a consistency assessment. However, it is pointed out in the proposed SIP revision that, for major projects, assessments for air quality and other impacts should be conducted at these earlier stages. The proposed SIP revision recognizes the need for the assessment of air quality impacts when projects are first added to the TIP.

Projects contained in the SIP will be required to be given high priority for inclusion in the Annual Element. Projects not in the SIP for which a significant air quality benefit can be identified must also be given priority for inclusion in the TIP. The State is committed to develop and apply criteria for giving priority to all such projects.

According to the State, SIP projects to be contained in the TIP may be modified in the TIP development process. Depending on the impact of the change on air quality, a revision to the SIP might be necessary. Such a modification will constitute a revision if emission reduction credits were claimed for the project. Hence, any project not claiming a reduction in emission can be omitted from the TIP without a formal revision to the SIP. Omitting a project from the TIP means that it may not be implemented. An agency which disagrees with the TCC's action

concerning projects in the TIP can convey its concerns directly to the Tri-State Standing Committee on Transportation.

It is also stated in the proposed SIP revision that any significant change to a control measure would require a revision of the SIP. Such revision would be formally proposed by the State and would require approval by EPA. Minor revisions to a control measure will not constitute a SIP revision.

(e) *Transportation Project Development Process.* After a project is in the TIP, it is advanced for implementation. Most projects are advanced according to the State's "Environmental Action Plan." Projects reviewed through the "Environmental Action Plan" may not be approved unless the project is determined to be consistent with the SIP.

(3) *Adequacy.* EPA believes that the State's effort to integrate air quality concerns into the transportation planning process are commendable and finds them generally acceptable. However, some shortcomings in the process still exist. These are discussed as follows.

(a) *Elimination of Projects from the SIP.* The proposed SIP revision states that a "significant" change to a project contained in the SIP would necessitate the SIP's revision. However, the criteria to be used by the State to determine whether or not a change is "significant" is not clear from the proposed plan. Since the SIP is to be used as a standard against which, in part, the plans, programs and projects of the transportation planning process are to be evaluated, it is critical that such criteria be defined.

Similarly, the State includes in its proposed SIP revision the concept that a measure found not to be reasonable by decisions made through the transportation planning process may be classified, with adequate justification, as "unreasonable". This issue particularly concerns projects falling under those measures included in the category, "Reasonably Available Control Measures Subject to Transportation Planning Process Action." (As discussed in Subsection III.D.1.b(1) of this notice, these measures only need to be examined, primarily by the TCCs, for the availability of funding to determine their reasonableness). In order to be acceptable to EPA, however, any change to the categorization of a measure must be confirmed by a SIP revision. This action is particularly important for the reasons just cited and because the State is responsible for

ensuring implementation of all measures contained within the SIP.

Most of the projects contained in the proposed SIP do not have an emission reduction credit claimed for them. The State proposes that such projects may be omitted from the TIP without a revision to the SIP. Since this effectively eliminates the State's commitment to implement its SIP, EPA cannot accept the State's proposal. Otherwise, there would be no assurance that the SIP and TIP "conform" to one another as required by Section 176(c) of the Clean Air Act. However, EPA does agree to the removal of projects from the SIP through SIP revision if funding is determined to be unavailable or if implementation of the project would result in substantial adverse impact.

EPA believes that these three changes to the proposed SIP revision are necessary to ensure that the SIP remains a timely document which reflects the decisions of the planning process. Consequently, EPA proposes to conditionally approve the proposed SIP revision regarding the State's approach to future SIP revisions with respect to transportation projects. By August 1, 1980 SIP revision criteria and procedures must be developed by the State and submitted to EPA. Criteria for a "significant" change to a project should consider the degree of change in a project's scope, cost, schedule for implementation and status as to its "reasonableness." SIP revision procedures should provide for changes to a measure's categorization and the failure to include a project in the TIP.

(b) *Elimination of Studies from the SIP.* EPA believes that, because of the role studies play in development of the 1982 SIP revision, the program for study of potential projects is critical to the attainment of standards. Consequently, any study contained in the proposed SIP revision that is not performed, regardless of whether this results from a decision made through the transportation planning process, requires a revision to the SIP to justify its deletion. It will be incumbent upon the State to demonstrate that the proposed study is not needed for the development of the 1982 SIP or that reasonable efforts towards performing the study were made. Criteria and procedures for making such assessments are needed. Consequently, EPA also proposes to conditionally approve the State's proposed SIP revision with respect to its approach to future SIP revisions. By August 1, 1980 criteria and procedures for making changes to

studies contained in the SIP should be developed and submitted to EPA.

e. Status of 1973 State Implementation Plan Requirements

The events leading up to the development of the 1973 ozone and carbon monoxide SIP for the New York City metropolitan area are discussed in Section II.B of this notice. Because of a failure to implement this plan after its approval, several of the strategies which it contained were subject to EPA administrative enforcement orders under Section 113 of the Clean Air Act. In addition, as a result of federal court action initiated by EPA and private citizens, Court orders were issued requiring implementation of seven of the strategies subject to EPA administrative orders. A listing of the primary strategies contained in the 1973 SIP and an indication of those which are subject to administrative and Court order is presented in Table 2.

The proposed SIP revision states that it "is intended to supersede the 1973 State Implementation Plan" and identifies whether each measure from the 1973 SIP was incorporated or omitted in the proposed SIP revision or has been placed under additional study. However, a measure contained in the 1973 plan may not be automatically changed or deleted by a state's submittal of the required 1979 SIP revision. This may be done only to the extent that the measure is demonstrated not to be reasonably available and if the proposed SIP revision satisfies all other requirements of Part D of the Clean Air Act (44 FR 20372, April 4, 1979).

The proposed SIP revision does not provide full justification as to why changes and deletions to the 1973 SIP strategies were made. EPA may approve a State change to the status (e.g., its implementation schedule) of a 1973 strategy upon receipt of documentation describing the needed change provided that the strategy is one of the ten never reduced to Court order. Until this documentation is received and approved by EPA, the strategy, as contained in the 1973 SIP, must remain as an enforceable part of the plan.

In the case of those measures in the 1973 SIP which were reduced to Court order, EPA cannot unilaterally entertain any proposal for change or deletion. This is because other parties besides EPA and the State are involved. However, if EPA finds that the State's reasons for modifying a 1973 SIP strategy are appropriate, EPA would be willing to join the State in petitioning the Court for any such modifications.

Table 2.—1973 Transportation Control Measures—Primary Strategies

Name	No.	Court order		Administrative order
		(Citizen initiated)	(EPA initiated)	(EPA issued)
Vehicle Turnover	A-1			
Retrofit of Heavy Duty Vehicles	A-2			X
Emission Inspection of Livery Vehicles	A-3		X	X
Heavy-Duty Vehicle Emissions Inspection	A-4		X	X
Passenger Vehicle Emissions Inspection	A-5		X	X
Mechanic Training	A-6			X
Diesel Bus Maintenance and Inspection	A-7			
California Package on Taxicabs	A-11			
Enforcement of Traffic Regulations	B-1A			X
Traffic Management	B-1B			X
Selective Ban on Taxi Cruising	B-1C	X		X
Reduction in CBD Parking	B-3	X		X
Express Bus Exclusive Bus Lanes	B-5			X
Imposition of Tolls on All East River Bridges & Harlem River Bridges ¹	B-7	X		X
Staggered Work Hours	C-8			
After-Hours Delivery to Stores and Office Buildings	D-3	X		X
Citizen Participation Public Information	E-4			

¹ Strategy deleted from plan by Governor in October 19, 1977 letter (See 42 FR 61453, December 5, 1977).

2. Stationary Source Control Measures. a. SIP Revision Requirements.

For stationary sources, the 1979 ozone SIP revisions for major urban areas (including the New York City metropolitan area) must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available volatile organic compound control technology (RACT) to those stationary sources for which EPA has published a Control Technology Guidelines (CTG) document by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980 for those sources covered by CTGs that have been published by January of the preceding year (44 FR 20372, April 4, 1979). (A recent EPA policy decision, which has been published in the August 28, 1979 issue of the Federal Register at 44 FR 50371, has extended this January 1980 date to July 1980).

To meet this requirement, the State has submitted to EPA revisions to Title 6 of the New York Code of Rules and Regulations (6 NYCRR) affecting the following parts:

Part 200—General Provisions,
Part 204—Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area,

Part 205—Photochemically reactive Solvents and Organic Solvents From Certain Processes—New York City Metropolitan Area,

Part 211—General Prohibitions,
Part 212—Process and Exhaust and/or Ventilation Systems,

Part 223—Petroleum Refineries,
Part 226—Solvent Metal Cleaning

Processes,
Part 228—Surface Coating Processes, and
Part 229—Gasoline Storage and Transfer.

It should be noted that, with the exception of Part 212, these regulatory revisions have been legally adopted by the State. Also, in the "Statewide Summary and Program" part of the proposed SIP revision there appears a commitment to adoption of future RACT regulations to apply to source categories covered by CTGs published after December 31, 1977.

The remainder of the discussion under this item will deal with each of the submitted regulations for the control of volatile organic compounds from the source categories for which CTG documents had been published by January 1978. As discussed in a notice appearing in the September 17, 1979 issue of the Federal Register (44 FR 53761) the Control Technology Guidelines provide information on available air pollution control techniques and contain recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information on the CTGs, EPA believes that the submitted regulations represent RACT, except as noted below. On the points noted below, the State regulations are not supported by the information in the CTGs, and the State must provide an adequate demonstration that its regulations represent RACT or amend the regulations to be consistent with the information in the CTGs.

b. *Description and Adequacy of Control Regulations*—(1) *Part 200—General Provisions*. Part 200 contains definitions of the terms used in the State's regulations and general provisions which are applicable to all regulations. This Part defines "attainment area" and "nonattainment area" which determine the geographic applicability of the various Parts in the

State's Code. In § 200.1(pp) this Part also defines "owner" as used in Part 231, Major Facilities. The reader is referred to Section II.F of this notice for a discussion of this definition.

(2) *Part 204—Hydrocarbon Emissions from Storage and Loading Facilities—New York City Metropolitan Area*. This regulation, originally promulgated on August 12, 1972, was intended to control the following operations: storage of volatile organic liquids, filling of stationary storage vessels, loading of mobile storage vessels, and usage of efficient water separators. Since these types of sources are now to be regulated under provisions of Part 229 (see Subsection III.D.2.b(9) of this notice), the State is proposing to repeal this regulation. However, it is EPA's policy, as defined in 44 FR 20373, April 4, 1979, that even when a new requirement is being added to a SIP, the new requirement does not supersede or replace the old requirement until the sources regulated come into compliance with the new requirement. On this basis, EPA is proposing to disapprove the State's request to delete the provisions of Part 204 from the SIP. The present emission control requirements will remain applicable and federally enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new regulation (or if it chooses, challenging the new regulation). Failure of a source to meet applicable preexisting regulations could result in appropriate enforcement action being taken, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or a lapse in the applicability or enforceability of the new regulation, the preexisting regulation would apply and could be enforced.

(3) *Part 205—Photochemically Reactive Solvents and Organic Solvents From Certain Processes—New York City Metropolitan Area*. Part 205 originally went into effect on January 28, 1974 and was intended to control the most photochemically reactive groups of organic solvents (those which most rapidly lead to the formation of ozone in the atmosphere). This is a solvent-substitution-type regulation which applies to all sources using designated photochemically reactive solvents in the New York City metropolitan area. Since all of the presently controlled sources will not be covered by the new Part 226 and Part 228 (discussed in Subsections III.D.2.b(7) and (8), respectively), the State has chosen to retain Part 205, which will continue to apply only to

those sources not covered by these new regulations (see new § 205.8(h)). This will maintain the emission reductions achieved by Part 205 until all sources are covered by a specific source category regulation. EPA proposed to find this Part acceptable.

(4) *Part 211—General Prohibitions.* Part 211 contains a general prohibition against polluting the air and regulates visible emissions. It also contains a new section (Section 211.4) which prohibits, except under certain circumstances, the use of VOCs to liquify asphalt used for paving purposes.

The State has included an exemption for cutback asphalt used in the manufacturing of asphalt emulsions with low VOC content (less than 15% by weight). The State determined that the exemption was necessary because of certain application problems for emulsions with no VOC content and the inability of some asphalt manufacturers to produce solvent-free emulsions.

However, EPA did not recommend such an exemption in the CTG and the State has not provided a valid justification for the exemption. Therefore, EPA cannot fully approve this proposed revision. As a result of discussions by EPA and the State regarding this problem, the State has agreed to survey current asphalt usage and use the resulting data to either justify the current general exemption or to make appropriate revisions to Part 211. The State has submitted a schedule for completing this work. Therefore, EPA is proposing to approve the proposed revision on the condition that on or before May 1, 1981 the State shall submit to EPA necessary adopted revisions to Part 211 to eliminate the general exemption or shall submit adequate justification for not making such revisions.

(5) *Part 210—Process and Exhaust and/or Ventilation Systems.* Part 212 contains general limits applicable to process sources for which there are no specific regulations. When revisions to existing regulations or new regulations are promulgated, it is therefore necessary for the State to amend this Part by exempting those processes covered by the revised or new regulation. Such a step was taken with regard to the sources addressed by the regulations discussed in this notice.

However, in its review of the State's SIP revision submittal, EPA noted that Part 212 had been revised to a greater extent than indicated by the State. This apparent discrepancy results from the fact that Part 212 had been previously revised by the State without incorporation of these revisions into the SIP. Therefore, EPA and the State currently are enforcing different

versions of Part 212. While, in order to correct this situation, the State has recently submitted as SIP revision this regulation in its entirety, only those revisions to Part 212 exempting those processes covered by revised or new regulations are being addressed by EPA in this notice. EPA proposed to find these specific revisions to Part 212 acceptable.

(6) *Part 223—Petroleum Refineries.* In its revision of Part 223 the State has combined into a single regulation various emission standards applicable to petroleum refinery air pollution sources. Many of these standards existed previously in other parts of the State's Code.

Of importance to the SIP revision discussed in this notice is the further fact that the proposed regulation addresses the control of VOCs from refinery vacuum producing systems, wastewater separators and process unit turnarounds.

This part requires all non-condensable vapors from any vacuum producing system to be piped to a firebox or incinerator, or compressed and added to refinery fuel gas. It would require all forebays and separator sections which recover 200 gallons per day or more of VOCs to be covered. It would also require all processing units to be depressurized to 5 psig and the VOCs vented to a recovery system, fuel gas system, or flared when the unit is being shut-down, inspected, repaired, or started-up.

This Part allows the regulated sources until June 1, 1982, or such later date as determined by an Order of the Commissioner of the New York State Department of Environmental Conservation (upon submission of appropriate justification) to achieve compliance with its VOC emission limitation provisions. Such Orders must be submitted by the State to EPA as SIP revision. The length of time allowed for compliance is considered by EPA to be generous for these types of sources. However, since no petroleum refiners exist in the New York City metropolitan area and none are expected before 1982, at the earliest, EPA proposes to find this Part acceptable.

(7) *Part 226—Solvent Metal Cleaning Processes.* Part 226 is a new regulation with statewide applicability directed at controlling the emissions of VOCs from solvent metal cleaning (degreasing) operations. The rule contains three main sections: "General Requirements," "Equipment Specifications" and "Operating Requirements."

Section 226.2, "General Requirements," requires solvents to be stored in covered containers and

dispose of properly, equipment to be maintained properly, operating procedures to be posted, equipment covers to be closed when not in use, and records of solvent consumption to be kept. Section 226.3, "Equipment Specification," lists the equipment required for each of three types of degreasers: cold cleaning, open top vapor, and conveyORIZED degreasers. In the CTG document for Solvent Metal Cleaning, two levels of control for each type of degreaser were identified. The state has selected control requirements composed of those contained in the first (more stringent) level. Section 226.4, "Operating Requirements," addresses the correct operation of degreasing units to minimize emissions.

The requirements for controlling solvent metal cleaning operations meet the recommended control levels contained within the EPA guidance. However, this regulation contains provisions which exempt methyl chloroform and methylene chloride from control. These exemptions were included by the State because these two compounds do not have an effect on atmospheric ozone formation. Therefore, the State believes that they should not be regulated under a rule that is concerned with reducing ambient ozone levels. However, under 6 NYCRR Part 212, "Process and Exhaust and/or Ventilation Systems," methyl chloroform and methylene chloride emissions from metal cleaning processes can be controlled if it is determined by the State that these two compounds have "toxic properties" (§ 212.8(k)).

EPA does not agree with this limited interpretation of regulatory objective. While it is true that these volatile organic compounds do not appreciably affect ambient ozone levels, they are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raised the possibility of human mutagenicity and carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contribution to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light, the depletion could lead to an increase of ultraviolet light penetration resulting in a worldwide increase in skin cancer.

With the possible exemption of these compounds, some sources, particularly existing degreasers, may be encouraged to utilize methyl chloroform in place of other more photochemically reactive

degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in Part 226 can only further aggravate the problem by possibly increasing the emissions produced by existing primary degreasers and other sources.

EPA is concerned that the State has chosen this course of action without full consideration of the total environmental and health implications. As noted in a June 4, 1979 Federal Register notice (44 FR 32042), while EPA does not propose to disapprove the State's SIP revision if the State chooses to maintain these exemptions, EPA is concerned that this policy should not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. EPA does not endorse such approaches. Furthermore, State officials and sources are advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply with Part 226 by substitution may well be required to install control systems as a consequence of these future regulatory actions or as a requirement of Part 212.

(8) *Part 228—Surface Coating Processes.* Part 228 is a new regulation applicable in areas of the State designated as "nonattainment" for ozone and is directed at controlling the emissions of VOCs from surface coating processes. Industries involved in the following activities are required to comply with this Part: large appliance coating lines, magnet wire insulation coating lines, metal furniture coating lines, metal can coating lines, fabric coating lines, vinyl coating lines, paper coating lines, automobile assembly coating lines, and coil coating lines. This rule specifies a maximum permitted emission rate (pounds of organic solvent, minus water, per gallon of coating at application) for each source category and allows the source owner to choose the most economical method of control to meet the emission limitation specified. The various control methods available to sources are: reformulation of coatings—use of "low-solvent" coatings (water-borne, high-solids, and powder coatings), "add-on" technology to recover or destroy the VOCs in the exhaust gases, and modification of processes to reduce the quantity of VOC emissions. EPA proposes to find this Part acceptable.

(9) *Part 229—Gasoline Storage and Transfer.* Part 229 is a new regulation applicable in areas of the State designated as "nonattainment" for ozone and is directed at controlling the

emissions of VOCs from: the storage of gasoline in fixed roof tanks, the transfer of gasoline at gasoline bulk plants, the transfer of gasoline at loading terminals, and the transfer and storage of gasoline at service stations.

Fixed roof tanks with capacities of 40,000 gallons or greater storing gasoline in the New York City metropolitan area are required to be retrofitted with an internal floating roof or equivalent vapor controls. Gasoline bulk plants with an average throughput of between 20,000 and 40,000 gallons per day are required to adopt the same controls as gasoline loading terminals, a vapor collection and vapor control system. Gasoline bulk plants with an average throughput of less than 20,000 gallons per day (small bulk plants) are required to have two levels of control depending on whether or not they service a gasoline service station equipped with vapor controls. All such bulk plants are required to have submerged filling of gasoline transport vehicles. Those servicing vapor control equipped service stations must install vapor collection, vapor balance type systems to control the gasoline vapors generated during transfer operations. Facilities with an average throughput of greater than 40,000 gallons per day are considered by the State to be gasoline loading terminals.

Section 229.3(d) of Part 229 only requires that gasoline service stations with a throughput of greater than 400,000 gallons per year install vapor collection, vapor balance type systems, on-site vapor control systems, or other approved equivalent control systems. Smaller service stations are exempt from vapor control requirements. The CTG document and regulations currently being implemented under existing State Implementation Plans do not suggest that this exemption is necessary. However, the CTG's presumptive norm with regard to service station controls does include an exemption from control for certain tank sizes. In addition the State could include a reasonable throughput exemption in its regulation if it can be justified. Because no valid justification has been provided by the State for its currently proposed 400,000 gallon per year throughput exemption, EPA is proposing to condition its approval of the plan with regard to § 229.3(d).

In addition, § 229.3(a) of Part 229 only partially addresses the control requirements for VOC emissions from fixed roof storage tanks. The CTG document addressing this source category did not limit itself only to the control of gasoline storage as does the State's proposed regulation; rather, it

suggest control of "petroleum liquids," those with a true vapor pressure of greater than 10.5 kilo Pascals.

The State believes that the storage of gasoline accounts for the preponderance of the VOC emission potential from this source category. If the State had demonstrated that its control of gasoline storage would allow emissions within 5 percent or less of those which could have been permitted if all petroleum liquids were subject to such control, according to EPA policy, the State's regulation could be found fully acceptable. However, because of its limited scope without justification, EPA is also proposing to condition its approval of the plan with regard to § 229.3(a).

In summary, EPA is proposing to find Part 229 acceptable with the exception of §§ 229.3(d) and 229.3(a). With regard to these sections, on or before February 1, 1980 the State must hold public hearings to revise these sections to address all petroleum liquid storage in fixed roof tanks and to modify or eliminate the existing throughput exemption for gasoline service station VOC controls. Alternately, the State may provide adequate justification to EPA for not revising these sections. However, if the State does elect to revise Part 229, such revised regulations must be adopted and submitted to EPA by August 1, 1980. It should be noted that the State has written to EPA indicating its intent to hold public hearings at least on the issue surrounding § 229.3(d).

(10) *Compliance Schedules.* Each of the State's regulations contains a date by which an affected source must submit a schedule for achieving compliance with provisions of the regulation and a date for final compliance. Title 40 of the Code of Federal Regulations, § 51.1(q) defines acceptable "increments of progress" toward compliance which are more extensive than the two milestones included in the State's regulations. However, the State has provided written assurance to EPA that the increments of progress contained in 40 CFR 51.1(q) will be established with each source owner unless, because of the shortness of the compliance schedule, such interim milestones are not appropriate. EPA propose to find this assurance acceptable.

E. *The SIP revision shall include an accurate, current inventory of emissions that have an impact on the nonattainment area, and provide for annual updates to indicate emissions growth and progress in reducing emissions from existing sources.*

1. *SIP Content*—a. *Carbon Monoxide*. The proposed SIP revision includes an emissions inventory for carbon monoxide based on computerized simulations of mobile source emissions. This is acceptable to EPA since the overwhelming majority of carbon monoxide emissions are attributable to mobile sources. Mobile source emissions are presented by vehicle class (e.g., autos, taxis, light duty trucks) for the base year 1977 and are projected to 1982 and 1987. In generating its inventory, the State only considered emission reductions resulting from vehicle turnover and the proposed vehicle emission inspection and maintenance program.

b. *Ozone*. The proposed SIP revision also includes an emissions inventory of organic compounds. Total emissions in 1977, 1982, and 1987 are presented for stationary and mobile source categories. In discussing this inventory the State notes that, at the present time, there is a "reasonable degree of uncertainty" associated with it, but that it should be considered "adequate for plan submittal." Stationary source emissions data is characterized by the State as "preliminary" and are held constant in its projections after 1982. A program to improve this stationary source emissions inventory is, however, committed to in the proposed SIP revision.

c. *Particulate Matter*. An emissions inventory for particulate matter must be submitted by the State at such time as when the secondary standard attainment plan for this pollutant is submitted to EPA. None was included with the current submittal.

2. *Adequacy*—a. *Carbon Monoxide*. EPA proposes to find the State's carbon monoxide emissions inventory acceptable. However, the State should provide EPA with a breakdown of the emission reduction credit assumed for both the proposed private vehicle and existing taxi emission inspection and maintenance programs (this issue is also discussed in Subsection III.D.1.c.(1)(b) of this notice).

b. *Ozone*. EPA believes that the stationary source organic compound emissions inventory contained in the proposed SIP revision is not sufficiently comprehensive for plan development purposes. However, EPA is proposing to conditionally approve the proposed SIP revision on the provision that future improvements to this inventory, as identified in the plan, are completed by January 1, 1981. This date for the submittal of an improved inventory is necessary to assure that the July 1, 1982 plan revision required from the State (see Subsection III.B.1 of this notice) will

contain and employ an accurate data base. In addition, this requirement is necessary to implement the Northeast Corridor Regional Modeling Project, an effort to develop an advanced photochemical dispersion model for the northeastern states. The objective of this program is to evaluate over a broad area the relative effectiveness of organic compound control strategies. The emission inventory necessary by January 1, 1981 must provide for a detailed spatial and temporal resolution of organic compound and nitrogen oxide emissions. Also the impact on organic compound emissions of the various mobile source control strategies committed to by the State must be presented in future inventories.

It should be noted that a current, comprehensive volatile organic compound emissions inventory is also necessary for air pollution control activities aside from those associated with meeting the national ambient air quality standard for ozone. This results from the fact that a majority of the air pollutants suspected as having carcinogenic or other toxic properties are volatile organic compounds. In view of the emerging concerns regarding these pollutants, the State is encouraged to develop its inventory data on an organic species or, where necessary, a specific compound basis.

3. *Annual Reporting*. The State has agreed to provide annual reports to EPA on progress made in adopting control measures, growth of new and modified major sources of air pollution, changes in emissions as required to track reasonable further progress, progress in updating emission inventories and the results of ongoing air quality studies related to the plan. EPA finds that the State's commitment with regard to Annual Reporting acceptable.

4. *Data Base Consistency*. It is important that the techniques and assumptions used by the State in projecting future emissions should be consistent with those used in other State, regional and local planning programs (e.g., water pollution abatement, energy, housing, transportation). In the case of mobile source projections, no documentation concerning growth assumptions or comparisons with other planning data is provided in the proposed SIP revision. EPA encourages the development of such documentation and its review by appropriate governmental agencies and the public.

F. The SIP revision shall expressly quantify the emission growth allowance, if any, that will be allowed to result from new major sources or major modifications of existing sources, which

may not be so large as to jeopardize reasonable further progress toward attainment by the required date. The SIP revision shall require preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Clean Air Act.

In order to assure that emission increases from new stationary sources or modifications of existing stationary sources will not exceed the projected "growth allowance" incorporated in the reasonable further progress demonstrations discussed in Section III.C of this notice, the State has submitted procedures providing for "offsetting" of emissions from major sources or modifications and for tracking of all minor and area source emission changes. The emission "offsets" will be required in accordance with a new State regulation, 6 NYCRR Part 231, "Major Facilities."

This regulation requires new major sources and major modifications locating in a nonattainment area to offset new emissions by providing reductions at existing sources beyond those required by control strategies in the SIP. The regulation also apparently was intended to apply to new major sources and major modifications locating in attainment areas, but significantly impacting air quality in nonattainment areas. However, § 231.9(d) could be read as exempting such sources from the provisions of Part 231 until EPA delegates to the State responsibility for source review related to Prevention of Significant Deterioration provisions of the Clean Air Act. Therefore, EPA requested an interpretation of §§ 231.9(d) and 231.6(a), which could be subject to a similar misinterpretation, from the State. In response the State has submitted to EPA a Declaratory Ruling issued pursuant to Section 204 of the New York State Administrative Procedures Act and 6 NYCRR 619 indicating that the provisions of Part 231 do, in fact, apply to new major sources and major modifications locating in attainment areas, but significantly impacting nonattainment areas. In addition, in order to further clarify these two sections, the State has indicated that it will formally revise the wording of these sections by April 1, 1980. Consequently, EPA is proposing to approve the proposed SIP revision on the condition that §§ 231.6(a) and 231.9(d) are revised to reflect the Declaratory Ruling and adopted by this date.

A major source is defined in Part 231 as one having allowable emissions of 50

tons per year, 1000 pounds per day, or 100 pounds per hour of particulate matter, sulfur dioxide, nitrogen dioxide, carbon monoxide, or volatile organic compounds. A major modification is defined as a change to an existing source causing allowable emissions to increase by these amounts for the specified pollutants. EPA proposes to approve these definitions because they are consistent with EPA's definitions in Section II A of the revised Emission Offset Interpretative Ruling published in the January 16, 1979 issue of the Federal Register at 44 FR 3282.

Additionally, these sources are required by Section 173 of the Clean Air Act to meet the "lowest achievable emission rate" (LAER). Currently, the language of the regulation (§ 231.3(b)) is unclear about requiring LAER control technology on a source locating in an area where standards are actually violated, regardless of whether or not the source has a significant impact (as defined in the regulation) on the air quality of the area. (In this regard, an actual violation exist where air quality monitoring or modeling confirms the existence of a violation.) The State has written to indicate that the LAER requirement is, in fact, applicable to such sources and has been explicitly documented by policy guidance. EPA is proposing to approve the proposed SIP revision on the condition that on or before August 1st, 1980 the State must adopt and submit to EPA revisions to § 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact of the areas air quality, LAER control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated.

In accordance with the requirements of Section 173(3) of the Clean Air Act, the regulation must require that any other major sources owned or operated by the same person and located in the State be in compliance or meeting the requirements of an approved compliance schedule. However, although Part 231 requires a permit applicant to demonstrate that all of its major sources in the State are in compliance or on a schedule for compliance with applicable emission standards, the regulation does not require the same showing of sources owned or operated by any entity controlling, controlled by, or under common control with the applicant. EPA has determined that the State's definition of "owner" appearing in § 200.1(pp) of 6 NYCRR Part 200,

"General Provisions," is not equivalent to the definition in Section 173(3) of the Clean Air Act. Therefore, EPA is proposing to approve the proposed SIP on the condition that the State change the definition of "owner" in Part 200 to conform to the definition in the Clean Air Act. This revision must be adopted by August 1, 1980.

The State procedures providing for the "offsetting" of emissions from major sources and major modifications and the tracking of all minor and area source emission changes will be implemented in nonattainment areas differently depending on the pollutant affected. In the New York metropolitan area, for total suspended particulates, the State will "offset" all major source emission growth; minor and area source emission growth will be tracked against the annual emissions accommodated for in the reasonable further progress demonstrations discussed in Section III.C of this notice when they are developed. If minor and area source growth exceeds these annual emission allowances, the State will require new major sources and major modifications to obtain emission reductions not already relied upon in the plan so as to provide for reasonable further progress toward attainment of standards.

For volatile organic compounds, as is discussed in Section III.E. of this notice, the State's emissions inventory is not sufficiently comprehensive to permit a complete assessment of the precise annual emission allowance that can be accommodated for this class of pollutants. Until this deficiency is rectified, the State will require major volatile organic compound sources to "offset" all emissions growth which occurs, including that due to minor and area sources.

On the conditions indicated, EPA proposes to find the State's SIP revision acceptable with respect to the requirements discussed.

G. The SIP revisions shall provide identification and commitment of the necessary resources to carry out the Part D provisions of the plan.

1. *SIP Content and Adequacy.* The proposed SIP revision generally provides an identification and commitment to the financial and manpower resources needed to carry out the plan. However, transportation-related projects and studies often lack information relating to their cost, the source of their funding and the manpower necessary for their implementation. This is particularly true for the following measures:

- Parking Restrictions.
- Freight Transportation.

- Heavy Duty Gasoline Truck Retrofit.
- Express Bus and Carpool Lanes.
- Pedestrian Priority Zones.
- Traffic Flow Improvements for Arterials.
- Employer Based Programs.
- Park-and-Ride and Fringe Parking.
- Alternate Work Schedules.

The State commits to making available sufficient resources to enable the New York State Department of Environmental Conservation to participate fully in the transportation planning process. However, the number and types of individuals and the necessary costs involved to meet this commitment are not identified.

EPA expects that the information concerning the necessary resources will be provided, in part, by work performed under an Urban Air Quality Planning Grant award funded under Section 175 of the Clean Air Act. Nevertheless, EPA proposes to conditionally approve the proposed SIP revision pending identification to EPA by August 1, 1980 of the resources necessary to carry out the transportation elements of the plan.

2. *Federal Funding.* It is possible that full federal funding will not be available to support some of the projects and studies identified in the proposed SIP revision as being dependent on this source of financing. Although EPA will work with other federal agencies to ensure that SIP projects and studies will receive high priority for funding, these monies cannot be guaranteed. To reduce the likelihood of federal funds not being available, the proposed SIP revision was reviewed by the Federal Highway Administration (FHWA), the Urban Mass Transportation Administration (UMTA) and EPA to identify projects and studies which may not be capable of being funded. Based on past grant awards and anticipated future actions, these agencies have identified changes to project and study costs, scopes or schedules so that the SIP will better reflect constraints imposed by other programs. It should be noted that regardless of whether federal funds are provided, the State is required to carry out all projects and studies contained in the SIP or make a reasonable effort to do so (see Subsection III.D.1.d(3) of this notice).

EPA has found that several of the studies identified in the proposed SIP revision as being supported by Clean Air Act Section 175 funds (e.g., "Transportation Brokerage—JFK Airport," "Van Wyck Traffic Flow") cannot be funded at this time because of the need to support other efforts related to the further development of the SIP. Nevertheless, the total level of Section 175 funding available to the New York City metropolitan area is greater than

that identified in the proposed SIP revision. For those studies that were not funded, EPA recommends that funds from other sources be obtained or that these studies be included in an application for additional Section 175 funding.

In its review of the program of study, UMTA identified three studies as being "non-transit related" air quality studies. These are:

Goods Movement Patterns, \$250,000.
Reduction of Through Trips on City Streets, \$150,000.
Residential Parking Management Study, \$150,000.

For non-transit related air quality studies, UMTA estimates that only \$300,000 is expected to be available each year. Consequently, a shortfall of \$250,000 might be expected. The State, therefore, should determine if any other sources of funds are available and obtain necessary funding commitments.

In the FHWA review, it is noted that the SIP incorrectly characterized federal policy relating to carpool and park-and-ride facilities. FHWA noted that property acquisition or leasing costs associated with constructing these facilities are eligible for federal aid.

H. The SIP revisions shall provide evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 of the Clean Air Act.

EPA believes that the public and intergovernmental participation and consultation programs utilized to develop the proposed SIP revision were generally adequate. However, the program described in the proposed SIP revision and summarized as follows should be continued as planned to further improve these efforts.

1. Public Participation and Consultation. Citizen participation in the current SIP revision development process began in early 1976. A task force was formed to assist the New York State Department of Environmental Conservation in selecting and evaluating control measures. This task force included representatives of the affected environmental and transportation agencies, and three public representatives. In June 1978, a Memorandum of Understanding was executed between the Governor, the Mayor of New York City, and the EPA Regional Administrator established an Oversight Committee to monitor development of the plan revision. The Committee met frequently to review progress, negotiate problem areas, consider suggestions from the public, and provide guidance to agency staffs working on the plan revision. Two

representatives of the public participated on the committee. A public participation coordinator was also appointed and several events were held and documents prepared to encourage public participation and information.

The proposed SIP revision states that the State is committed to an ongoing public participation program for the SIP implementation process. The State also realizes the importance of informing and educating the public on the subject of the SIP and related air quality issues. Ongoing public involvement programs will be further developed, funded in part by EPA.

2. Intergovernmental Involvement and Consultation. As will be discussed again in Subsection III.J.I.b, Tri-State and the New York State Departments of Environmental Conservation and Transportation are negotiating a memorandum of understanding to establish principles and procedures for intergovernmental involvement and consultation. In addition, the modifications to the planning process discussed in Subsection III.D.I.d(2) are expected to provide assistance in this regard.

Furthermore, a representative of the Governor's Office, in a January 18, 1979 letter to the New York State Commissioners of Transportation and Environmental Conservation and to the Mayor of New York City, requested that policy level individuals be named from these agencies to oversee implementation of the SIP. Those three persons have been identified and will work in cooperation with Tri-State and representatives of Rockland, Westchester, Nassau, and Suffolk counties, as appropriate.

I. The SIP revision shall provide an identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered and a summary of the public comments on the analysis.

EPA finds that this element is satisfactory in that the State has generally addressed the air quality, social and economic acceptability of proposed transportation and stationary source control measures. As specific projects are developed and studies undertaken with regard to transportation measures, additional analyses will be done.

J. The SIP revision shall provide written evidence that the State and other governmental bodies have adopted the necessary requirements in legally enforceable form, and are committed to implement and enforce the appropriate elements of the SIP.

1. Transportation Control Measures—
a. Motor Vehicle Emission Inspection and Maintenance. As discussed in Subsection III.D.I.c(1)(b) of this notice, the State indicates that under Title III, Article 5, Section 301(c)(3) of its Vehicle and Traffic Law sufficient legislative authority exists to implement an I/M program. Under this authority an I/M program can be established ". . . as soon as the commissioner [of the Department of Motor Vehicles], in consultation with the commissioner of environmental conservation determines that it is technologically feasible and economically practical to conduct inspections . . ." Such a determination has been made and was included in the State's submittal. In addition, the Commissioner of the Department of Motor Vehicles has the authority under Section 215 and by Article 5, Section 302(e) specifically of the Vehicle and Traffic Law to amend and/or promulgate the necessary regulations so as to incorporate the emissions test into the safety test. EPA proposes to find this authority adequate for SIP approval.

b. Other Transportation Control Measures. The proposed SIP revision generally identifies the legal authority necessary to implement the transportation control measures it contains. In addition, the proposed SIP revision states that the State and local governments have given their full commitment to implement those control measures categorized as "reasonably available." However, with the exception of resolutions enacted by the three New York City metropolitan area TCCs generally endorsing the hearing draft of the proposed SIP revision, these commitments are not explicit in that no written endorsements or interagency agreements are provided in the proposed plan to support them.

A general division of agency responsibility and commitments to provide for SIP development, implementation and enforcement, as required under provisions of Section 174 of the Clean Air Act, is not adequately presented in the proposed SIP revision. As a result, Tri-State and the New York State Departments of Environmental Conservation and Transportation are engaged in drafting a memorandum of understanding to identify necessary tasks and to establish responsibilities. In order to ensure that adequate commitments exist at all levels of government to implement control measures and that all measures (including those related to stationary sources) are properly developed, EPA proposes to approve the proposed SIP revision on the condition that the State

must submit to EPA by January 1, 1980 a memorandum of understanding which has been endorsed by appropriate TCC's and which provides commitments to develop, implement and enforce the SIP.

2. Stationary Source Control Measures. As discussed in Subsection III.D.2(a) and Section III.F of this notice, with the exception of Part 212, "Process and Exhaust and/or Ventilation Systems," the State has submitted the required stationary source control regulations in legally enforceable form. Therefore, EPA is proposing to find this aspect of the State's SIP revision acceptable. This proposed finding by EPA is based in part on the fact that the unadopted revisions to Part 212 are ministerial rather than substantive.

K. Additional Requirements for Ozone or Carbon Monoxide SIP's with Attainment Dates After 1982.

The Clean Air Act mandate four specific requirements for SIP's demonstrating the need for an extension of the ozone or carbon monoxide standard attainment date beyond December 31, 1982. As discussed in Section III.B of this notice, the New York City Metropolitan area's proposed SIP revision makes such a demonstration. The first three requirements to be discussed are mandated by Section 172(b)(11) of Part D of the Clean Air Act; the fourth is made of Part D requirement by Sections 110(a)(3)(D) and 110(c)(5)(C) of the Act.

1. Inclusion of a program that requires, before issuance of a preconstruction review permit, an analysis of alternative sites, sizes, production processes, and control techniques which demonstrates that the benefits of the proposed source significantly outweigh any environmental and social costs.

New York State has provided EPA with a policy statement indicating that all major sources of volatile organic compound emissions will be subject to a complete "environmental impact statement" review, pursuant to the State Environmental Quality Review Act (SEQRA). EPA's review indicates that the provisions of this act provide for all the required preconstruction analyses.

It should be noted that the State does not address this requirement for major sources of carbon monoxide. Since only few such sources locate in central business districts where violations of the carbon monoxide standard are a problem, EPA does not believe this requirement to be applicable to these sources. On this basis, EPA proposes to find the plan adequately meeting this requirement.

2. The establishment of a specific schedule for implementation of a vehicle

emission inspection and maintenance program.

As discussed in Subsection III.D.1.c(1)(b) of this notice, the SIP revision proposes establishment of such an emission inspection and maintenance program and includes the required schedule. For this reason, EPA proposes to approve the proposed SIP revision with regard to its ability to meet this Clean Air Act requirement.

3. Inclusion of a program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reduction targets in the SIP.

The proposed SIP revision contains a program for selecting a package of transportation control measures which is expected to provide the emission reduction targets assigned to these measures through 1982. However, as discussed in Section III.D., deficiencies were found in the program. Consequently, EPA proposes to conditionally approve this element of the SIP on the basis of the same provisions as stated in Subsection III.D.

4. The proposed SIP revision must include comprehensive measures to establish, expand, or improve public transportation to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds.

The state's effort to meet this requirement is covered under two submissions. The first submission is entitled "New York State Air Quality Implementation Plan for Mass Transit Improvements in the New York City Metropolitan Area," and is dated June, 1978. The second submission, supplementing the first, is entitled, "New York State Air Quality Implementation Plan—The Moynihan/Holtzman Amendment Submission: Transit Improvements in the New York City Metropolitan Area," and is dated May 1979. The State prepared these submissions in response to Section 110(c)(5)(B) of the Clean Air Act which includes the requirements of Section 110(a)(3)(D). The June 1978 submissions was discussed by EPA in a January 29, 1979, Federal Register notice of proposed rulemaking (44 FR 5693); the May 1979 supplemental submission is under review. EPA is currently assessing the adequacy of the State's supplemental submission with respect to the requirements of the Clean Air Act, including Part D. Its findings will be discussed in a separate Federal Register notice to be published in the near future.

IV. Summary of unfulfilled Requirements

EPA is today proposing conditional approval for all of the elements of the State of New York's Part D Submission for carbon monoxide and ozone for the New York City metropolitan area, except for the State's submission to meet the requirements of the "Moynihan/Holtzman" provision of the Clean Air Act. EPA is currently reviewing that submission and will act upon it in the near future.

As described in Section III, EPA has found deficiencies in the proposed plan revision which EPA believes should be corrected. These deficiencies are being proposed for conditional approval (this concept is discussed in Section I of this notice.)

The following summary identifies plan improvement actions which EPA has found to be necessary. To aid the reader, reference is made to the subsection number where each of these proposed conditions of approval is discussed.

(1) On or before August 1, 1980 the State must submit to EPA key milestones (actions and dates) associated with projects relating to the transportation control measures which are a part of its SIP. Measures which have a particular need for the identification of additional milestones with regard to their proposed actions include:

- Parking Restrictions,
- Freight Transportation,
- Limitation on Authorized Parking,
- Bike Lanes (Demonstration Project),
- Express Bus and Carpool Lanes,
- Pedestrian Priority Zones,
- Traffic Flow Improvements for Arterials,
- Traffic Flow Improvements for Limited Access Highways,
- Employer Based Programs,
- Private Car Restrictions,
- Alternate Work Schedules,
- Bicycle Lanes and Storage Facilities, and
- Park and Ride and Fringe Parking (Subsection III.D.1.b(3)(a)).

(2) On or before February 1, 1980 the State must submit to EPA an improved program of study for the broader application of the following measures:

- Freight Transportation,
- Express Bus and Carpool Lanes,
- Pedestrian Priority Zones,
- Employer Based Programs,
- Private Car Restrictions,
- Alternate Work Schedules,
- Bicycle Lanes and Storage Facilities.

In addition, each new and existing study's schedule, its funding source, its anticipated products, its relationship to measures, projects and other studies, and procedures for tracking its progress and reporting on its findings must be

submitted to EPA (Subsection III.D.1.b(3)(b)).

(3) On or before August 1, 1980, the State must submit to EPA additional documentation to support its determination that the measure, "Controls on Extended Vehicle Idling," is not reasonably available. If such additional documentation cannot be provided, this measure must be recategorized (Subsection III.D.1.b(3)(c)).

(4) On or before February 1, 1980, the State must submit to EPA three separate listings covering, respectively, all of the transportation related studies, demonstration projects and permanent projects committed to in the SIP (Subsection III.D.1.b(3)(d)).

(5) On or before August 1, 1980 the State must submit to EPA SIP revision criteria and procedures for making changes to transportation projects contained in the SIP. Criteria for a "significant" change to a project should consider the degree of change in a project's scope, cost, schedule for implementation and status as to its "reasonableness." SIP revision procedures should provide for changes to a measure's categorization and the failure to include a project in the Transportation Improvement Program (Subsection III.D.1.d(3)(a)).

(6) On or before August 1, 1980, the State must submit to EPA SIP revision criteria and procedures for making changes to transportation studies contained in the SIP (Subsection III.D.1.d(3)(b)).

(7) On or before May 1, 1981 the State shall submit to EPA either acceptable justification for retaining the provisions of 6 NYCRR Part 211, "General Prohibitions," which exempt from control cutback asphalt used in the manufacture of asphalt emulsions with low volatile organic compound content or an adopted revised regulation which corrects this apparent deficiency (Subsection III.D.2.b(4)).

(8) On or before February 1, 1980 the State must either submit to EPA acceptable justification for the following provisions of 6 NYCRR Part 229, "Gasoline Storage and Transfer," or hold public hearings to revise these provisions to correct their deficiencies:

- Section 229.3(a), "Storage of Gasoline in Fixed Roof Tanks," does not regulate the storage of petroleum liquids other than gasoline.
- Section 229.3(d), "Gasoline Filling Stations," exempts from control storage tanks at gasoline filling stations with an annual throughput of less than 400,000 gallons.

If the State elects to revise Part 229, such revised regulation must be adopted

and submitted to EPA on or before August 1, 1980 (Subsection III.D.2.b(9)).

(9) On or before January 1, 1981 the State must submit to EPA an organic compound emissions inventory of sufficient comprehensiveness and quality to meet the requirements specified by EPA (Subsection III.E.2.b).

(10) On or before April 1, 1980 the State must adopt and submit to EPA revisions to Sections 231.6(a) and 231.9(d) of 6 NYCRR Part 231, "Major Facilities," to reflect its interpretation that the provisions of Part 231 apply to new major sources and major modifications locating in attainment areas, but significantly impacting the air quality of nonattainment areas (Section III.F).

(11) On or before August 1, 1980 the State must adopt and submit to EPA revisions to Section 231.3(b) of 6 NYCRR indicating that, regardless of whether or not a source will have a "significant" impact on the area's air quality, LAER control technology is required on new major sources or existing sources undergoing major modification if such sources are located in an area where standards are actually violated (Section III.F).

(12) On or before August 1, 1980 the State must adopt and submit to EPA a revision to Section 200.1(pp) of Part 200, "General Provisions," which defines "owner" in a manner consistent with Section 173 of the Clean Air Act (Section III.F).

(13) On or before August 1, 1980 the State must submit to EPA identification of the resources necessary to carry out the transportation planning process and the following transportation elements of the SIP:

- Parking Restrictions,
 - Freight Transportation,
 - Heavy Duty Gasoline Truck Retrofit,
 - Express Bus and Carpool Lanes,
 - Pedestrian Priority Zones,
 - Traffic Flow Improvements for Arterials,
 - Employer Based Programs,
 - Park-and-Ride and Fringe Parking,
 - Alternate Work Schedules.
- (Subsection III.G.1).

(14) On or before January 1, 1980 the State must submit to EPA a memorandum of understanding which has been endorsed by appropriate Transportation Coordinating Committees and which provides commitments by appropriate agencies to develop, implement and enforce the SIP (Subsection III.J.1.b).

V. Public Comment

Interested persons are invited to comment on any element of the subject revision and on whether or not the proposed New York State

Implementation Plan revision meets Clean Air Act requirements. Comments received by (60 days following publication) will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 1642, New York, New York 10007.

This current SIP revision request was submitted to EPA in accordance with all applicable EPA requirements as contained in 40 CFR Part 51.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on whether the proposed revision to the New York State Implementation Plan should be approved or disapproved.

Dated: November 19, 1979.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601)).

Dick Dowling,

*Acting Regional Administrator,
Environmental Protection Agency.*

(FR Doc. 79-37757 Filed 12-7-79; 8:45 am)

BILLING CODE 6560-01-M

40 CFR Part 52

[FRL 1372-6]

Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration Regulations

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 19, 1978, EPA promulgated regulations for Prevention of Significant Air Quality Deterioration (PSD) and requirements for States to develop and submit regulations for PSD. The State of Tennessee has responded and on April 12, 1979, submitted to EPA regulations meeting EPA's requirements. EPA is today proposing to approve the State of Tennessee's PSD plan.

DATES: To be considered, comments must be submitted on or before January 9, 1980.

ADDRESSES: Written comments should be addressed to Ray Gregory of EPA Region IV's Air Programs Branch (see

EPA Region IV address below). Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Environmental Protection Agency, Air Programs Branch Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308.
Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Raymond Gregory, EPA Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30308, Telephone: 404/881-3286 (FTS 257-3286).

Background

On December 5, 1974, EPA published regulations under the 1970 version of the Clean Air Act for the prevention of significant air quality deterioration (PSD). These regulations established a program for protecting areas with air quality cleaner than the national ambient air quality standards (NAAQS). Then, on August 7, 1977, the Clean Air Act Amendments of 1977 became law and changed the 1970 act and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the new Clean Air Act, in sections 160-169, contains comprehensive new PSD requirements. These new requirements are to be incorporated by States into their implementation plans. On June 19, 1978 (43 FR 26380), EPA promulgated the final guidance to assist States in preparing State implementation plan (SIP) revisions meeting the new requirements. The State of Tennessee has complied with these requirements and has adopted and submitted a new rule 1200-3-9-01-(4) for the review of new sources.

EPA has reviewed the submitted material and found it to be equivalent to EPA's requirements. Therefore, EPA is today proposing to approve the Tennessee submittal as satisfying the requirements of an acceptable plan for implementing PSD.

However, the case of *Alabama Power et al. v. Costle* (D.C. Cir., decision June 18, 1979) invalidated certain aspects of the EPA regulations. Although the effect of that decision is presently stayed, on September 5, 1979 (44 FR 51924) EPA proposed replacement PSD regulations intended to conform to the *Alabama Power* decision. Thus, when regulations proposed September 5 are finalized,

Tennessee will have to promulgate new conforming regulations.

(Sec. 110, 161, Clean Air Act (42 U.S.C.A. 7410 and 7471 (Pamphlet 1978)))

Dated: November 21, 1979.

John C. White,
Regional Administrator.

(FR Doc. 79-37755 Filed 12-7-79; 8:45 am)
BILLING CODE 6560-01-M

40 CFR Part 180

[FRL 1372-1; PP 8E2092/P123]

Proposed Tolerance for the Pesticide Chemical Chlorpyrifos

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).
ACTION: Proposed Rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide chlorpyrifos on tomatoes at 0.5 part per million (ppm). The proposal was submitted by Dow Chemical Co. This regulation would establish a maximum permissible level for residues of chlorpyrifos on tomatoes.

DATE: comments must be received on or before January 9, 1980

ADDRESS: Address comments to: Mr. Charles T. Mitchell, Acting Product Manager (PM) 12, Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW, Washington, DC. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Charles T. Mitchell at the above address (202/426-2635).

SUPPLEMENTARY INFORMATION: Dow Chemical Co., P.O. box 1706, Midland, MI 48640, has submitted a pesticide petition (PP 8E2092) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.342 be amended by the establishment of a tolerance for combined residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate and its metabolite 3, 5,6-trichloro-2-pyridinol in or on the raw agricultural commodity tomatoes imported from Israel and Mexico at 0.5 ppm.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat feeding/oncogenicity study and a dog feeding study with a no-observed-effect-level (NOEL) of 0.1 milligram (mg)/kilogram (kg) of body weight (bw). Studies on delayed neurotoxicity and reproduction showed negative potentials. Based on the two-year chronic rat feeding study with a 0.1 mg/kg bw NOEL and anticholinesterase

effects, the acceptable daily intake (ADI) for man is 0.01 mg/kg bw/day using a safety factor of 10. The theoretical maximum residue contribution (TMRC) in the human diet from the proposed tolerance and tolerances which have previously been established for residues of chlorpyrifos on a variety of raw agricultural commodities at levels ranging from 0.01 ppm to 1.50 ppm does not exceed the ADI.

Desirable data that are lacking from the petition are a life-time oncogenicity study and a teratology study. In letters of February 17, 1978, and January 31, 1979, the petitioner indicated that the lifetime oncogenicity study is currently under review.

Although the oncogenicity evaluation of chlorpyrifos is not complete, it is concluded that based on the available data, risks are acceptable since the absence of an oncogenic potential is adequately shown in the two-year rat feeding/oncogenicity study.

The metabolism of chlorpyrifos is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. No actions are currently pending against continued registration of chlorpyrifos nor are there any other relevant considerations involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.5 ppm on tomatoes established by amending 40 CFR 180.342 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before January 9, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 8E2092/P123". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 12, Room 335, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the

procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "Specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: December 3, 1979
 Douglas D. Camp, *Director Registration Division.*
 (Sec. 408(e) Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(e)))

It is proposed that Part 180, Subpart C, § 180.342 be amended by alphabetically inserting tomatoes at 0.5 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *	Parts per million
Commodity:	
* * * * *	
Tomatoes.....	0.5
* * * * *	

[FR Doc. 79-37793 Filed 12-7-79; 8:45 am]
 BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY
44 CFR Part 67

[Docket No. FEMA 5748]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.
ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872, (In Alaska and Hawaii call Toll Free Line (800) 424-

9080), Room 5150, 451 7th Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground, *Elevation in feet (NGVD).
California	Montague (City), Siskiyou County	Oregon Slough	At downstream corporate limits 50 feet downstream from center of Yreka Western Railroad Bridge 50 feet upstream from center of Yreka Western Railroad Bridge At upstream corporate limits 300 feet southeast from Yreka Western Railroad Bridge over Oregon Slough.	*2,499 *2,505 *2,509 *2,519 #2
Maps available at: City Clerk's Office, City Hall 1030 13th Street, Montague, California 96064. Send comments to: Honorable Walter H. Bray, Mayor, City of Montague, City Hall, P.O. Box 428, Montague, California.				
California	Tehama (City), Tehama County	Sacramento River	Intersection of Fifth Street and Gyle Road Intersection of Tehama Road and B Street	*215 *221
Maps available at: City Clerk's Office, City Hall, Tehama, California. Send comments to: Honorable C. A. Stromsness, Mayor, City of Tehama, City Hall, P.O. Box 70, Tehama, California 96090.				
Colorado	Eagle County, Unincorporated Areas	Buffehr Creek Eagle River (At Minturn) Brush Creek Taylor Creek Roaring Fork River Turkey Creek Eagle River (at Redcliff) Fryingpan River	225 feet upstream from center of Interstate 70 and U.S. 6 30 feet upstream from confluence with Cross Creek 35 feet upstream from center of Farm Bridge 30 feet upstream from center Fryingpan Road 40 feet upstream from confluence with Fryingpan River 130 feet upstream from confluence with Eagle River 60 feet downstream from confluence with Turkey Creek 50 feet upstream from confluence with Center Creek Confluence with Seven Castles Creek 100 feet upstream from confluence with Frenchman Creek	*7,983 *7,964 *6,531 *6,989 *6,588 *6,622 *8,610 *6,716 *6,910 *7,239
Maps available at: County Planning Office, Eagle County Courthouse, Eagle, Colorado. Send comments to: Mr. Dan Williams, Chairman, Board of County Commissioners, Eagle County, Eagle County Courthouse, P.O. Box 850, Eagle, Colorado 81631.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).	
Florida	City of Sanford, Seminole County	City Ditch (East Branch)	Just upstream of State Road No. 48 (First Street)	*12	
			Just upstream of Third Street	*14	
			Just upstream of Eighth Street	*26	
		City Ditch (West Branch)	Just upstream of Third Street	*14	
			Just upstream of Eighth Street	*23	
			Just downstream of Parsimmon Avenue	*26	
Maps available at: City Engineer's Office, City Hall, 300 N. Park Avenue, Sanford, Florida 32771.					
Send comments to: Mr. W. E. Knowles, City Manager or Mr. Max LaZebny, City Engineer, City Hall, P.O. Box 1778, Sanford, Florida 32771.					
Florida	City of St. Cloud, Osceola County	Dakota Avenue Canal	Just upstream of Lake Shore Boulevard	*63	
			Just downstream of Fifth Street	*64	
		East Lake Tope Kaliga	Entire shoreline	*62	
		Shallow Flooding Along Second Street	Intersection of Tennessee Avenue and Second Street	*62	
Maps available at: Public Works Office, City Hall, 1300 9th Street, St. Cloud, Florida 32769.					
Send comments to: Mayor Sarah Lewis or Mr. W. Fowler, Public Works Director, City Hall, 1300 9th Street, St. Cloud, Florida 32769.					
Idaho	Caldwell (City), Canyon County	Boise River	Intersection of West Belmont Street and Riverside Canal	*2,351	
			Intersection of West Elgin Street and Boise Avenue	*2,353	
			Intersection of West Galveston Street and Boise Avenue	*2,354	
			Intersection of river and West Plymouth Street	*2,361	
		Indian Creek	Intersection of creek and Sewer Plant Road	*2,349	
			Intersection of creek and Riverside Canal	*2,352	
			25 feet upstream from center of Stock Bridge	*2,377	
			30 feet downstream from center of Elm Lane	*2,393	
			Intersection of creek and Ustick Road	*2,411	
Maps available at: City Hall, 704 Blaine Street, Caldwell, Idaho.					
Send comments to: Honorable R. E. Pasty, Mayor, City of Caldwell, City Hall, 704 Blaine Street, Caldwell, Idaho 83605.					
Idaho	Parma (City), Canyon County	Boise River	Intersection of Roswell Boulevard and Starcher Street	*2,220	
			Stockton Road 150 feet east from its intersection with 10th Street	*2,226	
Maps available at: City Hall, 3rd and Bates, Parma, Idaho.					
Send comments to: Honorable Patricia N. Romanko, Mayor, City of Parma, City Hall, Box 606, Parma, Idaho.					
Illinois	Countryside (City), Cook County	Peck Avenue Ditch	Intersection of 55th Place and Peck Avenue	*676	
			Intersection of Peck Avenue and Plainfield Road	*677	
		East Avenue Ditch	Intersection of East Avenue and 57th Street	*648	
			Intersection of Lorraine Drive and Rose Court	*648	
		East Avenue Ditch Tributary	East side of Intersection of LaGrange Road and 56th Street	*649	
			South edge of 57th Street approximately 550 feet east from its intersection with LaGrange Road	*648	
		67th Street Ditch	30 feet downstream from center of Brainard Avenue	*658	
			25 feet upstream from center of Sunset Avenue	*674	
Maps available at: City Hall, 5550 East Avenue, Countryside, Illinois.					
Send comments to: Honorable Carl W. LeGant, Mayor, City of Countryside, City Hall, 5550 East Avenue, Countryside, Illinois 60525.					
Louisiana	Town of Homer, Clairborne Parish	Caney Creek	Approximately 290 feet upstream of Lyons Hill Road	*230	
			Approximately 70 feet upstream of U.S. HWY 79	*250	
Maps available at: City Hall, East Main Street, Homer, Louisiana 71040.					
Send comments to: Mayor Joe Michael or Mr. Ed Foster, City Clerk, City Hall, East Main Street, Homer, Louisiana 71040.					
Louisiana	Town of Rayville, Richland Parish	Little Creek	Approximately 400 feet upstream of the downstream corporate limits	*79	
			Just upstream of West Rosa Street	*80	
		Little Creek Tributary	Just downstream of West Francis Street	*79	
		Stream No. 2	Approximately 500 feet downstream of State HWY 3048	*79	
		Burns Bayou	Approximately 340 feet upstream of U.S. HWY 80	*79	
		Burns Bayou Tributary No. 2	Approximately 200 feet upstream of Linda Street	*78	
Maps available at: City Hall, P.O. Box 750, Rayville, Louisiana 71269.					
Send comments to: Mayor Joe Kall or Mr. Foster Jones, City Clerk, P.O. Box 750, Rayville, Louisiana 71269.					
Michigan	Cottrellville (Township), St. Clair County	St. Clair River	Confluence with Robbins Drain	*580	
			Confluence with Lester-Bammel Drain	*580	
			50 feet upstream from center of Starville Road	*587	
			At Roberts Road Bridge	*581	
			At Broadbridge Road Bridge	*582	
			At confluence with Marine City Drain (Main Channel)	*581	
			50 feet upstream from center of Michigan State Route 29	*581	
			At center of Broadbridge Road Bridge	*580	
			At center of Michigan State Route 29 Bridge	*580	
Maps available at: the Township Hall, 7008 Marsh Road, Marine City, Michigan.					
Send comments to: Mr. George Sochowicz, Township Supervisor, Township of Cottrellville, Township Hall, 7008 Marsh Road, Marine City, Michigan 48037.					

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in foot above ground. *Elevation in foot (NGVD).
Minnesota	Zumbrota (City), Goodhue County	North Fork Zumbro River	60 feet upstream from center of State Highway 58 (Main Street)	*972
		Bitter Creek	West Avenue 100 feet south from its intersection with 2nd Street	*978
			40 feet upstream from center of 5th Street	*995
			50 feet upstream from center of County Road 10	*1014
		Roscoe Creek	At center of Chicago, Milwaukee, St. Paul, and Pacific Railroad crossing.	*977
Maps available at: City Hall, 55 East 3rd Street, Zumbrota, Minnesota. Send comments to: Honorable Perry Weeks, Mayor, City of Zumbrota, City Hall, 55 East 3rd Street, Zumbrota, Minnesota 55992. At: Steve Oakland.				
New Jersey	Lindenwold (Borough), Camden County	Cooper River	Intersection of Dana Street and Walnut Avenue	*66
			50 feet downstream from center of Gibbsboro Road	*70
		North Branch Big Timber Creek	50 feet upstream from center of Laurel Road	*32
			150 feet upstream from center of East Atlantic Avenue	*42
		Mason Run	75 feet upstream from center of Chews Landing-Clemonten Road	*28
			50 feet downstream from center of Blackwood-Clemonten Road	*32
Maps available at: Clerk's Office, Borough Hall, 2001 Egg Harbor Road, Lindenwold, New Jersey. Send comments to: Honorable John A. Pregartner, Mayor, Borough of Lindenwold, Borough Hall, 2001 Egg Harbor Road, Lindenwold, New Jersey 08021.				
New York	Campbell (Town), Steuben County	Cohocton River	Intersection of Curtis Coopers Road and Eldred Road	*982
			150 feet upstream from center of Conrail Bridge	*1,009
			200 feet upstream from State Route 333	*1,016
		Meads Creek	50 feet upstream from center of westbound lanes of U.S. Highway 15	*973
			50 feet upstream from center of Meads Creek Road	*1,077
		Unnamed Tributary to Meads Creek	Van Fleet Road approximately 1,300 feet northwest from its intersection with Meads Creek Road	*1,170
		Michigan Creek	50 feet upstream from center of State Route 333	*1,027
			50 feet upstream from center of Burr Hollow Road	*1,072
		Unnamed Tributary to Michigan Creek	At western corporate limits	*1,126
		Wolf Run	50 feet upstream from center of State Route 333	*1,011
	75 feet upstream from center of County Route 415	*1,029		
	50 feet upstream from center of County Route 415	*1,041		
		Shallow Flooding	400 feet northeast from intersection of U.S. Highway 15 and State Route 333	#2
Maps available at the Town Clerk, Bemis Street, Campbell, New York. Send comments to Mr. Thomas Bisket, Town Supervisor, Town of Campbell, RD No. 2, Painted Post, New York 14870.				
Ohio	Maple Heights (City), Cuyahoga County	Mill Creek	25 feet upstream from center of Broadway Avenue	*040
			25 feet upstream from center of Lee Road	*078
Maps available at: City Hall, 5353 Lee Road, Maple Heights, Ohio. Send comments to: Honorable Emil J. Lisy, Mayor, City of Maple Heights, City Hall, 5353 Lee Road, Maple Heights, Ohio 44137.				
Texas	City of Everman, Tarrant County	Chambers Creek	Approximately 200 feet upstream of downstream crossing of Enon Avenue	*622
			Just upstream of Rendon Drive	*628
		N. Fork Chambers Creek	Approximately 80 feet downstream of Hansbarger Street	*650
			Just upstream of Race Street	*652
		S. Fork Chambers Creek	Just upstream of abandoned R.R. Bridge	*645
	Approximately 200 feet upstream of Race Street	*652		
		Just upstream of Christopher Street	*682	
Maps available at: City Tax Collector's Office, City Hall, 212 N. Race Street, Everman, Texas 76140. Send comments to: Mr. Thomas H. Bryers, City Tax Assessor Collector, City Hall, 212 N. Race Street, Everman, Texas 76140.				
Texas	City of Farmers Branch, Dallas County	Elm Fork of the Trinity River	Just upstream of Royal Lane	*430
			Just upstream of Valley View Lane	*434
		Cooks Branch	Just downstream of Denton Road	*454
			Just downstream of Rollingdale Lane	*494
Maps available at: Director of Public Works' Office, City Hall, 13000 William Dodson Parkway, Farmers Branch, Texas 75234. Send comments to: Mayor Bill Binford, or Mr. Sam Wyse, Director of Public Works, City Hall, P.O. Box 340435, Farmers Branch, Texas 75234.				
Texas	Unincorporated Areas of Rockwall County	Camp Creek	Just upstream of State Highway 205	*445
			Just upstream of State Highway 552	*499
		Thompson Branch	Approximately 1000 feet South of the County Boundary of Collin and Rockwall Counties	*445
		Brushy Creek	Just upstream of Highway 1,143	*542
			Approximately 600 feet downstream of Interstate Highways 30 and 67	*569
		Long Branch	Just upstream of State Highway 205	*514
Maps available at: Rockwall County Judge's Office, Rockwall County Courthouse, Rockwall, Texas 75087. Send comments to: Honorable Derwood Wimpee, Rockwall County Judge, Rockwall County Courthouse, Rockwall, Texas 75087.				
Texas	City of Saginaw, Tarrant County, Texas	Big Fossil Creek	North of Intersection of Hamilton Bailey Boswell Road and Blue Mound Road	*659
		Little Fossil Creek	Just upstream of Blue Mound Road	*669
			Approximately 50 feet upstream of Bell Helicopter Road	*693
			Approximately 50 feet upstream of Atchison, Topeka and Santa Fe Railroad	*728
		West Fork Cement Creek	Just upstream of Longhorn Road (corporate limits)	*710
Maps available at: City Administrator's Office, City Hall, 404 S. Saginaw Boulevard, Saginaw, Texas 76179. Send comments to: Mr. Marty A. Joab, City Administrator, City Hall, P.O. Drawer 79070, Saginaw, Texas 76179.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD).
Texas	City of Seagoville, Dallas County	Stream 2 A1	Approximately 100 feet upstream of Willis Drive	*379
			Just upstream of Water Street	*401
		Stream 2 A2	Just upstream of Malloy Bridge Road	*417
			Just upstream of Malloy Bridge Road	*397
			Just upstream of Smith	*402
		Stream 4 C1	Just upstream of Reeves Street	*425
		Stream 4 C3	Approximately 100 feet upstream of Cloverhill Road	*400
Trinity River	Approximately 200 feet downstream of South Frontage Road of U.S. Highway 175.	*423		
		Just Northwest of the Intersection of Malloy Bridge Road and the Southwestern Corporate Limits.	*370	

Maps available at: City Manager, 704 N Highway 175, Seagoville, Texas 75159.

Send comments to: David Couch, City Manager, 703 N Highway 175, Seagoville, Texas 75159.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 26, 1979.

Gloriz M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-37609 Filed 12-6-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5747]

**National Flood Insurance Program;
Proposed Zone and Base Flood
Elevation Determinations for the City
of Normandy Park, Wash.**

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations as described below.

The proposed base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Council Chambers, 240 S.W. 200th, Normandy Park, Washington.

Send comments to: The Honorable John T. Dawson, Mayor, 240 S.W. 200th, Normandy Park, Washington 98166.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, Acting
Assistant Administrator, Program
Implementation & Engineering Office,
National Flood Insurance Program, 451
Seventh Street, S.W., Washington, DC
20410, (202) 755-6570 or toll free line
(800) 424-9872, (in Alaska and Hawaii
call toll free (800) 424-9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base flood elevations for the City of Normandy Park, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 67 (presently appearing at its former Section 24 CFR Part 1917).

These base flood elevations, together with the flood plain management measures required by Section 60.3 (presently appearing at its former Section 1910.3) of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevation for selected locations are:

Source of flooding	Location	Elevation in feet national geodetic vertical datum
Puget Sound	Northernmost corporate limit	16
	Confluence with Miller Creek	9
	Confluence with Normandy Park Creek	10
	West of Edgecliff Drive, S.W.	16
Miller Creek	West of S.W. 201st Street	9
	West of S.W. 211th Street	16
	Confluence with Puget Sound S.W. 175th Place (downstream)	9
Walker Creek	Confluence with Miller Creek S.W. 175th Place (downstream)	10
		14
Des Moines Creek	Southernmost corporate limit	11
	Easternmost corporate limit	23

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued October 22, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-37627 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5701]

**Proposed Flood Elevation
Determinations for the Town of
Londonderry, Rockingham County,
N.H., Under the National Flood
Insurance Program; Correction**

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 56965 of the Federal Register of October 3, 1979.

EFFECTIVE DATE: October 3, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Gregg Chappell, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Londonderry, New Hampshire, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary D.....	Downstream corporate limits.	* 245
Nesenkoag Brook.....	Dan Hill Road 75 feet upstream from centerline.	* 238

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Long View, Catawba County, North Carolina.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 17738 on March 23, 1979, and in the Hickory Daily Record, published on or about March 29, 1979, and April 5, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, 139 24th Street, Southwest, Hickory, North Carolina.

Send comments to: Honorable Fred J. Dale, Mayor, Town of Long View, Town Hall, 139 24th Street, Southwest, Hickory, North Carolina 28601.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5148, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Long View, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Long View Creek.....	25 feet upstream from centerline of 1st corporate limits.	*1012
	775 feet downstream from centerline of confluence with Long View Creek Tributary Two.	*1030
	60 feet downstream from centerline of U.S. Highway 64 and 70.	*1050
	25 feet upstream from centerline of U.S. Highway 64 and 70.	*1080
	25 feet upstream from centerline of 26th Street S.W.	*1080
Frye Creek.....	40 feet upstream from centerline of 2nd Avenue N.W.	*1052
	150 feet upstream from centerline of 19th Street N.W.	*1059
	25 feet upstream from centerline of 20th Street N.W.	*1062
	120 feet downstream from centerline of 23rd Street N.W.	*1065
	20 feet upstream from centerline of 23rd Street N.W.	*1070
	60 feet upstream from centerline of 27th Street N.W.	*1085
Long View Creek Tributary Two.	20 feet upstream from centerline of 30th Street Place N.W.	*1105
	20 feet upstream from centerline of 33rd Street N.W.	*1120
	840 feet upstream from the confluence with Long View Creek.	*1050

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963).

Issued: November 19, 1979.

Gloria M. Jimenez, Federal Insurance Administrator.

[FR Doc. 79-37830 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5419]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Revision to proposed rule for Summers County, West Virginia.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Summers County, West Virginia.

44 CFR Part 67

[Docket No. FI-5275]

Revision of Proposed Flood Elevation Determinations for the Town of Long View, Catawba County, N.C., Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FIA.

ACTION: Proposed rule.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 26920 on May 18, 1979, and in the *Hinton News* on or about April 12, 1979, and April 19, 1979, and hence supersedes those previously published rules.

DATES: The period for comments will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the flood elevations are available for review at the County Commissioner's Office, County Courthouse, Hinton, West Virginia.

Send Comments to: Mr. Billy Joe Edwards, President of the Summers County Commission, P.O. Box 97, Hinton, West Virginia 25951.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5148, 451 Seventh Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Summers County, West Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of

the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are amended to read as follows:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
West Virginia	Summers County	Beech Run	Upstream of State Route 3	*1,373	
			.48 mile upstream of confluence adjacent to Beech Run Church	*1,435	
			1.03 miles upstream of confluence adjacent to cemetery	*1,500	
		Big Creek	2.18 miles upstream of confluence	*1,777	
			Upstream of Chessie System	*1,404	
			.25 mile upstream of confluence	*1,434	
		Blue Lick Creek	.55 mile upstream of confluence	*1,467	
			Confluence with Greenbrier River	*1,462	
			Upstream of County Route 17	*1,497	
		Bradshaw Creek	.81 mile upstream of confluence	*1,575	
			Upstream of confluence with Wheel Run	*1,537	
			1.59 miles upstream at Private Road	*1,564	
		Brooks Branch	Upstream of State Route 12	*1,597	
			Confluence with New River	*1,338	
			Downstream of State Route 20	*1,351	
		Buggy Branch	.367 mile upstream of confluence	*1,392	
			Confluence with Greenbrier River	*1,520	
			.45 mile upstream of confluence	*1,520	
		Fisher Creek	Confluence with Mill Creek	*1,733	
			.65 mile upstream of confluence	*1,850	
			1.15 miles upstream of confluence	*1,954	
		Greenbrier River	1.725 miles upstream of confluence	*2,091	
			Upstream State Route 107	*1,377	
			Upstream State Route 13	*1,393	
			Confluence of Big Creek	*1,404	
			Confluence of Powley Creek	*1,412	
			Upstream State Route 3	*1,415	
			Confluence of Wolf Creek	*1,436	
			Confluence of Kissinger Run	*1,445	
			Confluence of Blue Lick Creek	*1,461	
			Confluence of Hungard Creek	*1,503	
			Confluence of Buggy Branch	*1,520	
			At confluence of Griffith Creek	*1,540	
			Griffith Creek	Downstream of State Route 3	*1,540
				Downstream County Route 7 at mile .75	*1,602
				Downstream Private Road at mile 1.29	*1,672
		Hungard Creek	Downstream State Route 3	*1,503	
			.9 mile upstream of confluence	*1,506	
			100 feet downstream of State Route 6	*1,541	
		Kates Branch	Confluence with New River	*1,325	
			Downstream of State Route 20	*1,344	
			.4 mile upstream of confluence	*1,400	
		Kissinger Run	.625 mile upstream of confluence	*1,449	
			Confluence with Greenbrier River	*1,445	
			.3 mile upstream of confluence	*1,453	
		Laurel Creek	Downstream of State Route 20	*1,290	
			.85 mile upstream of confluence	*1,404	
			1.84 miles upstream of confluence	*1,485	
		Lick Creek	Confluence with New River	*1,274	
			Upstream of State Route 20	*1,283	
Upstream of Private Road crossing	*1,353				
.45 mile upstream of Private Bridge	*1,382				
2.8 miles upstream of Private Bridge	*1,470				
Confluence of Mill Creek	*1,545				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
West Virginia	Summers County	Madam Creek	Confluence with New River	*1,365
			Upstream of State Route 3	*1,374
			Upstream Private Drive .69 miles upstream of confluence	*1,435
			Upstream Private Drive 1.09 miles upstream of confluence	*1,470
			Downstream Private Drive 1.865 miles upstream of confluence	*1,529
			Upstream County Road 3/21	*1,550
			Upstream County Road 12/2	*1,620
			Upstream Private Drive .41 mile upstream of County Route 12/2	*1,694
			1 mile upstream County Route 12/2 adjacent to Martha Chapel	*1,800
			Downstream Private Road 4.805 miles upstream of confluence with New River	*2,099
		Meadow Creek	5.025 miles upstream of confluence with New River	*2,178
			Confluence with New River	*1,254
			Upstream Chessie System	*1,257
		Mill Creek	Upstream County Route 7	*1,276
			.6 mile upstream of County Route 7	*1,359
			.81 mile upstream of County Route 7	*1,382
		New River	Confluence with Lick Creek	*1,545
			Upstream County Route 4	*1,540
			Upstream Private Road .66 mile upstream of County Route 4	*1,600
			Upstream of downstream State Route 20 crossing	*1,739
		Pipestem Creek	.0125 mile upstream of upstream State Route 20 crossing	*2,021
			Downstream County Boundary	*1,242
			Confluence of Meadow Creek	*1,254
			Confluence of Lick Creek	*1,274
			Confluence of Kates Branch	*1,325
			Confluence of Madam Creek	*1,365
			Confluence of Greenbrier River	*1,376
		Powley Creek	1.32 miles upstream of confluence	*1,534
			1.85 miles upstream of confluence	*1,590
			2.5 miles upstream of confluence adjacent to Greenbrier River	*1,656
			2.8 miles upstream of confluence	*1,685
		Stinking Lick Creek	County Route 13	*1,412
			.23 miles upstream of confluence	*1,440
			.29 miles upstream of confluence	*1,455
		Tributary No. 1 to New River	Upstream County Route 33/3 at Jeep Trail	*1,541
			.96 mile upstream from County Route 33/3	*1,571
			1.42 mile upstream from County Route 33/3	*1,607
		Wheel Run	Upstream Chessie System	*1,257
			Upstream County Route 7	*1,272
			Upstream County Route 7/2	*1,331
			About 1 mile upstream County Route 7/2	*1,355
		Wolf Creek	Confluence with Bradshaw Creek	*1,535
			Upstream County Route 21/2	*1,544
			Upstream Private Road at .2 mile upstream of confluence	*1,577
			.39 miles upstream of confluence	*1,621
			Upstream State Route 12	*1,436
			.135 mile upstream of State Route 12	*1,444

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 27, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-37031 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5749]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance
Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood

elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426-1460 or

Toll Free Line (800) 424-8872, (In Alaska and Hawaii call Toll Free Line (800) 424-9080, Room 5150, 451 7th Street, S.W., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of

the Housing and Urban Development Act of 1968) (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities.

These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) Alsip, Cook County	Stony Creek (East)	Just upstream 127th Street	* 583
			Approximately 300 feet upstream Homan Avenue	* 584
			Approximately 200 feet downstream Cicero Avenue	* 587
		Memionette Park Ditch	Approximately 200 feet upstream mouth	* 585
			Approximately 100 feet downstream 123rd Street	* 592
			Approximately 200 feet upstream 123rd Street	* 595

Maps available at: Village Hall, 4500 123rd Street, Alsip, Illinois 60658.

Send comments to: The Honorable Arnold A. Andrews, Mayor, Village of Alsip, Village Hall, 4500 123rd Street, Alsip, Illinois 60658.

Illinois	(V) Burr Ridge, Du Page County	79th Street Ditch	75 feet upstream of corporate limits	* 674	
			Just downstream of private drive	* 680	
			Just upstream of private drive	* 689	
			Just upstream of County Line Road	* 690	
			Just downstream of 79th Street	* 692	
			Just upstream of Hamilton Street	* 694	
			Approximately 1,000 feet upstream of Hamilton Street	* 695	
			63rd Street Ditch	Approximately 300 feet downstream of Interstate 294	* 639
				Just upstream of Interstate 294	* 641
				130 feet downstream of Tomlin Drive	* 642
				Upstream of Tomlin Drive	* 646
				Upstream of pond outlet	* 647
				Just upstream from pond inlet	* 653
				600 feet upstream from pond inlet	* 657
				Just downstream from County Line Road	* 663
		Upstream from County Line Road		* 670	
		Downstream side of Elm Avenue		* 672	
		1,000 feet upstream of Elm Avenue		* 676	
		150 feet downstream of Garfield Avenue		* 681	
		Plainfield Road Ditch	Upstream of Garfield Avenue	* 685	
			Located at Grant Street	* 691	
			Approximately 500 feet upstream from Grant Street	* 694	
			Just downstream of Madison Street	* 704	
			Upstream of Madison Street (corporate limit)	* 710	
			Downstream side of Interstate 294	* 638	
			Upstream side of Interstate 294	644	
			Just downstream of Hillcrest Circle	* 652	
			200 feet upstream of Hillcrest Circle	* 655	
			Downstream of Shady Lane Road	* 657	
			75 feet upstream of Shady Lane Road	* 661	
			Just downstream of County Line Road	* 675	
			Upstream of County Line Road	* 680	
			Approximately 300 feet upstream from County Line Road	* 683	
Just downstream of International Harvester entrance	* 689				
Upstream of International Harvester entrance	* 703				
3,950 feet upstream from International Harvester entrance	* 706				

Maps available at: Village Hall, 220 West 75th Street, Burr Ridge, Illinois 60521.

Send comments to: Mr. Leonard Ruzak, Village President, Village of Burr Ridge, Village Hall, 220 West 75th Street, Burr Ridge, Illinois 60521.

Illinois	(V) Colona, Henry County	Rock River	Just upstream of State Highway 84	*576
			Just downstream of Chicago Rock Island and Pacific Railroad	*576
		Green River	Just upstream of Green River Road	*578
			Just upstream of Chicago Rock Island and Pacific Railway	*580
			1,500 feet upstream of Interstate 80	*582
4,400 feet upstream of Interstate 80	*583			

Maps available at: Village Hall, P.O. Box 188, Colona, Illinois 61241.

Send comments to: Mr. Charles Seaman, Village President, Village of Colona, Village Hall, P.O. Box 188, Colona, Illinois 61241.

Indiana	Unincorporated Areas of Clark County	Ohio River	At downstream county limits	*451	
			At upstream county limits	*459	
			Silver Creek	At downstream county limits	*448
				Just upstream Interstate 65	*456
				Just upstream of U.S. Route 31 East	*460
				Just upstream gaging station	*464
		Just downstream State Route 403		*470	
		Just upstream Memphis Road		*475	
		Just upstream Murphy Road	*488		
		Just upstream State Route 160	*496		
		At private road, approximately 1.70 miles upstream of State Route 160.	*505		

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. Elevation in feet (NGVD)
Indiana	Unincorporated Areas of Clark County.	Muddy Fork	At Louisville Cement Company Bridge-Northwest	472
			Just upstream Interstate 65	475
			Just upstream Wilson Switch Road	485
			Just upstream of Switch Road	491
			Just upstream of Louisville and Nashville railroad	505
		Lancassange Creek	Just upstream U.S. Route 60	555
			Approximately 2.1 miles upstream of U.S. Route 60	599
			At mouth	452
			Just upstream Lancassange Drive	458
			Just upstream of Middle Road	459
		Mill Creek	Just upstream Residential Place	467
			Just upstream private road—approximately 0.90 mile upstream of Capitol Hill	476
			1,000 feet downstream of Hamburg Pike	445
			900 feet upstream of Hamburg Pike	446
			0.7 mile upstream of Hamburg Pike	449
		Woodland Court Tributary	At confluence with Lancassange Creek	459
			Just downstream of Woodland Court	461
		Hamburg Pike	370 feet upstream of Woodland Court	464
			At mouth	445
			Just upstream of county road	452
		0.56 mile upstream of county road	456	

Maps available at: City-County Building, Jeffersonville, Indiana 47130.

Send comments to: Mr. Charles Spitznagel, President, Board of Commissioners, Clark County, Indiana, City-County Building, Jeffersonville, Indiana 47130.

Iowa	(C) Buffalo, Scott County	Mississippi River	Upstream corporate limits	562
			Downstream corporate limits	560
		Cedar Creek	Upstream corporate limits	627
			About 200 feet upstream 4th Street	592
			Mouth at Mississippi River	581

Maps available at: City Hall, 409 3rd Street, Buffalo, Iowa 52728.

Send comments to: The Honorable Larry Patrick, Mayor, City of Buffalo, 409 3rd Street, Buffalo, Iowa 52728.

Iowa	(C) Clinton, Clinton County	Mississippi River	Southern corporate limits	588
			Northern corporate limits	594
		Mill Creek	Mouth at Beaver Slough	588
			Just downstream of Lincoln Highway	588
			Just downstream of Manufacturing Drive	591
			Just upstream of South Bluff Boulevard	597
			Just upstream of 2nd Avenue Road	611
		Harts Mill Creek	At confluence with Mill Creek	591
			About 150 feet upstream of Manufacturing Drive	592
			About 550 feet upstream of Chicago and Northwestern railroad	593
			About 150 feet upstream of Bluff Road	604
			Just downstream of Harts Mill Road	607
		Manufacturers Ditch	Just upstream of Harts Mill Road	618
			About 1.26 miles upstream of Harts Mill Road	618
			About 400 feet upstream of mouth	585
			About 400 feet upstream of South 21st Street	588
			Just upstream of South 14th Street	590
		Unnamed Creek	Just upstream of 11th Avenue South	591
			Mouth at Mill Creek	588
		Car Barn Creek	About 0.8 mile upstream of U.S. Highway 67	588
			Mouth at Joyce Slough	575
			About 100 feet upstream of Chicago and Northwestern railroad	585
			About 100 feet upstream of Garfield Street	588
			About 100 feet upstream of 23rd Avenue North	592
			About 100 feet downstream of Buell Avenue	595
			About 100 feet upstream of Main Avenue (near Buell Avenue)	604
			About 150 feet downstream of North 10th Street	618
			About 60 feet downstream of North 10th Street	624
			About 100 feet upstream of North 11th Street	627
		Turtle Creek	About 1,400 feet upstream of North 11th Street	633
Mouth at Mississippi River	592			
About 100 feet downstream of Pershing Boulevard	592			
About 50 feet upstream of North 3rd Street	630			
About 50 feet downstream of 30th Avenue North	635			
About 50 feet upstream of 30th Avenue North	640			
		About 650 feet upstream of 30th Avenue North	640	

Maps available at: City Hall, 611 South 3rd Street, Clinton, Iowa 52732.

Send comments to: The Honorable Dwain P. Walters, Mayor, City of Clinton, City Hall, 611 South 3rd Street, Clinton, Iowa 52732.

New Hampshire	Fremont (Town), Rockingham County.	Exeter River	Downstream Corporate Limits	135
			4,600 feet above downstream Corporate Limits	136

Maps available at: The Town Hall, Route 107, Fremont, New Hampshire.

Send comments to: Mr. Charles M. Healey, Chairman of the Board of Selectmen of Fremont, Box 165, Fremont, New Hampshire 03044.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)			
New Hampshire	(T) Plaistow, Rockingham County.	Little River	Approximately 400 feet downstream of Atkinson Depot Road	*39			
			Approximately 100 feet upstream of Atkinson Depot Road	*42			
			Just downstream of Route 125	*46			
			Just downstream of Old Darnville Road	*48			
			Just downstream of Westville Road	*56			
			Just downstream of Boston and Maine Railroad	*61			
			Approximately 1,750 feet downstream of Main Street	*65			
			Approximately 750 feet downstream of Main Street	*70			
			Approximately 200 feet downstream of Main Street	*74			
			Just upstream of Main Street	*82			
			Approximately 1,000 feet upstream of Main Street	*86			
			Approximately 1,800 feet upstream of Main Street	*90			
			Approximately 2,600 feet upstream of Main Street	*93			
			At confluence with Kelly Brook	*95			
			Approximately 50 feet downstream of Abandoned Bridge downstream of Kingston Road	*98			
			Just upstream of Abandoned Bridge downstream of Kingston Road	*102			
			Just upstream of Kingston Road	*103			
			Just downstream of Crane Crossing Road	*104			
			Approximately 100 feet upstream of Crane Crossing Road	*107			
			Kelly Brook			Confluence with Little River	*95
						Approximately 1,600 feet upstream of confluence with Little River	*99
						Approximately 800 feet downstream of Route 125	*102
						Just downstream of Route 125	*105
						Just upstream of Route 125	*112
						Just downstream of Kelly Road	*113
						Just upstream of Kelly Road	*116
						Approximately 1,000 feet downstream of North Main Street	*119
						Approximately 400 feet downstream of North Main Street	*123
Just downstream of North Main Street	*127						
Bryant Brook			Just upstream of North Main Street	*130			
			Confluence of Little River	*43			
			Just downstream of Boston and Main Railroad	*65			
			Approximately 470 feet upstream of Boston and Main Railroad	*73			
			Approximately 100 feet downstream of East Road	*79			
			Just upstream of East Road	*82			

Maps available at: Town Hall, Plaistow, New Hampshire.

Send comments to: Mr. Samuel E. Conti, Chairman, Board of Selectmen, Town of Plaistow, Town of Plaistow.

Ohio	(C) Bedford Heights, Cuyahoga County.	Bear Creek	Approximately 110 feet downstream of Libbey Road	*1,014		
			Approximately 65 feet downstream of Libbey Road	*1,016		
			655 feet upstream of Libbey Road	*1,020		
			Approximately 110 feet upstream of Interstate 480	*1,025		
		Tinkers Creek			Approximately 1,900 feet upstream of Interstate 480	*1,031
					At western corporate limit	*907
		Hawthorne Creek			Just upstream of confluence of Hawthorne Creek	*915
					Just upstream of mouth at Tinkers Creek	*915
					Just upstream of Norfolk and Western Railway	*919
					995 feet downstream of eastern corporate limits	*925
					At eastern corporate limit	*929

Maps available at: City Hall, 5661 Perkins Road, Bedford Heights, Ohio.

Send comments to: The Honorable Lucille Reed, Mayor, City of Bedford Heights, City Hall, 5661 Perkins Road, Bedford Heights, Ohio 44146.

Pennsylvania	Butler (Township), Luzerne County.	Nescopeck Creek	Township Route 364 (Upstream)	*908			
			U.S. Interstate Rt. 81 (Upstream)	*946			
			Township Route 356 (Upstream)	*961			
			Legislative Route 40013 (Upstream)	*1,000			
			Township Route 358 (Downstream)	*1,020			
			U.S. Route 309 (Upstream)	*1,023			
			Little Nescopeck Creek			U.S. Interstate Rt. 81 (Upstream)	*984
						Legislative Route 40013 (Upstream)	*999
						Township Route 356 (Upstream)	*1,020
						Township Route 335 (Upstream)	*1,072
						U.S. Route 309 (Upstream)	*1,112

Maps available at The Township Building.

Send comments to: Mr. Warren Klinger, Chairman of the Township of Butler, R.D. 1, Drums, Pennsylvania 18222.

Pennsylvania	Cummings (Township), Lycoming County.	Pine Creek	Downstream Corporate Limits	*586			
			Conrail (Upstream)	*601			
			Confluence of Little Pine Creek	*618			
			State Route 44 (Upstream)	*624			
			Upstream Corporate Limits	*644			
			Little Pine Creek			Confluence with Pine Creek	*618
						English Run Road (Upstream)	*689
						Upstream Corporate Limits	*790

Maps available at: The residence of Margaret A. Berry, Township Secretary of Cummings, Waterville, Pennsylvania.

Send comments to: Mr. Roger Myers, Chairman of the Board of Supervisors of Cummings, Waterville, Pennsylvania 17776.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Eldred (Township), Lycoming County.	Loyalsock Creek	Downstream Corporate Limits	*567
			Private Road (extended) 8,000' downstream of State Route 973	*581
			Private Road (extended) 1,200' downstream of State Route 973	*598
			State Route 973 Bridge (Upstream)	*610
			Harvey Drive (extended)	*618
			Upstream Corporate Limits	*623
			Maps available at: The Township Office, located behind the Eldred Volunteer Fire Company. Send comments to: Mr. Robert F. Winter, Chairman of the Board of Supervisors of Eldred, R.D. 1, Box 417, Cogan Station, Pennsylvania 17728.	
Pennsylvania	Harborcreek (Township), Erie County.	Sixmile Creek	Confluence with Lake Erie	*578
			1,230 feet downstream of State Route 5	*582
			State Route 5 (Downstream Side)	*587
			State Route 5 (Upstream Side)	*602
			1,200 feet downstream of Boyer Road	*639
			1,100 feet upstream of Boyer Road	*648
			2,250 feet upstream of Boyer Road	*660
			3,500 feet upstream of Boyer Road	*670
			4,500 feet upstream of Boyer Road	*680
			5,530 feet upstream of Boyer Road	*689
Maps available at: The Township Building, Harborcreek, Pennsylvania. Send comments to: Mr. Gerald Blanchfield, Chairman of the Board of Supervisors of Harborcreek, 5601 Buffalo Road, Harborcreek, Pennsylvania 16421.				
Pennsylvania	Hollenback (Township), Luzerne County.	Big Wapwalopne Creek	Confluence with Tributary C	*750
			Legislative Route 40018	*781
			Approximately 1,050' upstream of Legislative Route 40018	*765
			Approximately 630' downstream of Legislative Route 40021	*795
			Legislative Route 40021 Upstream	*797
			Cataracts (Upstream approximately 200')	*808
			Approximately 1,070' upstream from Cataracts	*810
			Confluence with Big Wapwalopen Creek	*756
			Private Road Upstream	*768
			Township Route 375 Upstream	*793
		Tributary C	Approximately 1,190' upstream from T-375 Private Road Upstream	*808
			Township Route 390—Culvert Outlet	*834
			Township Route 390—Culvert Inlet	*841
			Culvert Outlet Legislative Route 40018	*860
			Culvert Inlet Legislative Route 40018	*865
			County Road Upstream	*876
			Confluence with Big Wapwalopen Creek	*797
			Private Road Upstream	*800
			Legislative Route 40021 Upstream	*812
			Maps available at: The Hollenback Fire Hall. Send comments to: Mr. Joseph Lukashewski, Chairman of the Board of Supervisors of Hollenback, R.D. 2, Hobbie Road, Wapwalopen, Pennsylvania 18660.	
Pennsylvania	Jackson (Township), Luzerne County.	Huntsville Creek	Downstream Corporate Limits	*864
			Upstream of Private Road	*885
			Confluence with Browns Creek	*904
			Upstream of Chase Road	*918
			Upstream of Hillside Road	*929
			Approximately 1,500 feet upstream of Hillside Road	*943
			Upstream Private Bridge	*961
			Approximately 780 feet downstream of Township Route 704	*850
			Approximately 320 feet downstream of Township Route 704	*875
			Downstream of Township Route 704	*889
		East Fork Harvey Creek	Upstream of Township Route 704	*908
			Upstream of Township Route 704 (adjacent to L.R. 40059)	*936
			Upstream of Private Bridge	*953
			Approximately 850 feet downstream of Township Route 605	*972
			Upstream of Township Route 605	*992
			Approximately 870 feet downstream of L.R. 40059	*939
			Downstream of L.R. 40059	*959
		Drakes Creek	Upstream of L.R. 40059	*964
			Upstream of Township Route 716	*967
			Upstream of Private Road	*980
			Upstream of Private Bridge (adjacent to Limit of Detailed Study)	*1,004
			Confluence with Huntsville Creek	*904
		Browns Creek	Approximately 540 feet upstream of confluence with Huntsville Creek	*922
Approximately 1,340 feet upstream of confluence with Huntsville Creek	*945			
Creek				
Upstream of Private Road (Downstream of Township Route 784)	*966			
Upstream of Chase Road	*984			
Jackson Road (Extended)	*993			
Maps available at: The Fire House, Jackson, Pennsylvania. Send comments to: Mr. Fred Fielding, Chairman of the Board of Supervisors of Jackson, R.D. 5, Shavertown, Pennsylvania 18708.				

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground, *Elevation in feet (NGVD)	
Pennsylvania	Lower Paxton (Township), Dauphin County.	Beaver Creek	Downstream Corporate Limits	*335	
			Dam 650' downstream of Nyses Road	*336	
			Upstream Nyses Road	*342	
		Nyses Run	Confluence of Nyses Run	*343	
			Confluence of Beaver Creek	*343	
			Upstream Union Depot Road	*363	
			Upstream Locust Lane (LR 22071)	*375	
			350' upstream Locust Lane	*379	
		Tributary to Spring Creek	Downstream Corporate Limits	*422	
			Upstream Interstate 83	*427	
			Upstream Arlington Avenue	*431	
			Upstream Sussex Drive	*434	
			1,000' upstream Sussex Drive	*442	
		Tributary to Paxton Creek	Downstream Corporate Limits	*432	
			Upstream Gale Drive	*438	
			Downstream Carol Drive	*440	
			Upstream Carol Drive	*445	
			Upstream Crummill Road	*448	
		Goose Valley Run	Confluence with Tributary to Goose Valley Run	*393	
			Upstream Colonial Club Road	*437	
			Upstream Derbyshire Road	*449	
			Downstream Linglestown Road	*454	
			Upstream Linglestown Road	*463	
			Tributary to Goose Valley Run	Confluence of Goose Valley Run	*393
				Downstream Interstate 81	*395
				Upstream Interstate 81	*402
				Downstream Earl Drive	*420
				Upstream Earl Drive	*425
		Downstream Curvin Drive		*445	
		Upstream Curvin Drive		*450	
		Confluence of South Branch of Tributary to Goose Valley Run		*452	
		Downstream Lochwillow Road		*469	
		Upstream Lochwillow Road		*474	
			600 feet upstream of Lochwillow Road	*481	
			South Branch of Tributary to Goose Valley Run		
			Confluence with Tributary to Goose Valley Run	*452	
			Upstream U.S. Route 22	*487	
			Upstream Sunset Avenue	*489	
			Upstream South Lochwillow Rd	*465	
			Downstream Beaver Road	*498	

Maps available at: The Lower Paxton Township Building.

Send comments to: Mr. Jack Hurley, Manager of the Township of Lower Paxton, 75 South Houcks Road, Harrisburg, Pennsylvania 17109.

Pennsylvania	Oliver (Township), Mifflin County	Musser Run	Furnace Road	*486
			South Queen Street	*513
		Town Run	Campground Road	*525
			Corporate Limits	*527
			Legislative Route A2764	*565
			1,310 feet upstream of Legislative Route A2764	*591

Maps available at: The residence of Ms. Betty Bonson, Township Secretary, R.D. 4, Oliver Township, Pennsylvania.

Send comments to: Mr. Clyde Krepps, Chairman of the Township of Oliver, R.D. 1, McVeytown, Pennsylvania.

Pennsylvania	Pine (Township), Lycoming County.	Little Pine Creek	Downstream Corporate Limits	*790
			Legislative Route 41021 (Upstream)	*817
			Confluence of English Run	*877
			State Route 287 (Upstream)	*900
			Confluence of Texas Creek	*1,004
		Blockhouse Creek	Confluence of Texas Creek	*1,004
			Confluence with Little Pine Creek	*1,004
		Texas Creek	State Route 284 (Upstream)	*1,009
			Confluence with Little Pine Creek	*790
		Otter Run	Legislative Route 41021 (Upstream)	*797
			Approximately 2,680 feet upstream of Legislative Route 41021	*837
			Confluence with Little Pine Creek	*877
		English Run	Township Route 776 (Upstream 40 feet)	*888
			Approximately 1,390 feet upstream of Township Route 776	*927

Maps available at: The Pine Community Building, English Center, Pennsylvania.

Send comments to: Mr. Walter Mahoski, Chairman of the Board of Supervisors of Pine, English Center, Pennsylvania 17733.

Pennsylvania	Upper Fairfield (Township), Lycoming County.	Loyelscock Creek	Corporate Limits Downstream	*558
			State Route 973 Upstream	*610
			Corporate Limits Upstream	*616
		Mill Creek	Corporate Limits Downstream	*565
			Private Road Upstream 5,080' upstream of Downstream Corporate Limits	*586
			Private Road Upstream 11,258' upstream of Downstream Corporate Limits	*614
			11,500' upstream of Downstream Corporate Limits	*616

Maps available at: The Upper Fairfield Township Building, by appointment, Route 87, Montoursville, Pennsylvania.

Send comments to: Mr. Edgar E. Hunter, Sr., Chairman of the Board of Supervisors of Upper Fairfield, R.D. 4, Box 277a, Montoursville, Pennsylvania 17754.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
Vermont	(T) Canaan, Essex County	Connecticut River	Downstream corporate limit	*1,010	
			About 211 feet upstream of confluence with Willard Stream	*1,012	
			About .45 mile upstream of confluence with Capon Brook	*1,013	
			About 1.95 miles upstream of confluence with Capon Brook	*1,014	
			About 4 miles upstream of confluence with Capon Brook	*1,017	
			About .48 mile downstream of Gale Street	*1,019	
			About 317 feet upstream of Gale Street	*1,027	
			Just downstream of dam	*1,041	
			Just upstream of dam	*1,057	
			About .75 mile upstream of Maine Central Railroad	*1,063	
			About 160 feet downstream of Vermont Street	*1,076	
			About 1.68 miles upstream of confluence with Halls Stream	*1,087	
			Upstream corporate limit	*1,100	
			Willard Stream	Mouth at Connecticut River	*1,012
				About 106 feet downstream of State Route 102	*1,014
				About 211 feet upstream of State Route 102	*1,019
				About .41 mile upstream of State Route 102	*1,029
			Morrill Brook	About .86 mile upstream of State Route 102	*1,100
				Mouth at Leach Creek	*1,307
			Leach Creek	About .31 miles upstream of mouth at Leach Creek	*1,313
				Mouth at Connecticut River	*1,018
			Halls Stream	About 106 feet upstream of State Route 102	1,022
				About .3 mile downstream of U.S. and Canada Border	*1,031
Just upstream of State Route 114	*1,305				
About .23 mile upstream of confluence with Morrill Brook	*1,324				
Capon Brook	Just upstream County Route 1	*1,080			
	Upstream Canada Border	*1,081			
Capon Brook	Mouth at Connecticut River	*1,013			
	Just downstream of State Route 102	*1,013			
	About 106 feet upstream of State Route 102	*1,021			
		About .44 mile upstream of State Route 102	*1,059		

Maps available at: Town Office, Canaan, Vermont

Send comments to: Mr. Jean Louis Massone, Chairman Board of Selectmen, Town of Canaan, Town Office, Canaan, Vermont 05903.

Vermont	Fayston (Town); Washington County	Mill Brook	Downstream Corporate Limits	*757
			1st crossing upstream side of McCullough Turnpike from downstream Corporate Limits	*839
			2nd crossing upstream side of McCullough Turnpike from downstream Corporate Limits	*864
			3rd crossing upstream side of McCullough Turnpike from downstream Corporate Limits	*905
			German Flats Road	*925
			Approximately 3,000 feet upstream of German Flats Road	*967
			Approximately 6,480 feet upstream of German Flats Road	*1,006

Maps available at: The Office of the Town Clerk.

Send comments to: Mr. Robert Vasseur, Chairman of the Board of Supervisors of Fayston, Town Office, Fayston, Vermont 05673.

West Virginia	Huntington (City), Cabell and Wayne Counties	Arlington Boulevard Tributary	Arlington Boulevard	*555	
			Aqueduct Exit	*559	
			Aqueduct Entrance	*578	
			Downstream Norway Avenue	*588	
			Upstream Footbridge approximately one-tenth of a mile upstream of Norway Avenue	*592	
			Fourpole Creek	Norwood Road	*613
				Downstream U.S. Route 60	*540
				West Fifth Street	*540
			Guyandotte River	Downstream Eighth Street	*558
				Corporate Limits Upstream	*569
			Hisey Fork	Confluence with Ohio River	*555
				5th Street	*555
			Krout Creek	Confluence with Fourpole Creek	*542
				Upstream Harvey Avenue and Greenridge Drive	*549
			Medley Fork	Ritchie Drive at Corporate Limits (Upstream)	*556
				Downstream Burlington Road	*537
				Waverly Road	*543
			Ohio River	Piedmont Road	*548
				Upstream Chessie System Bridge	*556
				Confluence with Hisey Fork	*544
			Ohio River	Upstream Private Drive (0.22 mile upstream of confluence)	*554
				Private Drive (0.48 mile upstream of confluence)	*565
				Harveytown Road	*578
				Private Drive (0.913 mile upstream of confluence)	*587
			Ohio River	Confluence of Twelvepole Creek	*552
				Confluence of Guyandotte River	*555

Maps available at: The City Hall, Room 16, Huntington, West Virginia.

Send comments to: Mr. Richard Bartoen, City Manager of Huntington, P.O. Box 1659, Huntington, West Virginia 25717.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: November 19, 1979.

[FR Doc. 79-37632 Filed 12-7-79; 8:45 am]

BILLING CODE 6718-03-M

Gloria M. Jimenez,
Federal Insurance Administrator.

44 CFR Part 67

[DOCKET No. FEMA 5724]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Pennsylvania

Correction

In FR Doc. 79-34083, published at page 64444, on Wednesday, November 7, 1979, on page 64450, after the third entry on "Township of Sugarloaf, Luzerne County" the entry on "Township of Tilden, Berks County" should be added to read as follows:

Pennsylvania	Township of Tilden, Berks County	Schuylkill River	Downstream Corporate Limits	*325
			Fisher Dam Road	*329
			Rene Speedway Access Road (Extended)	*334
			Hill Drive (Extended East)	*341
			State Route 61	*355
			Conrail Bridge	*359
			U.S. Routes 22 & 78	*362
			1,000' downstream of Kernsville Dam	*372
			Kernsville Dam (Downstream)	*375
			Kernsville Dam (Upstream)	*390
			State Route 61	*399
			Conrail Bridge (Upstream)	*409
			5,000' downstream of Corporate Limits	*425
			Upstream Corporate Limits	*437

Maps available at: The residence of the Township Secretary, Ms. Anna Scoffenberger, R.D. 1, Hamburg, Pennsylvania.
Send comments to: Mr. C. Norman Kaufman, Chairman of the Township of Tilden, R.D. 1, Hamburg, Pennsylvania 19526.

BILLING CODE 1505-01-M

44 CFR Part 67

[Docket No. FEMA 5738]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Virginia

Correction

In Federal Register Doc. 79-35954, published on page 67186, on Friday, November 23, 1979, on page 67191, in the first full entry of the chart, the state and city were inadvertently omitted and should be added to read:

"Virginia City of Bristol
(Independent City)"

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 42 and 93

[CCGD 76-080]

Hopper Dredges; Load Line and Stability Requirements

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard proposes to amend the load line and stability regulations to permit deeper loading of hopper dredges on coastwise voyages

than is presently permitted under the load line regulations and to require increased protection against flooding or capsizing for hopper dredges certificated by the Coast Guard. The proposed regulations are the result of private marine interests entering the field of hopper dredge operation. Since 1902, the U.S. Army Corps of Engineers (COE) has been the principal builder and operator of hopper dredges in the United States. The proposed regulations would require privately owned hopper dredges to be built to a standard of protection against flooding and capsizing similar to the standard currently applied to COE hopper dredges.

DATES: Comments must be received on or before: January 25, 1980.

ADDRESSES: 1. Comments should be submitted to Commandant (G-CMC) U.S. Coast Guard, Room 2418, 2100 2nd Street, S.W., Washington, D.C. 20590.

Comments will be available for examination at the Marine Safety Council (G-CMC), Room 2418, 2100 2nd Street, S.W., Washington, D.C. 20590.

2. Bureau Veritas Guidance Note N.I. 144 BM. 1 is available from Bureau Veritas, United States Central Office, 17 Battery Place, New York, N.Y. 10004. All other documents referenced herein may be obtained from Commandant, USCG, 2100 2nd Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION, CONTACT: Mr. Donald L. Ewing, Office of Merchant Marine Safety (G-MMT-5), Department of Transportation, 2100 2nd Street, S.W., Washington, D.C. 20590, (202) 426-2187.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each should include the name and address of the person submitting the comment, identify this notice (CCGD 76-080) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are Mr. D. L. Ewing, Project Manager, Office of Merchant Marine Safety, and LT Jack Orchard, Project Counsel, Office of the Chief Counsel.

Discussion of the proposed Regulations

In the Federal Register issue of August 2, 1976, the Coast Guard published an Advance Notice of Proposed Rulemaking (41 FR 32237) to consider developing damage stability standards for hopper dredges. Comments were received from seven organizations. Of these, six supported some form of damage stability requirement for self-propelled hopper dredges. Of these six, four supported and one opposed the adoption by the Coast Guard of intact and damage stability standards similar to those contained in Bureau Veritas Guidance Note N.I. 144 BM.1, "Freeboard of Dredges and Barges Fitted with Bottom Dump Doors" dated January 1971. Two of the seven commenters recommended that any damage stability standard should apply only to seagoing self-propelled hopper dredges.

In developing the proposed standards, the Coast Guard has reviewed Bureau Veritas Guidance Note N.I. 144 BM.1 and has, as recommended, adopted most of its features. However, one part of the Bureau Veritas Guidance Note has not been adopted. In computing damage stability that document based the calculations on the assumption that the dredged material on board could be easily jettisoned when a casualty occurred. The Corps of Engineers in its comment to the Advance Notice recommended against basing stability calculations on this assumption. The Corps was of the opinion that the dredged material could be of a cohesive nature and thus might tend to "bridge" or hang up when attempting to dump. Stability calculations based on the assumption that the dredged material would be jettisoned on collision or flooding would not be adequate if the material failed to jettison. Since the Corps of Engineers is the organization with extensive experience with hopper dredge operation, the Coast Guard proposes to adopt the Corps' recommendation that the stability calculations should not assume that the dredged material would be jettisoned immediately after collision or flooding.

The Coast Guard agrees with the two commenters who felt that the regulations should only apply to seagoing self-propelled hopper dredges. Non-self propelled dredges do not typically face the risks which form the basis of this regulation. These proposed regulations would apply only to seagoing self-propelled hopper dredges.

The Coast Guard is proposing damage stability standards for seagoing hopper dredges for two major reasons.

First, the area and mode of operation of hopper dredges subject them to a substantial risk of accident. Seagoing hopper dredges typically operate in harbors and channels where vessel congestion and fixed harbor installations constitute continual threat of collision and subsequent side damage to the hull (approximately 37% of the casualties reported by the Corps). They often operate close to shoal areas and in lesser traveled portions of harbors, risking bottom damage from grounding or collision with submerged, unmarked obstacles (approximately 56% of the casualties). Finally, the bottoms of most busy harbors are littered with a variety of debris which, when dredged up, may burst pipes and pumps resulting in flooded engine and pump rooms.

Second, the casualty record provided by the Corps of Engineers (the primary operator of hopper dredges since 1902) in their comments on the Advance Notice of Proposed Rulemaking (41 FR 32237) substantiated the existence of the risk. Over a period of 70 years 48 seagoing dredge casualties occurred.

A discussion of specific proposed regulations is contained in the following paragraphs.

1. Applicability & Definitions

The proposed intact and damage stability requirements would apply to all seagoing self-propelled hopper dredges that are subject to inspection under 46 USC 367. The proposed reduced freeboards would apply only while on a coastwise voyage by sea. A dredge is a vessel used for removing material from underwater. They are normally operated for the purpose of clearing channels and harbors. Deep sea mining vessels are not considered to be dredges and are excluded from the definition of dredges even though they remove material from underwater. A hopper dredge is fitted with tanks to carry the dredged material on board.

2. Intact Stability Requirements

This portion of the proposal requires each seagoing hopper dredge to meet a set of intact stability criteria recommended by Bureau Veritas in its Guidance Note N.I. 144 BM.1 in addition to that required by 46 CFR 93.07.

In checking the Bureau Veritas criteria against existing Coast Guard guidelines and against related Intergovernmental Maritime Consultative Organization (IMCO) criteria, we found that the BV criteria essentially repeat what has been Coast Guard practice since 1973 as explained in NVC 3-73 and also is almost the same as IMCO Resolution A 167. Therefore, the proposed righting

energy criteria in this regulation will not be unfamiliar to U.S. designers.

It is Coast Guard practice to apply a righting energy criteria to any vessel for which the weather criterion of 46 CFR 93.07 does not provide a sufficiently complete stability analysis. The righting energy criteria (such as that in NVC 3-73) is used to compliment the weather criteria. Such an extended analysis is necessary for seagoing hopper dredges which generally do not conform to the service or hull type upon which the weather criteria is based. Therefore, the proposed regulations include both evaluations.

The definition of downflooding angle in the proposed regulation is based on IMCO Resolution A 167, rather than on the Bureau Veritas Guidance Note, and is reflected in NVC 3-73. This definition is consistent with current Coast Guard regulations.

3. Damage Stability Requirements

This proposal would require seagoing, self-propelled hopper dredges to survive both side and bottom damage with the hopper full. This standard would apply to all operating drafts permitted by the regulation. The extent of damage which the dredge must be capable of surviving is derived from IMCO statistics of actual casualties. Since most collisions and groundings occur near or in harbors, these statistics are considered valid for hopper dredges which operate primarily in or near harbors. The maximum angle of heel permitted after damage would be 30 degrees. This is the internationally accepted maximum angle of heel for vessel survivability.

In order to maintain the watertight integrity of bulkheads in case of flooding, all doors in watertight bulkheads would have to be Class 3 sliding watertight doors approved under 46 CFR Subpart 163.001 unless it is shown by the calculation required in this part that the sills of these doors are not submerged in any damage condition. If the latter condition is shown to be the case, quick acting hinged watertight doors will be allowed. This is consistent with the requirements of Bureau Veritas Note N.I. 144 BM.1.

4. Reduced freeboards, new dredges

Hopper dredges currently receive a freeboard assignment under 46 CFR 42.20-10 which is based on a collision damage standard and is commonly referred to as a B100 freeboard. This proposal would permit a seagoing hopper dredge to use a working freeboard that is one-half that allowed under 46 CFR 42.20-10. This reduction is similar that granted European hopper dredges which meet similar damage

stability rules provided under Bureau Veritas Note N.I. 144 BM.1. Information available to the Coast Guard is that these vessels have operated successfully under this standard. During the period of development of this regulation, seagoing hopper dredges in the United States have been allowed a similar reduction on an individual basis under terms and conditions similar to this proposal and the European practice. These vessels have operated successfully thus far and the Coast Guard now considers it acceptable to adopt this approach on a general basis.

The working freeboard cannot be permitted on an international voyage because it would violate the International Convention on Load Lines, 1966, to which the United States has acceded. A working freeboard is considered permissible under the Coastwise Load Line Act (46 U.S.C. 88) which allows the Commandant to consider the type and character of vessels and the trade in which they are engaged.

In order to use the reduced freeboard, the hopper dredge would have to meet the intact and damage stability requirements of this proposal. This requires a hopper dredge to survive damage in excess of the requirements in 46 CFR 42.20-10 for a B100 freeboard. Because of this increased ability to survive damage and providing that the dredge meets certain further conditions discussed below, the Coast Guard believes it is reasonable to allow these reduced freeboard requirements within the normal limits of dredging operations.

Since 46 CFR 42.13-5 requires that the assigning or issuing authority be satisfied that vessels assigned a load line have sufficient structural strength for the draft corresponding to the freeboard assignment, this proposal will require the structural strength of a hopper dredge to meet this same requirement. Thus, the calculation of strength requirements must be based on the reduced freeboard so that the vessel will be structurally capable of safe operation at the reduced freeboard.

Also, since hopper dredges may take on board dredged material while at sea, it would be difficult for the operator to determine when the vessel has reached the deeper working draft permitted in these proposed rules. Therefore, the proposal includes a requirement for an internal draft indicator located on the bridge of the dredge so that the operator will know when the dredge is loaded to the permitted limit. This indicator would supplant the need for freeboard marks in excess of those already required for a coastwise voyage.

Finally, due to lack of data concerning the behavior of a vessel of this type in a seaway, the Coast Guard also proposes prohibiting a hopper dredge from loading to the working freeboard when the significant wave height exceeds 3 meters (10 feet) and winds exceed 35 knots. There would also be a prohibition on proceeding more than 37 kilometers (20 nautical miles) from shore when loaded to the working freeboard.

5. Reduced freeboards, existing dredges

Existing hopper dredges would not have to meet the requirements of the proposed rule unless they desire to qualify for a freeboard that is one-half that allowed under current load line regulations.

If the owners of an existing hopper dredge wanted to qualify the dredge for the reduced freeboard, the dredge would have to meet the basic intent of the stability requirements of this proposed rule. However, since exact compliance with these rules would be difficult for existing hopper dredges, entailing expensive modifications for marginal increases in stability in a few cases, this proposal would allow some variations. The Coast Guard would evaluate existing dredges that applied for the reduced freeboard on a case by case basis to insure that basic stability criteria were met. It is anticipated that most of the existing dredges with which the Coast Guard is familiar could be allowed some reduced freeboard under this approach.

The Coast Guard has evaluated this proposal under the Department of Transportation "Policies for Improving Government Regulations" published on February 26, 1979 (44 FR 11034). A regulatory evaluation is not considered necessary since compliance with the regulations as proposed will not result in increased costs to the dredging industry. Most inspected or load lined seagoing self-propelled hopper dredges adequately meet the proposed rules. Therefore, new dredges built to these proposed rules should not suffer a competitive disadvantage.

In consideration of the foregoing, the Coast Guard proposes to amend Chapter I of Title 46, Code of Federal Regulations, as follows:

PART 42—DOMESTIC AND FOREIGN VOYAGES BY SEA

1. By adding a new Subpart 42.27 as follows:

Subpart 42.27—Special Requirements for Hopper Dredges

Sec.
42.27-1 Applicability.
42.27-5 Definitions.

42.27-10 Freeboard.

42.27-15 Reduced freeboards, new dredges.

42.27-20 Reduced freeboards, existing dredges.

Authority: Sec. 1, 49 Stat. 888, as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022 as amended (46 U.S.C. 362) secs. 1, 2, 49 Stat. 1544, 1545, as amended (46 U.S.C. 367); 49 CFR 1.46(b).

Subpart 42.27—Special Requirements for Hopper Dredges

§ 42.27-1 Applicability.

(a) This subpart applies to all self-propelled hopper dredges on coastwise voyages by sea.

§ 42.27-5 Definitions.

(a) For the purpose of this subpart: (1) "Dredge" means a vessel equipped with machinery for removing material from the seabed for construction, landfill, or to deepen or clear a channel or a harbor, except vessels built for the purpose of deep sea mining.

(2) "Hopper dredge" means a dredge with internal tanks (hoppers) for storing the dredged material.

(3) "Working freeboard" means the freeboard to which a hopper dredge may load while in the act of dredging for the purpose of proceeding on a coastwise voyage by sea to a dump site.

(4) "New dredge" is a dredge which—
(i) Is constructed under a building contract awarded after (effective date);
(ii) In the absence of a building contract, has the keel laid or is at a similar stage of construction after (effective date plus 1 year);
(iii) Is delivered after (effective date plus 3 years); or

(iv) Has undergone a major conversion for which the contract is awarded after (effective date) or, in the absence of a contract, conversion is begun after (effective date plus 1 year);

(5) "Existing dredge" is a dredge which is not a new dredge.

§ 42.27-10 Freeboard.

(a) Each hopper dredge is assigned a freeboard in accordance with 46 CFR 42.20-10.

§ 42.27-15 Reduced freeboards, new dredges.

(a) A new dredge is assigned a working freeboard not less than one-half of the freeboard assigned under 46 CFR 42.20-10 if all the following conditions are met:

(1) The general structural strength of the dredge meets the requirements of 46 CFR 42.13-5(b) for the draft at the working freeboard assigned;

(2) The dredge meets the intact and damage stability requirements of 46 CFR Subpart 93.40 of this chapter at the draft

corresponding to the working freeboard assigned;

(3) The dredge complies with the requirements of 46 CFR 42.20-10 (c) (1), (2), and (3), and;

(4) The dredge has an internal draft indicator on the bridge. The draft indicator must indicate the mean draft of the dredge and be clearly marked at the drafts corresponding to both the working freeboard and the normal load line freeboard.

(b) A dredge assigned a working freeboard must not—

(1) Be loaded to the working freeboard in conditions exceeding 3.05 meters (10 foot) seas and 35 knot winds, or

(2) Operate at the working freeboard more than 37 kilometers (20 nautical miles) from shore.

(c) No special mark indicating working freeboard will be placed on the vessel.

§ 42.27-20 Reduced freeboards, existing dredges.

(a) An existing dredge is assigned a working freeboard not less than one-half of the freeboard assigned under 46 CFR 42.20-10 if all the following conditions are met:

(1) The Commandant is satisfied that the dredge meets the intent of intact and damage stability requirements of 46 CFR Subpart 93.40; and

(2) The dredge meets the requirements of paragraphs (a)(1), (a)(3), (a)(4), and (b) of § 42.27-15.

PART 93—STABILITY

2. By revising § 93.01-1 to read as follows:

§ 93.01-1 General.

(a) The provisions of this part, with the exception of Subpart 93.40, shall apply to the following vessels:

* * * * *

3. By adding a new 46 CFR 93.10-2 to read as follows:

§ 93.10-2 Hopper dredges.

(a) The owner must provide the operator (master) of the hopper dredge with the stability information necessary to maintain the dredge in a condition of stability that meets the requirements of Subpart 93.40 in all loading conditions. This information must include the following:

(1) Required metacentric height (GM) or vertical center of gravity (KG) values.

(2) Loading restrictions.

(3) Ballasting information.

(4) Draft limitations.

(b) The information required by paragraph (a) of this section must be submitted to the Commandant for approval.

4. By adding a new Subpart 93.40 to read as follows:

Subpart 93.40—Hopper Dredges

Sec.

93.40-01 Applicability.

93.40-05 Definition.

93.40-10 General.

93.40-15 Intact stability requirements.

93.40-20 Damage stability calculations.

93.40-30 Damage survival.

93.40-35 Watertight doors.

Authority: Sec. 1, 49 Stat. 888, as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022 as amended (46 U.S.C. 362) secs. 1, 2, 49 Stat. 1544, 1545, as amended (46 U.S.C. 367); 49 CFR 1.46(b).

Subpart 93.40—Hopper Dredges

§ 93.40-01 Applicability.

This subpart applies to each new self-propelled hopper dredge that—(a) Is constructed under a building contract awarded after (effective date);

(b) In the absence of a building contract, has the keel laid or is at a similar stage of construction after (effective date plus 1 year);

(c) Is delivered after (effective date plus 3 years); or

(d) Has undergone a major conversion for which;

(1) The contract is awarded after (effective date); or

(2) In the absence of a contract, conversion is begun after (effective date plus 1 year)

§ 93.40-05 Definitions.

(a) "Dredge" means a vessel equipped with machinery for removing material from the seabed for construction, landfill, or to deepen or clear a channel or harbor, except vessels built for the purpose of deep sea mining.

(b) "Hopper dredge" means a dredge with internal tanks (hoppers) for storing the dredged material.

§ 93.40-10 General.

(a) Each dredge must have sufficient stability at each operating draft to meet the requirements of §§ 93.40-15 and 93.40-20.

(b) For the purpose of completing calculations required in this part, the following is to be assumed:

(1) The dredged material is a homogeneous liquid.

(2) The dredged material will be assumed to have a specific gravity of 2.0. However, dredged material with lower specific gravities which could lead to more severe conditions of loading must also be considered.

(c) The intact and damage stability calculations required by this subpart must be submitted to the Commandant for approval as prescribed in Subpart 91.55 of this chapter.

§ 93.40-15 Intact stability requirements.

(a) Each dredge must have: (1) An initial metacentric height (GM) of at least 0.150 m (0.5 ft.);

(2) A maximum righting arm (GZ) of at least 0.20 m (0.66 ft.);

(3) An area under each righting arm curve of at least 0.055 meter-radians (10.34 foot-degrees) up to an angle of heel of 30 degrees, and not less than 0.090 meter-radians (16.9 foot-degrees) up to an angle of heel of 40 degrees or the downflooding angle, whichever is less, and

(4) An area under each righting arm curve between the angles of 30 degrees and 40 degrees, or between 30 degrees and the downflooding angle if this angle is less than 40 degrees, not less than 0.030 meter-radian (4.64 foot-degrees).

(b) Calculations required in paragraph (a) of this section must include the effect of a free liquid, including the dredged cargo. The effects of a free liquid are to be handled as described in §§ 93.40-20(b) (3) and 93.40-20(c).

(c) The downflooding angle in paragraphs (a) (3) and (a) (4) of this section is the angle of heel at which the lower edge of an opening that cannot be closed weathertight is immersed.

§ 93.40-20 Damage stability calculations.

(a) The design calculations must show that the dredge meets the survival conditions of § 93.40-30.

(b) The design calculations must—(1) Include the effects of each empty or partially filled tank and the weight and volume of the cargoes carried;

(2) Assume both side and bottom damage, applied separately; and

(3) Include the free surface effect of free liquids, including the dredged cargo;

(i) At an angle of heel of 5 degrees for each space in which a liquid is carried; or

(ii) By assessing the shift of liquids by calculating the actual moment of transference.

(c) In calculating the effect of free surfaces of consumable liquids;

(1) For each liquid, at least one pair of transverse wing tanks or one centerline tank must be assumed to have a free surface; and

(2) The tank or combination of tanks having the greatest free surface effect must be selected.

(d) Damage must be considered to consist of the most disabling penetration up to and including penetrations having the following dimensions:

(1) Side penetration:

(i) Longitudinal extent: $\frac{1}{3}L\%$ or 14.5 m (0.495 $L\%$ or 47.6 ft.) whichever is shorter, where L is the vessel length on the waterline.

(ii) Transverse extent (inboard from the dredge's side at a right angle to the centerline at the level of deepest draft): B/5 or 11.5 m (37.7 ft.), whichever is shorter, where B is the maximum beam.

(iii) Vertical extent: from the base line upward without limit.

(2) Bottom penetration: (i) At any position forward of a point 0.3L aft of the forward perpendicular:

(A) Longitudinal extent: $\frac{1}{3}L\frac{2}{3}$ or 14.5 m (0.495 L $\frac{2}{3}$ or 47.6 ft.) whichever is shorter.

(B) Transverse extent: B/5 or 5 m (16.4 ft.), whichever is shorter.

(C) Vertical extent (from the molded line of the shell at the center line): B/15 or 2 m (6.6 ft.), whichever is shorter.

(e) If the dredge has an open hopper, the calculations under paragraph (d) of this section may include the effects of the loss of cargo as the dredge heels.

(f) Permeability.

(1) The assumed permeability of a floodable space must be as follows:

(i) Storerooms: 0.60.

(ii) Accommodation Spaces: 0.95.

(iii) Machinery Space: 0.85.

(iv) Consumable liquid tanks: 0.00 or 0.95, whichever results in the more disabling condition.

(2) The permeability of a cargo tank must be consistent with the actual density and amount of liquid carried in the tank.

§ 93.40-30 Damage survival.

(a) A dredge is presumed to survive assumed damage if it meets the following conditions:

(1) Heel angle. The maximum angle of heel does not exceed 30 degrees.

(2) Final waterline. The waterline, taking into account sinkage, heel, and trim, is below the lower edge of each opening through which progressive flooding may take place (such as an airpipe). Openings closed by watertight doors or hatch covers are considered to be openings through which progressive flooding may take place. The following are considered to be openings through which progressive flooding will not take place:

(i) Watertight manhole covers.

(ii) Watertight flush scuttles.

(iii) Small watertight cargo tank hatch covers that maintain the integrity of the deck.

(iv) Remotely-operated, watertight sliding doors.

(v) Side scuttles of the non-opening type.

(3) Range of stability.

(i) The righting arm curve is positive and has a minimum range of 20 degrees beyond the angle of equilibrium.

(ii) The maximum righting arm within the range specified in paragraph (a) (3)

(i) if this section must be at least 100 mm (4 inches).

(iii) Each opening within or partially within the 20 degree range beyond the angle of equilibrium must be at least weathertight.

(b) After flooding, the dredge metacentric height must be at least 50 mm (2 inches) when the dredge is in an upright position.

(c) Equalization arrangements requiring mechanical aids such as valves or cross-flooding lines may not be considered for reducing the angle of heel. Spaces joined by ducts with large cross-sectional areas may be assumed to be common spaces.

(d) If an intermediate stage of flooding is more critical than the final stage, calculations for the intermediate stage must be submitted to Commandant for special approval.

§ 93.40-35 Watertight doors.

(a) Each watertight door below the bulkhead deck must be a Class 3 sliding watertight door that is approved under 46 CFR Subpart 163.001 of this chapter unless it can be shown by the calculations required in this part that the door sill is not submerged in any damaged condition.

(b) If the sill of a door below the bulkhead deck is shown by the calculations not to be submerged in any damage condition, then a quick acting hinged watertight door (Class 1) may be used.

(Sec. 1, 49 Stat. 888; as amended (46 U.S.C. 88); sec. 1, 33 Stat. 1022 as amended (46 U.S.C. 375); sec. 1, 22 Stat. 346 as amended (46 U.S.C. 362) secs. 1, 2, 49 Stat. 1544, 1545 as amended (46 U.S.C. 367); 49 CFR 1.46(b).)

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

December 5, 1979.

[FR Doc. 79-37814 Filed 12-7-79; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Part 510

[Docket No. 78-53]

Independent Ocean Freight Forwarder Bids on Government Shipments at U.S. Ports; Discontinuance of Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Discontinuance of proposed rulemaking.

SUMMARY: On December 12, 1978, the Federal Maritime Commission published a notice of proposed rulemaking (43 FR 58098) with respect to practices of independent ocean freight forwarders

who submit bids to United States Government agencies. After full consideration of the issues and comments from interested parties, the Commission has decided that the adoption of a new rule at this time is unnecessary.

DATES: December 10, 1979.

ADDRESSES: For further information contact: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: On March 18, 1977, the Commission issued a decision in Docket No. 74-10¹ holding that fees assessed the General Services Administration (GSA) for ocean freight forwarding services were, in certain instances, so low² as to be in violation of section 16 First, of the Shipping Act, 1916 (46 U.S.C. 815), and the Commission's General Order 4 (46 CFR Part 510).

Section 16 First, of the Shipping Act, 1916 *inter alia*, makes it unlawful for a forwarder:

To make or give undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Rule 510.24(b) of General Order 4 provides:

"No (Forwarder) shall render, or offer to render, any forwarding service free of charge or at a reduced forwarding fee in consideration of * * * receiving compensation from an oceangoing common carrier on the shipment * * *"

However, in its decision in Docket 74-10 the Commission stated:

"We are reluctant to establish binding rules of universal application governing the level of freight forwarder fees on the basis of the existing limited record. The important matter of what objective standards, if any, should be adopted to judge the acceptability of forwarding GSA bids under the Shipping Act, 1916, and the Commission's regulations, is one that requires considerably more study and analysis. We do not intend to take any precipitous action, no matter how well motivated, that might result in the establishment of requirements which could prove impossible of application or unduly or unnecessarily disruptive of the freight forwarder industry. Whatever standards are finally adopted must be well-reasoned, economically sound and consistent with

¹ *Freight Forwarder Bids on Government Shipments at United States Ports—Possible Violations of the Shipping Act, 1916, and General Order 4.*

² Fees as low as four and one half cents were being bid on GSA shipments.

responsible regulatory policy * * * We will therefore hold under advisement, pending further study and review, the issue raised in our Order instituting this proceeding, of 'whether the Commission's General Order 4 should be amended to include a rule governing the practices of forwarders bidding on GSA contracts and providing services thereunder.'"

After the above mentioned "further and review" of the issue was concluded, it appeared that a new rule might be the most effective method of preventing the type of unlawful practice found in Docket 74-10.³ The Commission therefore published a notice of proposed rulemaking (43 FR 58098) instituting the instant proceeding, Docket No. 78-53, on December 12, 1978.

After consideration of all the comments submitted and carefully weighing the advantages and disadvantages of the proposed rule, the Commission has determined that the benefits to be derived from a new rule do not currently justify the burdens which would be imposed on the forwarding industry. Accordingly, this proposed rulemaking proceeding will be discontinued.

The Commission now gives notice that it intends to monitor the level of forwarder bids submitted to GSA and take whatever action it deems appropriate on a case-by-case basis. Appropriate action includes civil penalties and license suspension or revocation.

Therefore, it is ordered, That Docket No. 78-53 is discontinued; and

It is further ordered, That notice of this Order be published in the Federal Register.

By the Commission,
Francis C. Hurney,
Secretary.

[FR Doc. 79-37807 Filed 12-7-79; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Five Expired Proposals for Listing of 1,876 Species, and Intent To Revise 1975 Plant Notice Which Includes Most of These Species

AGENCY: Fish and Wildlife Service, Interior.

³ Despite the findings in Docket 74-10, GSA's next request for bids produced bids as low as one cent.

ACTION: Notice of withdrawal of five expired proposed rules.

SUMMARY: As amended November 10, 1978, the Endangered Species Act mandatorily withdraws proposed rules to list species which have not been finalized within two years of the proposal. The amended Act also authorized a one-year suspension of all withdrawals, until November 10, 1979. The time limits have expired for 1,876 plants and animals in five proposals, and this constitutes notice of their withdrawal. Species from all States except Nebraska, North Dakota, South Dakota and West Virginia, and from over 27 foreign countries, are included. The majority of the withdrawn species are native plants which remain under notice of review. The Service requests substantive data on plants by March 15, 1980, for a revised notice.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

Proposed rule	Date	FR reference
Proposed Endangered status for 216 species appearing on Convention on International Trade	Sept. 26, 1975	40 FR 44329-33.
Proposed Endangered or Threatened status for 32 U.S. snails	Apr. 28, 1976	41 FR 17742-8.
Proposed to determine 2 birds, 1 lizard, 3 snails, and 1 insect, all indigenous to the California Channel Islands, to be Endangered species.	June 1, 1976	41 FR 22073-5.
Proposed Endangered status for some 1700 U.S. vascular plant taxa	June 16, 1976	41 FR 24523-72.
Proposed Endangered or Threatened status for 41 U.S. species of Fauna	Jan. 12, 1977	42 FR 2507-15.

In accord with Section 4(f)(5), all species in these proposed rules which either had not been previously withdrawn, or have not already been the subjects of final rules were mandatorily withdrawn on November 10, 1979.

This action gives notice of the withdrawal of approximately 1,876 proposed native and foreign plants and animals, and involves range in all fifty states except Nebraska, North Dakota, South Dakota and West Virginia, and range in over twenty-seven foreign countries.

Approximately 1,726 of these species are native plants which were proposed as Endangered in the June 16, 1976 Federal Register (41 FR 24523). The majority of these plant species were also included in a notice of review in the July 1, 1975 Federal Register (40 FR 27823). That notice was in response to House Document No. 94-51, the report of the Smithsonian Institution to Congress as required by Section 12 of the Act. It contained a list of 3,187 U.S. vascular

SUPPLEMENTARY INFORMATION:

Background

Section 4(f)(5) of the Endangered Species Act of 1973, as amended November 10, 1978, states that:

A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (B)(i)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

The two-year time limit on proposals and one-year period on suspension of withdrawals which were established in this subsection have expired for the five proposed rules indicated below:

plant taxa considered by the Smithsonian Institution to be endangered, threatened, or extinct.

Notice Continued and Information Requested

The Service has accepted the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act. The notice of review in the July 1, 1975, Federal Register (40 FR 27823-27924) continues for the approximately 3,131 plant taxa which have not been the subjects of final rules. The Service has mentioned the continuing review of these taxa in previous Federal Register documents on June 24, 1977 (42 FR 32374) and April 26, 1978 (43 FR 17910). As a consequence of this continuing review, these plant taxa should be considered in environmental planning.

The Service recognizes that the data and information on these taxa and other vulnerable plants have changed in the more than four years that the notice of

review has been in effect. Therefore, the Service intends to publish a new notice in the near future to supersede the notice of July 1, 1975. In this regard, substantive data and information to indicate appropriate candidate plant taxa which may qualify for listing under the Act, and which should be included in this revised notice, are hereby solicited by March 15, 1980. The information should be sufficient to decide whether the plant taxon should be dropped from the 1975 notice, or included in the new notice which will supersede it. The Service will use this contemplated new list of plant taxa to guide further plant conservation review; it does not constitute the first step to another single proposal of a large number of plant taxa such as the proposal of June 16, 1976 (41 FR 24523). New proposals of taxa must conform with all requirements of the amended Act.

Such information as is requested above should be sent to the Chief, Office of Endangered Species, Attention: Plant Notice, U.S. Fish and Wildlife Service, Washington, D.C. 20240; the deadline for receipt of information is March 15, 1980.

With respect to each of the 1,876 proposed species withdrawn because of Section 4(f)(5), it should be kept in mind that the subsection authorizes reproposal of such species if it is determined that sufficient new information is available to warrant the new proposed listing.

This notice is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; 87 Stat. 884, 92 Stat. 3751). The primary author of this notice is Dr. Bruce MacBryde, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1975).

Dated: December 5, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-37786 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252

[Reference Notice No. 330]

The Distilled Spirits Tax Revision Act of 1979 (Public Law 96-39)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Correction notice.

SUMMARY: On December 4, 1979, the Bureau of Alcohol, Tobacco and Firearms published a notice of public seminars in the Federal Register (44 FR 69674). The notice set dates and addresses for seminars which were being held to discuss the Distilled Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Public Law 96-39), with the distilled spirits industry, wine industry, and others concerned. This notice changes the location of one of these public seminars. The public seminar scheduled for San Jose, California, will be held in Santa Clara, California. The new location is the Edgewater Hotel, 2930 El Camino Real, Santa Clara, California, on December 11 and 12, 1979, from 9 a.m. to 4:30 p.m.

All other seminars will be held as originally scheduled.

FOR FURTHER INFORMATION CONTACT: Melvin T. Bruce, All-in-Bond Coordinator, Bureau of Alcohol, Tobacco and Firearms, Washington, DC, Telephone: 202-566-7568.

Signed: December 7, 1979.

G. R. Dickerson,
Director.

[FR Doc. 79-37988 Filed 12-7-79; 11:23 am]

BILLING CODE 4810-31-M

[6450-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 570]

[Docket No. ERA-R-79-54]

STANDBY GASOLINE RATIONING PLAN

AGENCY: Economic Regulatory Administration, Department of Energy

ACTION: Notice of Proposed Rulemaking and Public Hearings

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking and public hearings to receive comments on its proposed Standby Gasoline Rationing Plan. Upon promulgation as a final rule, this plan would be submitted by the President to Congress for review over a period of 30 days. If not disapproved by Congress, these regulations would remain in standby status. They would become effective only upon a determination by the President, subject to Congressional review, that putting the Standby Gasoline Rationing Plan into effect is necessary to respond to a severe petroleum shortage or to meet international energy program obligations, in accordance with the procedures specified in the Energy Policy and Conservation Act (Pub. L.

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94-163), as amended by the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102).

The proposed Standby Gasoline Rationing Plan regulations would provide a basic framework for distribution of ration coupons (or other evidence of the right to purchase gasoline, called a ration right) to all end-users of gasoline on a basis which takes into account historic differences in the use of gasoline among States. Ration rights would be freely transferable. Ration rights would have to be provided by the purchaser to any supplier for each gallon sold. Every supplier of gasoline would have to provide redeemed ration rights to its supplier on a gallon-for-gallon basis in order to be resupplied with gasoline. A ration banking system would be established to facilitate transfers of ration rights and redeemed ration rights. Each State would be provided a reserve of ration rights to provide for hardship needs and to alleviate inequities. A national reserve also would be established for emergencies.

Development of any end-user gasoline rationing plan necessitates difficult tradeoffs between equitably meeting the diverse needs of millions of gasoline users and creating a program capable of rapid implementation with limited administrative complexity. Although the proposed rationing

plan, if fully implemented, would be costly and administratively complex, options have been incorporated into the proposed plan to preserve equity among gasoline users throughout the Nation and to provide flexibility to minimize disparities within States.

Any gasoline rationing plan will inconvenience large numbers of gasoline users and will cause hardships to many persons. But in times of serious shortage, gasoline rationing would assure access to some gasoline by all motorists (particularly priority users) at a reasonable, controlled price and would also help to eliminate waiting lines, stabilize the market for gasoline, and mitigate the economic dislocations caused by a severe petroleum shortage.

DATES: Comments by January 9, 1980.

to speak: for Boston, San Francisco, Chicago and New Orleans hearings: by December 28, 1979, 4:30 p.m.; for the Washington hearing, January 2, 1980, 4:30 p.m.

Hearing Dates: Washington, D.C. hearing: January 7, 8 and 9, 1980, 9:30 a.m.; Chicago, New Orleans, Boston and San Francisco hearings: January 3 and 4, 1980, 9:30 a.m.

ADDRESSES: All comments to: Office of Public Hearing Management, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

Requests to Speak: Washington Hearing: to Department of Energy, Attn: Robert C. Gillette, Office of Public Hearing Management, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201; San Francisco Hearing: to Department of Energy, Attn: Terry Osborne, 111 Pine Street, 3rd Floor, San Francisco, CA 94111, (415) 556-4953; Boston Hearing: to Department of Energy, Attn: Cathy Healy, 150 Causeway Street, Room 700, Boston, MA 02114, (617) 223-4257; New Orleans Hearing: to Department of Energy, Attn: Mac I. Lacefield, 2626 W. Mockingbird, P.O. Box 35338, Dallas, TX 75235, (214) 729-7745; Chicago Hearing: to Department of Energy, Attn: Lou Brownlee, 175 W. Jackson Blvd., Chicago, IL 60604, (312) 353-8547.

Requests

Hearing Locations: Washington hearing: James Forrestal Building, 1000 Independence Avenue, S.W., Room GE086 (Auditorium), Washington, D.C.; Boston hearing: Gardner Auditorium, State House, Boston, Massachusetts; San Francisco hearing: Golden Gate Holiday Inn, Red Room, 1500 Van Ness Avenue, San Francisco, California; Chicago hearing: E.M. Dirksen Building, Room 204-A, 219 S. Dearborn St., Chicago, Illinois; New Orleans hearing: F. Edward Hebert Building, Room 631, 600 South Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures)
Economic Regulatory Administration
Room 2214B
2000 M Street, N.W.
Washington, D.C. 20461
(202) 254-5201

William Webb (Office of Public Information)
Economic Regulatory Administration
Room B110
2000 M Street, N.W.
Washington, D.C. 20461
(202) 634-2170

Benton F. Maswell (Office of Regulations and Emergency Planning)
Economic Regulatory Administration
Room 7112
2000 M Street, N.W.
Washington, D.C. 20461
(202) 254-7303

Peter Schaumborg (Office of General Counsel)
Department of Energy
Room 6A-127
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(202) 252-6754

SUPPLEMENTAL INFORMATION:

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- II. Other Statutory Requirements of the EPCA
- III. Summary of the Proposed Standby Gasoline Rationing Regulations
 - A. Distribution of Ration Rights
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 - C. Issuance and Distribution of Ration Rights
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 2. § 570.2 General Definitions
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- A. Allotments Based on Drivers' Licenses or on Registered Vehicles

- B. Diesel Fuel Rationing

- C. Limitations on Allotments

- D. Supplemental Allotments for Priority and Other Special Classes of End-Users

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- A. Proposed Alternatives

- B. Procedures for Promulgating the Standby Gasoline Rationing Plan Rule

As soon as practicable after the date of the enactment of the Emergency Energy Conservation Act of 1979, the President shall prescribe, by rule, a rationing contingency plan....

The Secretary of Energy has been delegated the authority to develop for the President's consideration the gasoline rationing plan prescribed under EPCA section 203. Executive Order 11912 (41 F.R. 15825, April 15, 1976), as amended by Executive Order 12038 (43 F.R. 4957, February 7, 1978).

Congressional action on both the rationing plan submitted by the President last March and the EECA came during a year characterized by a temporary cessation of oil supplies from Iran and shortages of gasoline, aviation fuel, diesel fuel and other products. Since the EECA was enacted, yet another series of events has demonstrated the extreme fragility of our petroleum supplies. In response to the seizure of U.S. embassy employees in Tehran, the President issued a proclamation on November 12, 1979, which prohibits the importation into the U.S. of oil that originated in Iran. Prior to this action, Iran supplied 4-5 percent of our total oil supply. The Iranian government has indicated that even if the President lifts this boycott of Iranian oil, Iran will refuse to sell oil to U.S. companies for importation into the U.S. The hostage situation in Tehran has continued to provoke further turmoil and unrest in the Middle East, an area which supplies over 60 percent of the petroleum consumed by the Western industrial nations.

I. Background and Statutory Requirements

The Department of Energy (DOE) issued a Notice of Proposed Rulemaking for a contingency gasoline rationing plan on June 22, 1978 (43 F.R. 28134, June 28, 1978). This proposed regulation was issued pursuant to the authority in sections 201 and 203 of the Energy Policy and Conservation Act (Pub. L. 94-163, EPCA). Hearings were held in twelve cities and over 1,000 public comments were submitted. A final contingency gasoline rationing rule was issued by DOE on March 1, 1979 (44 F.R. 15568, March 14, 1979). Under the provisions of EPCA then in effect, the rule could become effective even as a standby rule only if affirmatively approved by each House of Congress. The Senate approved the plan on May 9, 1979, 125 Cong. Rec. S5579 (daily ed. May 9, 1979), but it was rejected by the House of Representatives on May 10, 1979, 125 Cong. Rec. H3018 (daily ed. May 10, 1979). As a result of Congress' failure to approve the plan, DOE withdrew the final rule on September 27, 1979 (44 F.R. 56921, October 3, 1979).

On November 5, 1979, the President signed into law the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102, EECA), which amends the EPCA gasoline rationing provisions in several respects that will be described in more detail below.

Section 203(a)(1) of EPCA, as amended, provides that:

While the termination of supplies from Iran will not in itself cause gasoline shortages severe enough to warrant the implementation of gasoline rationing, it demonstrates the insecurity of our foreign sources of supply and demonstrates the need to have a gasoline rationing plan and other contingency measures in place as soon as possible. Therefore, the Secretary of Energy has ordered the development of a rationing plan as expeditiously as possible consistent with the procedural requirements of the EPCA and the EECA. The Secretary intends to have the plan completed and presented to the President by February 1, 1980.

In order to meet this schedule and still allow the public at least 30 days in which to comment on the plan, it is necessary to issue this Notice of Proposed Rulemaking at this time. The plan proposed here is similar to the coupon rationing plan submitted to Congress last March, except for certain changes made to incorporate the requirements of the EECA and to respond to various objections to the plan raised during the Congressional review process. Therefore, the many features of the proposed plan that are largely unchanged have already undergone an extended public comment process and thorough economic analysis. Nevertheless, all parts of the plan will again be subject to extensive review and analysis by DOE during the public comment period. Moreover, during this

period, we intend to conduct extensive consultation with the Congress, the States and other governmental interests and to incorporate as many of their suggestions as possible into the final plan. Thus, the plan proposed here represents only DOE's preliminary views on the contents of a rationing plan, and it remains open to comments and suggestions for the plan's improvement before it is adopted in final form and submitted to the Congress.

The recent EPCA amendments changed significantly the process by which a gasoline rationing contingency plan is approved by Congress and implemented by the President. EPCA sec. 201(d), as amended by the EECA, provides generally that the President must submit the rationing plan to Congress for review over a period of 30 days. The plan will be considered approved after that period unless a joint resolution of disapproval is enacted (which occurs when both Houses of Congress adopt the resolution and the President signs it, or, if the President vetoes it, both Houses of Congress override the veto by a two-thirds margin). A plan may be approved affirmatively by Congress in less than 30 days.

Pursuant to EPCA sec. 201(d), as amended, an approved plan would remain in standby status and could be imposed only if the President found that putting the plan into effect is required by a severe energy supply interruption or

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has transmitted to the President written notice that such committee has no objection to the amendment. Once a plan is implemented by the President in an emergency it can be amended only if the President transmits the amendment to Congress and neither House disapproves of such amendment within 15 days.

Any Standby Gasoline Rationing Plan regulation that is adopted according to these procedures might remain in standby status for a substantial period of time after approval by Congress before it would have to be implemented. In addition, developing a program for rationing gasoline on a national level is a unique and extraordinarily complex undertaking. Completion of a final gasoline rationing program will require several months of pre-implementation planning and effort by DOE to complete the details of such a far-reaching program. In consideration of these and other factors, the proposed regulation strikes a balance between providing as much detail as practicable, yet retaining the flexibility to respond to a broad range of situations. Given the delicate balance of the world oil situation, the Standby Gasoline Rationing Plan must be capable of implementation in a range of circumstances. It is contemplated that further rules, orders and guidelines consistent with the general plan would be issued during the pre-implementation period and at the time rationing is implemented to provide any necessary additional details. These rules, orders, or guidelines would not be subject to Congressional review unless they changed significantly the Standby Gasoline Rationing Plan.

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is necessary to comply with obligations of the United States under the international energy program. EPCA sec. 201(d) defines a severe energy supply interruption as a national energy supply shortage which the President determines has resulted or is likely to result in a 20 percent shortfall, with respect to projected normal demand, of gasoline and middle distillate fuels for a period of at least 30 days. The shortfall must be one which is not manageable under other energy emergency authorities, is expected to persist for a substantial period of time and is expected to have a major adverse impact on national health or safety or the national economy. An international energy program obligation must have comparable impacts. The President must notify the Congress of his finding together with a request to implement rationing. Either House of Congress may disapprove the implementation of rationing by passing a resolution to that effect within 15 days of the President's request.

EPCA sec. 201(d) further provides that the President may request the Congress to waive the finding requirement described above. If Congress approves the President's request by concurrent resolution, the President could implement rationing within 60 days without further Congressional review.

The EPCA, as amended, also provides that an approved plan could be amended provided the Congress is notified and the proposed amendment lies before the appropriate committees of Congress for at least 15 days, and each such committee

II. Other Statutory Requirements of the EPCA

Section 203(a)(1) of the EPCA, as recently amended by the EPCA, establishes the general framework that must be included in any rationing contingency plan. The plan shall provide, consistent with the attainment to the maximum extent practicable of the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, EPAA),

(A) for the establishment of a program for rationing and ordering of priorities among classes of end-users of gasoline and diesel fuel used in motor vehicles, and

(B) for the assignment of rights, and evidence of such rights, to end-users of gasoline and such diesel fuel, entitling such end-users to obtain gasoline or such diesel fuel in precedence to other classes of end-users not similarly entitled.

The rationing plan also must take into account the mobility needs of the handicapped.

EPCA, sec. 203(a)(3), as amended, prescribes that any rationing plan must (i) distribute end-user rights on a State-to-State basis that results in the degree of shortfall being equally shared among the various States, (ii) make end-user rights available on a basis which takes into account fairly the relative needs of end-users, and (iii) ensure that adequate end-user rights are available to carry

out sections 203(a)(1)(A) and (B) quoted above.

EPCA also provides that the President, in developing the rationing plan, make provisions for use of local boards to respond to hardship and other needs.

Section 203(e) of the EPCA prohibits any rationing contingency plan developed under the EPCA from:

- (1) Imposing any tax;
- (2) Providing for a credit or deduction in computing any tax; or
- (3) Imposing any user fee, except to the extent necessary to defray the cost of administering the rationing contingency plan or to provide for initial distribution of end-user rights.

III. Summary of the Proposed Standby Gasoline Rationing Regulations

A. Distribution of Ration Rights

For each ration period, DOE would project the national total available supply of gasoline. Based upon this projection, DOE would determine the number of ration rights to be distributed generally as follows:

- (1) A percentage of these rights would be reserved for distribution for a National Ration Reserve.
- (2) The total number of ration rights to be distributed within each State would be determined on a State-by-State basis that takes into account historic use of gasoline in

that State.

(3) A percentage of each State's ration rights would be reserved for distribution within the State as a State Ration Reserve.

(4) In each State, DOE would compute the ration rights for firms, farming, priority class activities and other persons as supplemental allotments.

(5) In each State, DOE would compute ration rights for all registrants and eligible individuals.

B. Entitlements for Ration Allotments

1. Eligibility for ration allotments would be primarily on the basis of motor vehicle registration, although flexibility would be provided to phase in a system based on historical use of gasoline for some or all business firms.

Parties (whether individuals or firms) with the most recent valid vehicle registration for an eligible vehicle would receive ration allotments. Provisions would be made to transfer eligibility for ration allotments when a vehicle is transferred. Provisions also would be made to enable purchasers of new cars to obtain ration rights on an expedited basis.

2. An allotment index would be established to compute the allotment size for each class or type of vehicle (e.g., motorcycles, passenger cars, trucks of various sizes).

3. DOE would issue supplemental allotments for certain priority activities, such as law enforcement, fire fighting, United States Postal Service, emergency medical services, certain Department of Defense activities, public passenger transportation, sanitation services, snow removal, telecommunications and energy production activities.

4. Firms with significant gasoline requirements for off-highway (and often unregistered) vehicles, e.g., construction equipment operators and fishermen, would be eligible to apply for supplemental allotments.

5. Supplemental allotments for off-highway vehicles and equipment used in the production of food and fiber would be provided in a timely manner in amounts adequate to meet fully the food and fiber production goals approved by the President.

C. Issuance and Distribution of Ration Rights

1. DOE would distribute ration rights by printing and mailing Government ration checks to eligible ration recipients if sufficient time is available or by such other means as will be appropriate in the circumstances.

2. Ration recipients would be permitted to exchange Government ration checks for ration coupons at designated coupon issuance points, endorse them for deposit in a ration rights account, endorse them for transfer or sale to any

individual or firm, or exchange them for gasoline to a willing supplier.

D. Gasoline Sales

1. DOE would control the sale of gasoline by requiring (except in limited circumstances as provided in the proposed regulation) that each purchaser of gasoline present ration rights (coupons or checks) to the seller equal on a gallon basis to the amount of gasoline to be purchased.

2. Retail outlets and other suppliers would be required to "redeem" the ration rights received in exchange for gasoline sold. Gasoline suppliers might be required to open "redemption accounts" for the deposit of redeemed ration rights.

3. Suppliers would be required to remit to their suppliers redeemed ration rights or a redemption check drawn on its redemption account equal on a gallon basis to the amount of gasoline received.

4. Principal suppliers, i.e., refiners and importers, would be required periodically to write a redemption check to DOE equal on a gallon basis to the volume of gasoline sold during a given reporting period.

E. Relationship of Allocation Program to Rationing

1. DOE's petroleum product allocation program would continue in effect at the time the proposed rationing plan is implemented. Under the allocation program, supplier/purchaser relationships in effect during a recent base period would be maintained.

2. A base period purchaser, such as a retail sales outlet, would be assured of receiving gasoline from its base period suppliers in an amount equal to the number of ration rights it has collected and redeemed, but no greater than its allocation entitlement. A base period purchaser with redeemed ration rights in excess of its allocation entitlement would be eligible to purchase surplus product to the extent such surplus product is available from any supplier.

F. Ration Banking

1. Subject to conditions to be established by DOE, any firm or individual would be permitted to open a ration rights account at a participating bank. Ration rights accounts would operate in much the same manner as monetary

17 "Surplus" product is that amount of product, if any, a supplier has available after it has fulfilled its supply obligations to all of its base period customers. "Surplus" product might be created as a result of some retail outlets being unable to purchase their full allocation entitlements due in part to sharply changed driving patterns that might occur as a result of a gasoline shortage (whether or not gasoline rationing is imposed).

checking accounts, i.e., account holders would be able to deposit ration coupons and ration checks in their accounts and could write ration checks against their accounts.

2. Gasoline suppliers would be able to open "redemption accounts" for the deposit of redeemed ration coupons and ration checks. Redemption checks could be written against these accounts, payable to other suppliers for resupply of gasoline. Suppliers would receive an initial redemption advance in order to permit them to be resupplied until they have accumulated sufficient redeemed ration rights.

G. The Ration Rights Market

1. Ration coupons that have not been redeemed would be freely transferable. DOE does not intend to regulate the ration rights market directly, but the proposed plan would reserve the right to do so, if in DOE's judgment such regulation becomes necessary to prevent abuses.

2. In order to facilitate the establishment of a market for ration coupons, DOE would have the authority under the proposal to sell some ration rights to the public. In addition, DOE could authorize the States to sell ration rights from the State Ration Reserves (see below). DOE would also be authorized to buy and sell coupons whenever

necessary to equilibrate the number of issued ration rights with the actual supply of gasoline.

H. National Ration Reserve

A percentage of the total ration rights issued would be reserved for the establishment of a National Ration Reserve. The National Ration Reserve would be used to meet national disaster relief needs, to provide allotments to Canadian and Mexican firms that conduct business in the United States, and for such other purposes as DOE finds necessary.

I. States' Role in Gasoline Rationing

1. A percentage of the ration rights to be issued within each State would be reserved for distribution to that State as a State Ration Reserve, to be used by the State primarily for the relief of hardship. The States would have broad discretion and flexibility in the administration of the State Ration Reserves. DOE could authorize the States' to sell to the public a portion of the State Ration Reserves, in order to facilitate the establishment of a market for ration coupons.

IV. Section by Section Analysis of the
Standby Gasoline Rationing Regulations

A. General Provisions

1. § 570.1 Scope and Effective Date

The proposed regulations provide that gasoline rationing would be effective on a date to be specified and published by DOE subject to the provisions of sections 201(d) and (e) of the EPCA (see discussion in Part I above). It is our intention that gasoline rationing, if imposed, would be effective in all fifty States and the District of Columbia. We have made no determination at this time whether it would also be necessary to impose gasoline rationing in Puerto Rico and the territories and possessions of the United States. Accordingly, the proposed regulations provide that gasoline rationing would be effective in all or such parts of the United States as specified by DOE. Under this provision, DOE could exempt some or all of the territories and possessions of the United States from gasoline rationing.

The proposed regulations provide that 10 CFR Part 205 (Administrative Procedures and Sanctions) and the EPAA-based petroleum allocation and price regulations found in 10 CFR Parts 210, 211, and 212 would continue in effect unless otherwise specified. Thus, all requests for interpretations, rulings, applications for exception relief (other than those

applications for hardship relief filed with the States), or modification of a classification would be governed by the administrative procedures contained in Part 205.

2. § 570.2 General Definitions

The concepts of "base period" and "base year" are integral parts of the rationing plan. The determination of ration rights and the allocation of gasoline to wholesale purchasers are both determined with reference to an historical period. "Base period" is defined as the period in the base year corresponding to the current calendar month, or current ration period, as appropriate. The "base year" would be either (1) the base period set forth in the allocation regulations at 10 CFR section 211.102; which currently is the twelve calendar month period November 1977 through October 1978; (2) the base year as determined under DOE's standby product allocation regulations, Special Rule No. 1 to Part 211, if such regulations were to be imposed; or (3) if neither the current or standby gasoline allocation regulations are in effect, any other twelve month period designated by DOE. "Ration coupon" is defined as a coupon issued by DOE entitling the bearer to purchase a specified volume of gasoline. "Ration check" is defined as a negotiable document other than a ration coupon or redemption check evidencing the right to purchase specified volumes of gasoline. "Ration rights" means either ration coupons, ration checks or any other documents authorized by this regulation that shall be

evidence of or establish ration recipients' rights to purchase specified volumes of gasoline. This definition provides DOE with flexibility to use methods other than checks or coupons to distribute ration rights under the plan. By way of illustration, DOE may issue a document to bulk purchasers, or other gasoline end-users who receive allocations under the gasoline allocation system, authorizing such end-users' suppliers to provide a specified percentage of base period gasoline use. Such a short-cut method of distributing ration rights may be useful if a severe gasoline supply shortage should occur prior to the time that a system could be put in place to distribute ration coupons to all end users.

In most instances, ration rights would be distributed to a "registrant," which is defined as the party with the most recent valid vehicle registration for a vehicle which has been determined by DOE as eligible for an allotment. A category of "eligible individual" has been established, so that DOE may in special circumstances issue ration rights to persons who are not registrants. Other recipients of ration rights are farmers, priority classes, certain persons and firms which receive supplemental allotments, discussed below. Thus, "ration recipients" would include registrants, eligible individuals, farmers, firms, priority class firms and certain other persons. DOE or its delegate would distribute ration rights in the form of "Government ration

checks" to ration recipients, unless the time available to put the plan in effect requires some more expeditious means of distributing ration rights.

"Emergency services" has been broadened over the definition in 10 CFR § 211.51 to also include the United States Postal Service and snow removal services. The definition of telecommunications services in § 211.51 has been changed to exclude sales and routine administrative activities. These services are eligible to receive supplemental allotments of ration rights as priority class firms.

The definition of "public passenger transportation" also includes activities entitled to receive supplemental allotments as priority firms. In addition to water, rail, bus and van transportation, taxicabs are entitled to supplemental allotments. During times of shortage, taxicabs provide an efficient mode of transportation, and often are relied upon by the sick, handicapped and elderly as a principal means of transportation where other forms of public transit are either impractical or unavailable.

The definition of "retail sales outlet" has been narrowed from the definition contained in the allocation regulations, 10 CFR § 211.51, to make it clear that the entity to which the term applies is the typical retail gasoline station. Comments are requested as to the effect of this change on entities which would be excluded from this definition but not from the § 211.51 definition.

The definition of "sanitation services" would be identical to its current form in § 211.51, with the exception that the reference to "during emergency conditions" is deleted with respect to the maintenance, operation and repair of liquid purification and waste facilities.

Many of the definitions in proposed § 570.2 would require further clarification by rule, order or guideline before rationing is implemented.

Several other definitions will be discussed below in the separate sections where these terms are applied, and the remaining definitions are similar or identical to those definitions as currently set forth in § 211.51 or § 211.102 of the allocation regulations.

3. § 570.3 Penalties and Violations

Section 570.3 of the proposed regulations provides that any person who violates any provision of these regulations or any further regulations or orders issued under them would be subject to the penalties set forth in section 5 of the EPCA, sections 524 and 525 of the EPCA, and Subpart P of 10 CFR Part 205. Proposed § 570.3 would also impose an obligation upon all firms having custody, care or control of ration rights to take all reasonable necessary precautions against the use of counterfeit and altered ration rights, as well as a duty to safeguard ration coupons, Government ration checks and other ration rights from embezzlement, loss, theft damage or unauthorized destruction.

Subsections (c), (d) and (e) of proposed § 570.3 would specifically proscribe counterfeiting, fraud and related activity with respect to ration checks, ration coupons or other ration rights, as well as with respect to redemption checks. Additionally, subsection (f) would implement section 105(b)(5) of the Emergency Energy Conservation Act of 1979, providing that ration rights or any other evidence of right prepared by or on behalf of the United States for use in connection with a rationing contingency plan shall be considered to be an obligation or other security of the United States for purposes of the criminal statutes in Title 18, United States Code.

4. § 570.4 Reporting Requirements

Section 570.4 of the proposed regulations would authorize DOE to require filing of such reports or information as it deems necessary to administer the Standby Gasoline Rationing Plan.

5. § 570.5 User Fees

Proposed § 570.5 would permit DOE to impose a uniform fee on each gallon sold during the period for which rationing is in effect. Under the EPCA, such a fee could be imposed only to the extent necessary to defray administrative costs or to provide for initial distribution of end-user rights.

6. § 570.6 Authority to Contract or Delegate

Proposed § 570.6 would provide DOE with the authority to contract for or delegate any of the functions contained

in these regulations. The authority to delegate includes the authority to delegate to any other governmental agency at the Federal, State or local level.

7. § 570.7 Authority to Issue Further Regulations and Orders

Because these regulations may be in a standby status for a substantial period before they would have to be implemented, and because the need for certain authorities may not be ascertained until the pre-implementation effort has begun, there are many instances in the proposed regulations where further orders, rules or guidelines may be necessary. Proposed § 570.7 would provide authority to issue such rules, orders and directives in order to implement these regulations.

B. Ration Rights: General Provisions

1. § 570.11 Distribution of Ration Rights

The proposed Standby Gasoline Rationing Plan in § 570.11(a), provides that DOE would issue ration rights in the form of Government ration checks, or alternatively could issue ration rights directly to ration recipients, or could deposit them directly into ration rights accounts, or could otherwise provide for their distribution. This section has been designed purposely to give DOE the necessary flexibility to utilize any of several options for distributing ration rights. As was noted earlier in the discussion of the "ration rights" definition, DOE may find it necessary or

expedient to distribute ration rights in a manner less administratively complex than issuing tens of millions of checks, which must be cashed at banks and other ration coupon issuance points.

The proposed regulations provide in § 570.11(b) that DOE may establish procedures whereby all or a portion of the ration rights allotted to a State Ration Reserve may be distributed by DOE. Such a situation may arise, for example, where a State has accumulated a large number of ration rights in the State Ration Reserve and for the next ration period would rather have DOE distribute the Reserve's allotment for that period directly to ration recipients within the State. Or, if a State is not administering its Reserve in accordance with an approved plan, DOE may decide to issue ration rights directly to ration recipients within the State.

This plan gives to DOE in proposed § 570.11(c) the authority to provide for separate rationing of unloaded gasoline or gasoline. Comments are requested on this issue, particularly on whether such separate rationing would be necessary given the added cost and complexity that would result.

2. § 570.12 Disposition of Government Ration Checks

In addition to exchanging Government ration checks for ration coupons at designated issuance points (see discussion below), a Government ration check would be transferable by endorsement to any individual or firm, by deposit in a ration rights account or by endorsement to a supplier when purchasing gasoline, provided the supplier is willing to accept the check rather than coupons.

3. § 570.13 Ration Rights

Under proposed § 570.13, ration coupons would entitle the bearer to purchase a specified quantity of gasoline. It is anticipated that ration coupons would be issued in 5-gallon amounts, with the possibility that 1-gallon ration coupons or other denominations may be issued. Ration coupons which were printed in early 1974 with the designation "one unit" also may be utilized. If we determined to utilize these coupons, we would announce, by advance notice published in the Federal Register and other publications, the gallon amount for which each such coupon would be redeemable.

Ration coupons would have a series designation and the DOE would publish an advance notice of the effective date for each coupon series designation. A coupon would not be valid until such date, but once a coupon had become valid,

it would remain valid for the duration of gasoline rationing. However, it may become necessary periodically to require old coupons to be redeemed for newer ones to avoid having too many series valid at one time or to counteract counterfeiting activities. The proposed regulations allow for similar limitations to be placed on the validity of other ration rights.

4. § 570.14 Mandatory Transfers of Ration Allotments

The proposed regulations provide in § 570.14 that DOE may require the lessor of a registered vehicle receiving ration allotments to transfer such ration allotments to the lessee of such vehicle according to terms and conditions to be established by DOE.

There is no reference in the proposed regulations to the length of time of the lease in order to make clear that the regulation would not preclude the mandatory transfer of ration rights for short term rental vehicles if DOE should determine that is necessary. However, we believe that competitive pressures will require most rental companies to transfer ration rights to their customers. Proposed § 570.14 would enable us to mandate transfers in the event that such transfers generally do not take place, or in order to prevent windfalls.

the net amount of ration rights distributed to ration recipients in any State will depend in part on the historic use of gasoline in that State vis-a-vis other States.

The proposed regulations provide for this historic use factor by separately calculating each State's share of the NNR. To determine a given State's allotment, the NNR would be multiplied by the ratio of the State base period gasoline use (SBPU) to national base period gasoline use (NBPU).

$$STR = \frac{SBPU}{NBPU} \times NNR$$

The amount of ration rights available for distribution in each State would vary according to the ratio of that State's base period use to the national base period use; the greater the fraction the larger the amount of ration rights. The ration allotments for ration recipients in each State then would be calculated in accordance with sections (c) through (f) below.

(c) State net rights (SNR).

The State net rights (SNR) for each State is computed by subtracting from the State total rights (STR) the number of rights in the State Ration Reserve (SRR). As is more fully explained in a later section, the size of the State Ration Reserve would be subject to two variables. First, as noted, the total number of ration rights available to a State would

C. Computation of Reserves and Allotments

1. § 570.21 Definitions

Proposed § 570.21 provides definitions for terms used in the computations that would determine the State and National Ration Reserves and the allotments to registrants and other ration recipients for each ration period. Each term will be discussed at the point at which it is introduced into the computation.

2. § 570.22 Calculations

For each ration period, DOE would project the available supply of gasoline and, based on this projection, would determine the national total number of ration rights (NTR) to be distributed. The computation of allotments would be made as follows:

(a) National Net Number of Rights (NNR). The national net number of rights (NNR) would be computed by subtracting from the national total number of rights (NTR) the National Ration Reserve (NRR).

$$NNR = NTR - NRR$$

(b) State Total Rights (STR).

The NNR calculated in subsection (a) would be the total amount of ration rights available for distribution to all of the States. Section 104 of the EPCA requires that ration rights "be distributed on a State-to-State basis that results in the degree of shortfall from the base period use being equally shared among the various States, considering the most recent base period use data available." This requirement means that

vary among States depending upon each State's historical use. Thus, even if the percentage to be reserved as a SRR were the same for each State, the number of rights reserved would vary. Second, the proposal gives DOE the authority to vary from State to State the percentage of such rights to be reserved as a SRR.

$$\text{SNR} = \text{STR} - \text{SRR}$$

(d) State basic rights (SBR). After a percentage of the ration rights available to a State has been reserved for the State Ration Reserve, the remaining State net rights (SNR) would be distributed to ration recipients. The first calculation would be to subtract from the SNR the total amount of ration rights to be allotted to priority class activities, farming, business firms and others as supplemental allotments (SA). As more fully explained in a following section on supplemental allotments, DOE would be able to designate some or all firms to receive supplemental allotments as a percentage of base period gasoline use. In such an event, the number of supplemental allotments would be expected to increase.

$$\text{SBR} = \text{SNR} - \text{SA}$$

(e) State basic allotment. Once the supplemental allotments for firms, farming, priority activities and other designated persons have been deducted, the supply of ration rights remaining would be allotted to registrants.

Under the proposed rationing plan, the basic eligibility for ration allotments would be determined by vehicle registration records maintained in the individual States' departments of motor vehicles (DMV's). Prior to any decision to implement gasoline rationing, DOE would attempt to develop and maintain a national vehicle registration file. This file would contain all of the vehicle registration records provided by the States from their own motor vehicle registration files, but revised and in the proper format to meet the requirements of the rationing plan.

The national vehicle registration file would be updated periodically from information provided by the States and other sources as appropriate. Where duplicate registrations are found for a single vehicle, such as would commonly occur when a used vehicle is sold, DOE would use only the most current registration.

Records in the file would be grouped according to vehicle type. Each record would contain a vehicle category identifier from which DOE could establish the correct allotment index. Registered vehicles which are not eligible for ration rights, such as trailers, would be excluded from the file.

The individual or firm named on the registration record (the registrant) maintained in the national vehicle registration file would be eligible for an allotment of ration

rights if the corresponding registered vehicle is gasoline-powered, and was either already registered on a specified date prior to the effective date of the rationing program or is a new car purchased during the rationing program. The actual cut-off date for vehicle registrations would be determined by DOE when rationing is implemented. By imposing a vehicle registration cut-off date for all but newly purchased vehicles, the chances for registrations of "junked" or fictitious vehicles would be significantly reduced. Under certain circumstances, DOE might permit vehicles with lapsed registrations to become eligible for ration allotments, if it could be demonstrated that these vehicles were operable or if it could be otherwise shown that these vehicles are not being registered for the principal purpose of receiving ration rights.

DOE would establish different allotments for different types of vehicles. Based on an analysis of average annual fuel consumption of vehicles in various categories, we would establish allotment indices to compute the size of the allotment for each type of vehicle. The indices would be keyed to the single passenger automobile allotment, which would be assigned an index value of 1.0. As new data became available, the indices would be recomputed.

All vehicles within a given category (e.g., all passenger cars) would have the same index number and therefore would receive the same ration allotment (in a given State), regardless of fuel efficiency. This would give a significant advantage to fuel efficient vehicles and should provide an incentive for their use during a period of rationing.

No allotment index would be provided for "dealer plate" registrations since these registrations are not issued to specific vehicles. Trailers and other non-powered vehicles registered with State DMV's would not receive an allotment index. Diesel-powered vehicles would also not receive an allotment index, as diesel fuel would not be subject to rationing under this plan.

Once the allotment indices have been established for all eligible vehicles, the State basic allotment for vehicles in each State could be computed. The sum of all vehicles in the State in a given vehicle classification (VC) would be multiplied by the allotment index (AI) for that classification to yield a classification vehicle point (CVP).

$$CVP = VC \cdot AI$$

The sum of the CVP's for all vehicle classifications would equal the total vehicle points (TVP) in the State.

$$TVP = CVP_1 + CVP_2 + CVP_n$$

A State basic allotment (SBA) would be computed by dividing the State basic rights (SBR) by the total vehicle points (TVP) in the State.

$$SBA = \frac{SBR}{TVP}$$

For example, assume the total vehicle points in a State equals three million, and the State basic rights for a three month ration period totals 360 million gallons. The State basic allotment would be determined as follows:

$$\frac{360,000,000 \text{ (SBR)}}{3,000,000 \text{ (TVP)}} = 120 \text{ gallons (SBA)}$$

(f) Distributed basic allotment (DBA).

Once the State basic allotment is calculated for each State, the number of ration rights, in gallons, distributed to the registrant of a given vehicle for a ration period would equal the State basic allotment (SBA) multiplied by the allotment index calculated by DOE for that vehicle. This distributed basic allotment (DBA) would be rounded by DOE, where necessary.

$$DBA = SBA \times AI$$

In the calculation example used in subsection (e), the SBA was 120 gallons for a three month ration period. A passenger vehicle in this example, with an allotment index of 1.0, would receive 120 gallons in ration coupons. A truck with an allotment index of 2.2 would receive 264 gallons in ration coupons for that same ration period. If coupons were issued in five gallon amounts, this would be rounded to 265 gallons.

(g) Length of the ration period.

The length of each ration period is expected to be three months. However, DOE may find it necessary to extend or shorten a ration period. Therefore, proposed § 570.22(g) would provide DOE with the flexibility to modify the length of the ration period.

3. § 570.23 Ration Rights Purchases and Sales.

In addition to distributing ration rights in accordance with the calculations described in section 2 above, DOE may find it necessary to issue and distribute (by auction, sale, etc.) additional rights, or alternatively to purchase ration rights. Since the supply of gasoline for a ration period would have to be projected several months in advance, it is likely that the actual gasoline supply would either exceed or fall short of the projected supply, possibly by a wide margin. In such a case, to reconcile the number of ration rights with the actual supply of gasoline, it may be necessary for DOE to buy or sell ration rights.

DOE also might find, once rationing is implemented, that the ration rights market is not operating satisfactorily to transfer ration rights. In such an event too, we might find it necessary to sell additional ration coupons.

Proposed § 570.23 provides DOE with the requisite authority to buy or sell ration rights. Subsection (a) authorizes DOE to sell ration rights where necessary (i) to

establish a market for ration rights; (ii) to equilibrate the number of ration rights issued with the actual supply of gasoline, or (iii) for such other purposes to assure that adequate ration rights are available to carry out the purposes of the Standby Gasoline Rationing Plan. This latter provision is reflective of EPCA sec. 104, which amends EPCA sec. 203(a), requiring that adequate end-user rights be available to carry out EPCA's purposes for a gasoline rationing plan.

Subsection (b) of proposed § 570.23 would authorize DOE, to the extent funds are available, to purchase ration rights to (i) equilibrate the number of ration rights issued with the actual supply of gasoline, or (ii) otherwise carry out the purposes of the rationing plan.

It is possible that funds may not be appropriated by Congress for DOE to purchase ration rights. In such an event, proposed § 570.23(c) would provide that DOE may take such other actions as may be necessary to equilibrate the number of ration rights issued with the actual supply of gasoline, including making more or less ration rights available in the next ration period by adjusting as necessary the "national total number of ration rights" (NTR) used in proposed § 570.22.

D. Supplemental Allotments.

1. § 570.31 Priority Class Activities. Section 570.31 of the proposed regulations would provide that certain Department of Defense activities, emergency services, sanitation services, public passenger transportation services and energy production activities would receive supplemental allotments as priority class firms. Emergency services are defined as law enforcement, fire fighting, United States Postal Service, snow removal, emergency medical services, and telecommunications services. Public passenger transportation has been broadly defined as (a) facilities and services for surface public transportation whether publicly or privately owned, including water, rail, bus and van transportation, including taxicabs; and (b) bus and van transportation of pupils to and from school.

The "United States Postal Service" has been included in the definition of "emergency services". It is our intention that the gasoline usage of privately-owned vehicles under delivery contracts with the Post Office would be included in the base period consumption of the Post Office.

"Energy production" would be another priority class activity. Rationing would be implemented only in response to an energy shortage, and during such times domestic energy production activities should be accorded priority status to maintain, to the greatest degree possible, domestic energy supplies.

The proposed regulation provides that DOE would be able to designate other persons or firms as priority classes. This provision would permit us to include other essential public services as priority class firms if such additions prove necessary.

We anticipate that it would be necessary to further define and clarify the scope of activities included within emergency services either before or at the time rationing is implemented.

Priority class firms would receive a percentage of their base period gasoline consumption, such percentage to be determined by DOE at the time rationing is implemented. It is our intention that priority class firms would receive a percentage of base period usage generally greater than that received by other firms receiving supplemental allotments under Subpart D, but in most cases would likely receive less than 100 percent of their base period usage. Proposed § 570.31(a) would permit DOE to provide for greater than 100 percent of base period usage for any priority class activity if such an adjustment proves necessary. This may be required, for example, to allow mass public transportation to accommodate increased demand during an energy supply emergency.

Taxicabs have been included in the definition of public passenger transportation. As noted earlier, taxicabs perform an important role in providing for the transportation needs of the elderly and the handicapped, particularly in areas not adequately served by other forms of public transportation.

Proposed § 570.31 makes clear that a firm would receive priority class treatment only with respect to its activities attributable to a priority classification. In applying for supplemental allotments for priority class activities, firms engaged in priority and non-priority activities would be required to report total gasoline consumption for the base period, as well as that portion of total base period consumption attributable to a priority class activity, and the number and types of vehicles engaged in a priority class activity.

2. § 570.32 Farming. It is our intention that provision of ration rights for off-highway vehicles would provide for maintenance of agricultural operations, as required by section 4(b)(1)(C) of the EPAA, as amended. Proposed § 570.32 therefore provides that supplemental ration allotments for agricultural production of food and fiber would be provided in a timely manner so as to ensure that these allotments would be in amounts adequate to meet fully food and fiber production goals approved by the President. The Secretary of Agriculture is ordinarily responsible for developing the production goals for agricultural commodities that are approved by the President. That will continue to be the case during a period of rationing. DOE, in consultation with the Secretary of Agriculture, would be responsible

during rationing for determining the amount of ration allotments for farmers' off-highway vehicles necessary to meet fully the approved food and fiber production goals.

3. § 570.33 Off-highway Vehicles. DOE proposes to provide supplemental allotments to that class of firms that consumes a significant percentage of its total gasoline consumption in off-highway vehicles (vehicles that are not registered with a State DMV, or are registered with a State DMV for off-highway usage).

We would determine and publish the classes and types of vehicles and equipment which qualify as "off-highway." In most States tractors and other vehicles used for agricultural production are not ordinarily registered with State DMV's. In States where such vehicles are registered, we would either exclude such vehicles from the standard per vehicle allotments (discussed above) or would subtract the per vehicle allotments from the total entitlement that firm would receive for off-highway vehicles. The specific treatment of farming under the proposed plan is discussed in section 2 above. Each firm eligible for supplemental allotments would be given allotments for a volume of gasoline equal to a certain percentage of its base period use, which percentage would depend on the severity of the gasoline supply shortfall and the category of firm involved.

The procedures by which firms would identify themselves and their base period volumes would be specified by regulations issued prior to or at the time rationing is implemented. In the public comments on the proposed regulation, commenters are specifically requested to identify operators of "off-highway vehicles" that should be considered as eligible for supplemental allotments under this subsection.

4. § 570.34 Other Supplemental Allotments. Proposed § 570.34 would enable DOE to designate other classes of firms or any individual firm to receive supplemental allotments on a basis to be established by DOE. This section is pivotal to the rationing plan for many reasons, since it is DOE's intention to provide supplemental allotments to most business firms as necessary to assure that their allotments reflect historical use.

We have designed this rationing program primarily on a per vehicle basis because such a system can be implemented relatively quickly in a severe gasoline supply emergency. We recognize that any system which relies on average vehicle fuel consumption will provide allotments which for many firms would differ from historical usage and from actual requirements. It is therefore our intention that most firms would eventually receive ration rights on an historical usage basis. However, because allotment on this basis would require extensive DOE, State or local level staff and a

reporting system that will take some time to establish, we expect initially that firms as well as individuals will have to receive allotments on a per vehicle basis. During this initial period, a firm with insufficient ration rights would be required to purchase the necessary additional ration rights on the ration rights market.

Once the program is established to allot ration rights to firms on an historical gasoline usage basis, we would determine and publish by order or subsequent regulation the size of the supplemental allotment for each firm or category of firm. It is presently anticipated that supplemental allotments would be based on a specified percentage of a firm's base period gasoline consumption (minus the per vehicle allotments already received by the firm), as would be the case for operators of off-highway vehicles.

Proposed section 570.34 would provide DOE with the authority to implement, either at the beginning of rationing or phased-in during the program, a mechanism for providing additional firms with ration right allotments based on their historical use of gasoline during the base period. This could be accomplished in several ways, such as to allot ration rights to all registrants, including firms, and then issue supplemental allotments to firms so as to bring the total allotment to a target level.

DOE would like comments addressing the question of whether businesses should receive a higher ration level than individuals. Although nearly everyone can conserve some fuel in an emergency, individuals do more discretionary driving than businesses and thus can be expected to absorb a larger percentage cutback. By way of illustration, if the gasoline shortfall is projected to be 20 percent, business could be cut back by a percentage less than 20, while individuals and other registrants could be cut back over 20 percent.

Proposed § 570.34(b) would enable DOE to establish procedures in order that any person, including eligible individuals, may apply for supplemental allotments. This section is intended to provide ration rights for any other person or class of persons not otherwise provided for in the proposed regulations.

5. § 570.35 Application Procedures. The proposed regulations in § 570.35 provide that DOE would establish forms and procedures for supplemental allotment applications.

6. § 570.36 Precedence of Delivery. Section 570.36 of the proposed regulations establishes the right of precedence of delivery for priority class firms, in accordance with section 203(a)(1) of the EPCA which requires "the assignment of rights, and evidence of such rights, to end-users of gasoline . . . entitling such end-users to obtain gasoline . . . in precedence to other classes of end-users not similarly entitled."

E. Purchase of Gasoline

1. Proposed §§ 570.41 - 570.44.

§ 570.41(a) of the proposed regulations provides that no supplier, including a retail sales outlet, may sell gasoline to a customer without securing ration rights from the purchaser at the time of sale. We are proposing two exceptions to this rule. First, a retail sales outlet would be allowed to make sales to customers without ration rights on the assumption that the retail sales outlet would be able, through purchases of ration rights to cover those transactions. The retail sales outlet would be required to obtain the additional ration rights within a time period to be designated by DOE.

The second exception is proposed in response to the fact that deliveries frequently are made at night to wholesalers and retailers, using a key or lock-card system. Under such circumstances, it would be difficult to give ration rights or redeemed ration rights, as appropriate, to suppliers at the time of delivery. Accordingly, § 570.41 and § 570.43 have been proposed to permit wholesale purchaser-resellers, wholesale purchaser-consumers, and bulk purchasers to give their suppliers by close of the first business day following the date of delivery the appropriate amount of ration rights or redeemed ration rights. Proposed § 570.41(c) would

require a supplier (including a wholesale purchaser-reseller) to give its supplier a redemption check or redeemed ration rights equal to the amount of gasoline transferred by the close of the first business day following the date of sale or transfer.

Proposed § 570.41(d) specifies that ration coupons of a given series designation cannot be used for the purchase of gasoline prior to their effective date.

Section 570.41(e) of the proposed regulations provides that unredeemed ration rights are freely transferable. This provision would constitute the authority for a ration rights market, which should promote a more efficient use of available gasoline. We do not anticipate regulating the ration rights market through price controls or any other mechanism. However, in order to prevent abuses in the market that might arise, the plan gives DOE authority to regulate the market if necessary. Furthermore, as noted in earlier sections, DOE would be authorized by the proposed regulations to buy and sell coupons.

Sections 570.41(f) and (g) are intended to protect the rights of purchasers and sellers of gasoline. Section 570.41(f) would prohibit any supplier from requiring any purchaser to purchase ration rights from any firm including itself as a condition of transferring gasoline. Section 570.41(g) would prohibit any seller of gasoline from

refusing to accept valid ration coupons at the time of sale. A supplier would be allowed to accept a Government ration check for the purchase of gasoline, but would not be required to do so. A supplier would also be permitted to accept a ration check drawn on a ration rights account, but, as in ordinary commercial transactions, the supplier/payee would incur the risk that such a check is invalid, and, if it is, his only recourse would be against the purchaser/payor.

Section 570.42 would require suppliers (including retail sales outlets) which receive ration coupons in exchange for the sales of gasoline to "redeem" such coupons by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed." Similarly, suppliers would be required to redeem all ration checks received. In order to be resupplied, § 570.43 would require a supplier to deliver to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal to the amount of gasoline received. In this manner redeemed ration rights would move up the gasoline supply distribution chain in an amount equal to the volume of gasoline moved down the chain. Under § 570.44, refiners and importers, defined as principal suppliers, would be required to submit periodically a report to DOE certifying the volume of gasoline sold during

the reporting period and to submit a redemption check equal on a gallon basis to the volume of gasoline sold during the reporting period. In this manner, the distribution system would be "cleared," and DOE would be able to ensure that the volume of gasoline sold is in balance with the number of ration rights that have been issued.

2. § 570.45 Redemption Advances.

Proposed § 570.45 provides that each supplier other than a principal supplier would receive an initial redemption advance under a formula that would be established by DOE and published prior to the implementation of rationing. This provision would enable suppliers to obtain initial deliveries at the commencement of rationing before they have accumulated sufficient ration rights. Also, since a retailer could not accumulate redeemed ration rights for resupply in excess of the sum of gasoline he has to sell at the beginning of rationing plus any redemption advances, this section would allow additional redemption advances to enable a supplier to obtain additional gasoline as more supplies become available.

Although the proposed regulations do not contain a specific formula for the computation of the initial redemption advance, we are interested in receiving comments on how such a formula should be constructed.

F. Allocation of Gasoline and Alternatives.

The proposed plan would incorporate the existing gasoline allocation program, with certain modifications.

It is intended that the same base period in the base year that determines the distribution for ration rights would also be used for allocation. Thus the overall gasoline distribution to the various States should approximate the distribution of ration rights, which for each State is also determined with respect to the base year and base period. Under the proposal, a firm's allocation rights under the allocation system would be limited by its ability to exchange ration rights or redeemed ration rights at the time of purchase. Thus, although a supplier would have the obligation to distribute product under a uniform allocation fraction to all of its customers, its obligation to supply any particular firm would be reduced if that firm does not have adequate ration rights or redemption rights to exchange for the gasoline.

The state set-aside program would be retained under the proposed plan. The set-aside program was an effective tool to relieve the effects of shortages during the past summer. A State's authority to redirect product should complement

3. § 570.46 Inventory Changes

Proposed § 570.46 would require each supplier to measure his inventory at the beginning and end of the rationing program, or at such other times as designated by DOE. DOE also would require suppliers to repay their initial redemption advance. Proposed § 570.46 provides that each supplier (including retail sales outlets) account for inventory drawdown at the end of the rationing program by submitting to DOE a redemption check or redeemed ration rights equal on a gallon basis to the amount of inventory drawdown, less a specified amount for losses due to spillage and evaporation.

4. § 570.47 Blends

Section 570.47 of the proposed regulation would permit DOE to make such volumetric adjustments as it deems appropriate for fuels, such as gasoline, which are a blend of motor gasoline and other substances.

its authority under the proposed State Ration Reserve to provide additional coupons to alleviate hardships. We request your comments on whether the State set-aside program should be eliminated in the final plan because the State Ration Reserve could adequately resolve hardships.

Allocation levels under the plan would be modified so that all purchasers would receive product subject to an allocation fraction except for those categories expressly designated otherwise (such as for farming or for other firms with supplemental allotments of ration rights). However, as in all purchases of gasoline (including purchases made available through the State set-aside), purchasers would be subject to the requirement to provide ration rights or redeemed ration rights, as appropriate. As an alternative, we wish your comments as to whether bulk purchasers with existing first priority allocations should retain their allocations not subject to an allocation fraction, subject to their possessing sufficient ration rights.

As a further alternative, we invite your comments on a plan that would retain the concept of ration rights for purchase of gasoline from retail outlets, but would allow bulk purchasers to receive gasoline based on their allocation rights under the existing program, subject to possible limits set by DOE. For instance, in a severe shortage DOE could publish a Federal Register notice declaring that bulk purchasers, except farmers, would be limited to seventy percent of their allocation entitlements.

In the interest of having a plan which can be implemented quickly, we also invite your comments on a plan in which ultimate consumption would be rationed through a coupon system, but distribution to the retail level would not. The main features of this plan would be (1) ultimate consumers (principally motorists) of gasoline (possibly excluding bulk purchasers with allocations) would be required to present ration rights to their suppliers (principally retail outlets) to obtain gasoline, and (2) suppliers, including retail outlets, would not be required to exchange ration rights or redeemed ration rights for gasoline, but instead would receive their allocation under the existing allocation program. A possible difficulty with this alternative is that enforcement of the requirement that motorists present a valid ration coupon or other evidence of a ration right at the time they make the purchase would be possible only at the retail level. Because of the number of retailers, this requirement would be difficult to monitor.

To enforce the alternative plan, several options are possible. One option would be to have the retail outlet forward the coupons received to either State or Federal authorities where they would be checked against either State or Federal excise tax records. Another option would be to require the coupons to be passed up the supply chain with each supplier verifying the volumes supplied through retail

outlets against the coupons received. DOE would audit the results at the refiner level.

Another possible problem with this alternative is that it may leave some retailers with substantial volumes of surplus gasoline if for any reason they cannot sell their full allocation entitlement.

We also request comments on whether the rationing system proposed here could entirely replace the present allocation system. Under such an allocation system, a supplier's allocation entitlement would be exactly equal to the ration rights it redeems -- no more and no less.

One further possible plan for which comments are solicited is to permit resellers to receive allocations under the existing allocation scheme, but require that they exchange redeemed ration rights within a fixed time period (30 or 35 days for instance). Such a credit arrangement would allow resellers to receive product for a current period prior to receiving sufficient ration rights from its purchasers. This plan would obviate the necessity for start-up allotments and would permit seasonal fluctuations in demand to occur.

The alternative proposals identified above may be implemented, if gasoline rationing were required, in lieu of or in addition to the proposed complete rationing plan.

G. Ration Banking

1. § 570.61 Coupon Issuance Points and Participating Banks

In § 570.61, we propose to authorize a variety of financial institutions and other firms to act as coupon issuance points or participating banks. Coupon issuance points (CIP's) would serve to exchange ration coupons for Government ration checks or such other documents or evidence of ration rights as DOE may authorize. Participating banks (which may or may not also be coupon issuance points) would accept applications for and establish ration rights accounts and redemption accounts. Holders of Government ration checks could exchange such checks for ration coupons at coupon issuance points. Ration recipients would receive Government ration checks through the mail generally on a quarterly basis. The ration coupons received for each Government ration check would bear a separate series designator so that they would not become effective until the first day of the ration period or periods applicable to that Government ration check. Subject to terms and conditions to be established by DOE, coupon issuance points would be required to accept Government ration checks presented by the payee in exchange for ration coupons.

We intend to expand the number of coupon issuance points to include such organizations as commercial banks and savings and loan associations, major employers, credit unions, Post Offices, State and local governmental agency offices, and major retail establishments such as supermarkets and department stores. By expanding the number of coupon issuance points, we believe that we could significantly reduce the potential for long lines and would help assure that registrants at all economic levels and social backgrounds would be able to cash their ration checks at establishments at which they are accustomed to doing business. Further, we may issue Government ration checks on a staggered basis.

Alternatives to a system of Government ration checks, including the direct mailing of ration coupons, have been thoroughly examined. It is our tentative view based on this analysis that, despite the inconveniences that may occur, a system of Government ration checks is required. Even with an endorsement requirement, the direct mailing of ration coupons would be the equivalent of mailing cash. The attendant risk of mail thefts under such a system would be too great.

2. § 570.62 Ration Rights Accounts.

Proposed § 570.62 would provide that any firm or individual may open a ration rights account at a participating bank. We would have authority under the proposal to establish a minimum initial deposit requirement, as well as other terms

and conditions governing the operation and maintenance of ration rights accounts as are deemed to be necessary. We could also establish a schedule of allowable fees which may be collected by ration banks to defray their costs of providing services in connection with the rationing program. We would also have authority to issue forms and instructions for the opening of such accounts. It is our current intention that the minimum initial deposit required for the opening of ration rights accounts would be set sufficiently high to limit their use to those entities which would otherwise be required to handle large numbers of ration coupons.

Ration rights accounts would operate in much the same manner as monetary checking accounts. Holders of ration rights accounts would be able to deposit ration coupons and ration checks in their account and write ration checks drawn against their accounts. Proposed § 570.62(b) would provide that no individual or firm could issue a ration check drawn upon a ration rights account in which there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account. It is intended that rules analogous to those governing normal commercial practices would govern in determining which party bears the burden of loss with respect to overdrawn ration checks. Fraud or forgery in the issuance of a ration check would, in addition to being a violation of other applicable Federal or State law, be a violation of the rationing regulations and subject to the penalties for willful violation.

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3. § 570.63 Redemption Accounts.

Redemption accounts would be used by suppliers for the deposit of ration rights they have received and redeemed for gasoline sales to end-users, and for the deposit of redemption checks they have received for gasoline sales, if any, to other suppliers. Suppliers would also deposit initial redemption advances in their redemption accounts.

Section 570.63(a) as proposed would allow suppliers, including retail sales outlets, to open a redemption account at any participating bank. § 570.63(b) would permit DOE to require some or all suppliers to open and maintain redemption accounts. We solicit comments as to whether redemption accounts should be required for all suppliers.

Participating banks would service redemption accounts in the same manner as ration rights accounts. DOE would establish forms and instructions for the opening of such accounts. Redemption account holders would be prohibited under proposed § 570.63(d) from writing a redemption check upon which there are insufficient deposits to cover that redemption check and other outstanding redemption checks drawn on that account. Because redemption checks represent deposits of redeemed ration rights, § 570.63(e) would provide that redemption checks would not be valid for deposit in a ration rights account. Since redemption accounts and redemption checks are intended for use solely by suppliers, as a further safeguard against misuse, § 570.63(e) would provide

that redemption checks would not be valid for the purchase of gasoline by wholesale purchaser-consumers, bulk purchasers and other ultimate consumers.

The proposed regulations do not prohibit transfers of redemption account sums from one person or firm to another. We specifically would like comments as to whether we should adopt such a restriction, except, of course, where redemption rights are transferred in exchange for a supply of gasoline.

4. § 570.64 Restrictions on Endorsements.

As proposed, § 570.64 would permit DOE to establish restrictions on endorsements of ration checks (including Government ration checks) and redemption checks.

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I. State Ration Reserves.

1. § 570.81 State Ration Reserves.

For each ration period, DOE would propose in § 570.81(a) to establish for each State a percentage of that State's total number of ration rights (which would be determined in the manner described in Part C of the preamble) as a State Ration Reserve (SRR). The ration rights in the SRR would be used to meet hardship needs of persons in the State and to provide for the mobility needs of the handicapped.

DOE proposes in § 570.81(b) to use five percent in the initial ration period as the amount of State total number of ration rights to be reserved for the SRR. DOE would have the discretion to modify this percentage both in the first ration period and in subsequent periods. In addition, a State could apply to DOE at any time to reduce or increase the amount of ration rights to be included in the SRR. A State which elects to have a smaller SRR would not lose ration rights. The difference would be included in the number of ration rights available for distribution generally to registrants, firms and others within that State.

DOE is providing flexibility to States in determining the size of their SRR since some States may be unwilling or unable to assume the additional paperwork and administrative costs of a large SRR. On the other hand, we expect that

H. National Ration Reserve.

Proposed § 570.71 would provide for a National Ration Reserve to meet national disaster relief needs or for any other purpose which the DOE may deem necessary.

In order to establish a market for the sale of ration rights, § 570.71 would provide that DOE may auction some ration rights from the National Ration Reserve to the public.

DOE would provide allotments from the National Ration Reserve to Canadian and Mexican firms that do business in the United States.

those persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system; and (iii) the percentage of the State total number of ration rights requested by the State to be reserved as a State Ration Reserve. The above procedure has been proposed because States and their political subdivisions are best able to meet the hardship needs of citizens during an emergency.

DOE would review the State plans, and if a plan is approved, DOE would delegate appropriate authority to administer the SRR allotted to that State and would inform the State of the percentage of the SRR.

In an effort to encourage States to begin their planning efforts early, proposed § 570.81(d) would provide that no SRR would be reserved for States which do not have an approved plan. In such an event, DOE would assume, to the extent practicable, the effort to provide for hardship needs in those States out of that State's allotment.

The ration rights for the SRR would be distributed by DOE to the States by transmitting a Government Ration check. State Rationing Offices would be required to report to DOE each month regarding administration of the SRR. A State Rationing Office could redelegate its authorities to local rationing boards, provided the local boards are of balanced composition reflecting the community as a whole.

many States will assume an active role in administering the SRR since it will be the most effective tool for responding to the needs of persons within the State. Generally, States will be given broad discretion and flexibility in the disposition of the SRR.

2. § 570.82 Establishment of State Rationing Offices and Local Boards.

Section 203(d) of the EPCA, as amended, prescribes that any rationing plan must set forth:

- (A) criteria for delegation of the President's functions, in whole or part, under this Act with respect to such rationing contingency plan to officers or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions thereof; and
- (B) procedures for petitioning for receipt of such delegations.

In accordance with this requirement, DOE has proposed for delegation of the President's authority in a manner which substantially involves States in the planning effort for gasoline rationing. Subsection (b) provides that, within 60 days after DOE establishes appropriate procedures, States may submit to DOE plans to receive delegations of authority and to administer the SRR. The plans must include such information as DOE may request, but specifically must include the following: (1) how the State proposes to establish a State Rationing Office and local boards to meet hardship needs and to provide for the mobility needs of the handicapped; (ii) efforts to be undertaken during the effective period of the Standby Gasoline Rationing Plan to meet the needs of

No State would be allowed to issue a ration check drawn upon a ration rights account if there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account.

DOE could authorize the States to sell to the public a portion of the ration rights from the SRR to increase the availability of ration rights.

Proposed § 570.82(j) authorizes DOE to establish procedures whereby all or a portion of the ration rights allotted to a SRR may be distributed by DOE, or by DOE in accordance with instructions provided by the State. As was noted in an earlier section of the preamble, certain States may not have the capability to administer a SRR, or may have accumulated a large surplus of ration rights. In such circumstances, the State could request DOE not to reserve any of the State total number of ration rights for the SRR in the next ration period and to distribute those ration rights directly to persons in the State.

3. § 570.83 Hardship Applications and Guidelines.

As required by EPCA sec. 203(a)(2)(A), proposed § 570.83(a) would direct State Rationing Offices, in their administration of the SRR, to consider the mobility needs of the handicapped. Further, State Rationing Offices would be required to consider the hardship needs of other individuals

and firms, such as low-income, long distance commuters, migrant workers, persons engaged in household moves, and other recurring or one-time hardship needs. States would also be required to consider the needs of persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system.

V. Specific Comments Requested

A. Allotments based on drivers' licenses or on registered vehicles

The two practical alternatives for distributing ration rights to individuals are on the basis of licensed drivers or registered vehicles, lists of which are maintained in both cases by States' Departments of Motor Vehicles (DMV's). Within the driving age population of approximately 160 million in the United States, about 80 percent, or 134 million, now hold drivers' licenses. DMV vehicle registration files contain approximately 130 million motor vehicle records, of which 106 million are estimated to be automobiles. To our knowledge, the use of other lists, or combinations of lists (such as social security files), or the use of individual applications made solely for the purposes of rationing would be expensive, subject to fraudulent misuse, or too slow to implement for the purposes of an emergency rationing plan.

After careful consideration of the advantages and disadvantages of the two practical alternatives, we have proposed a rationing plan based on vehicle registrations. We have concluded that such a plan would be more equitable than a plan based on drivers' licenses. The possession of a validly registered vehicle is a better indicator of need, as reflected in gasoline use, than possession of a driver's

license. In this respect, therefore, distributing allotments to vehicle registrants is the better means of providing ration rights to those who need them. On the other hand, a system that distributed allotments to all licensed drivers would provide ration rights to many individuals who do not drive or do so only occasionally.

DOE has received comments from some members of Congress and from the public presenting the view that a rationing plan based on vehicle registrations would benefit high income households at the expense of households with lower incomes. This concern is based on the assumption that high income households own more vehicles than lower income households, but do not have a commensurately higher need for gasoline.

In response to this concern, DOE has conducted an analysis of the effect either type of plan would have on households with different income levels in the event of a 20 percent gasoline shortfall. In making the computations, it was assumed that:

- o The per vehicle allotment would equal 75 percent of average per vehicle fuel use under a vehicle plan;

Table I

Average Household Annual Net Value
of Allotment Sales (Purchases)
(1977 dollars)

Household Disposable Income	Vehicle Based Plan	License Based Plan
Under 5,000	107	303
5,000 - 9,999	63	163
10,000 - 14,999	- 26	- 52
15,000 - 19,999	- 43	- 132
20,000 - 24,999	- 102	- 248
25,000 - 29,999	- 104	- 269
30,000 or more	- 63	- 267

* Department of Energy, Energy Information Administration,
Service Report, The Impact of Gasoline Rationing on Households
of Different Incomes and Location (forthcoming)

under a license based plan, each licensed driver would receive 75 percent of average per driver fuel use; however, because the data base does not contain information on the number of licensed drivers per household, and because it is likely that most of those who are eligible for licenses would obtain them under a rationing plan that provided entitlements to licensed drivers, we used persons 18 years of age or older as a proxy for licensed drivers; each household would reduce its fuel consumption by 25 percent.

The results are presented in Table 1.

The table shows that under a plan in which allotments are made on the basis of vehicle registrations, the average low income household would receive coupons in excess of its needs and would sell these coupons, thereby increasing its income. The average high income household, on the other hand, would be a net purchaser of coupons. These figures appear to rebut the argument that a vehicle-based plan would treat lower income families unfairly.

Table 1 also shows the income distributive effects of a rationing plan that would provide entitlements to all licensed drivers. This analysis confirms that providing entitlements to licensed drivers increases the income transfers from

households with higher incomes to those with lower incomes. This results principally from the fact that vehicle ownership per adult does tend to increase with household income. It should be noted, however, that while lower income households would derive considerably greater benefits from a license-based system, such a system would substantially increase the costs for not only high income households (above \$30,000) but also middle income households (between \$10,000 and \$30,000) as well.

Thus, our analysis shows that households with incomes below \$10,000 would indeed derive a greater benefit from a license-based plan than a vehicle-based plan. But in our tentative view, the more significant factor that should be derived from this analysis is that households with incomes below \$10,000 would also derive a net benefit from a vehicle-based plan, with much less adverse impact on middle income families. The vehicle-based plan would therefore appear to be the preferable option, because it is more likely to provide allotments roughly in proportion to need and would reduce the magnitude of ration rights transfers among households.

In addition, while both of the two alternatives would be accompanied by significant and complex administrative problems, the practical problems associated with implementation of a vehicle-based allotment system appear to

be less formidable. For example, in the absence of a national identification data bank, it is unlikely that DOE would be able to prevent individuals who have multiple drivers' licenses in different States from receiving multiple allotments. Also, the use of vehicle registrations would give ration allotments to firms with respect to their registered vehicles. This would give at least some ration rights to those firms who were not eligible for supplemental allotments; if ration rights were only distributed to licensed drivers, all firms would have to apply (at the beginning or prior to the start of rationing) for some form of allotment based on historical usage. This would significantly increase the implementation time for rationing (measured from the date rationing is announced to the effective date of rationing), and the administrative complexity and costs of the program.

Despite our tentative conclusion that vehicle-based entitlements would be equitable and administratively more feasible than a license-based system, we are interested in receiving comments on these issues, especially as to whether the practical problems associated with a drivers' license system are soluble.

B. Diesel Fuel Rationing

Section 203 of the EPCA requires the submission to Congress of a rationing plan not just for gasoline but also for "diesel fuel used in motor vehicles." There are major differences between the supply characteristics of gasoline and diesel fuel which require that the two fuels be rationed by separate and independent mechanisms. Our analysis to date suggests that the principal problem associated with developing a diesel fuel rationing plan is the interchangeability of highway diesel fuel with other fuels, particularly off-highway diesel fuel and home heating oil. We solicit comments on how a diesel fuel rationing plan could prevent highway diesel fuel consumers, subject to rationing from diverting non-rationed middle distillate to highway diesel use.

We will address the issue of a diesel fuel rationing plan following the submission of this Standby Gasoline Rationing Plan to the Congress.

C. Limitations on Allotments

When the previous rationing plan was being considered by Congress last spring, it was observed that under a rationing system based upon vehicle registrations persons or households with multiple vehicles would receive a greater number of ration coupons than persons or households with a single vehicle.

One solution to this potential problem would be to place a limitation on the number of ration allotments any individual or household could receive, notwithstanding the number of vehicles they had registered. However, existing vehicle registration files do not contain the necessary data to identify vehicle ownership on a per household or similar basis.

We would like comments on this issue, specifically addressing the questions of what the limit on allotments should be, if any, and how such a limitation could be enforced.

75b

D. Supplemental Allotments for Priority and Other Special Classes of End-Users.

Section 203(a)(1) of EPCA requires the rationing plan to order priorities among classes of end-users. Section 203(a)(3), added by EPCA, then requires that all these end-user rights be distributed on a "State-to-State basis that results in the degree of shortfall from the base period use being equally shared among the various States." In order to carry out the mandate of section 203(a)(3), we have provided that the total number of ration rights available to each State (STR) would be determined by multiplying each State's percentage of national gasoline consumption in the base period by the national supply of ration rights (minus a small National Ration Reserve). In other words, if the national supply shortfall is 25 percent, each State should suffer approximately a 25 percent shortfall as well.

Priorities among end-users, as indicated in sections 203(a)(1) and (3), are to be ordered on a State-to-State basis such that the national shortfall is equally shared among the States. That is, supplemental allotments for priority and other special classes of end-users within a State come from the State's supply of ration rights. The effect of this is that the greater the number of supplemental allotments made for these special classes of end-users in a State, the lesser the number of rights available to ordinary motorists and other end-users.

75c

Generally, we believe that most activities which qualify for supplemental allotments would not result in a significant impact on the available rights for individual motorists nationwide or in any particular State. One priority, energy production, and the special allotments for food and fiber production, however, would appear to impact some States more greatly than others. This result appears to be mandated by EPCA, as amended, however, because each State as a whole would be suffering equally in the shortfall, even though individual non-priority motorists in different States might not suffer equally.

We request comments on this feature of the proposal, its potential impact on particular States, and alternative ways to deal with this issue consistent with the requirements of section 203(a) of EPCA.

VI. Other Matters

A. Proposed Alternatives

In several sections of the preamble, alternatives to the proposed regulatory sections are identified and discussed. These alternatives also should be considered as proposals for a rationing rule. Where we are persuaded by public comment or further analysis that we should adopt an alternative proposal, we will do so in the final Standby Gasoline Rationing Plan rule.

B. Procedures for Promulgating the Standby Gasoline Rationing Plan Rule

Section 203(a) of the EPCA, as amended, requires the President to prescribe the rationing plan by rule. In Section 4 of Executive Order 11912 (41 F.R. 15825, April 15, 1976), as amended by Executive Order 12038 (43 F.R. 4957, February 7, 1978) the President has delegated to the Secretary of Energy only the responsibility to develop for the President's consideration such a rationing plan. As a result, the authority to prescribe the proposed rule remains with the President. Issuance of this proposed rule by DOE is being performed as a ministerial function at the direction of the President.

VII. Comment Procedures

A. Written Comments.

You are invited to participate in this rulemaking by submitting views, data or arguments with respect to the proposal set forth in this Notice. Comments should be submitted to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside envelope and on documents submitted with the designation, "Standby Gasoline Rationing Plan Regulations." Fifteen copies should be submitted. All comments received will be available for public inspection in the Economic Regulatory Administration (ERA) Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Comments should be received by January 9, 1980.

4:30 p.m. in order to be considered.

Any information or data you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearings.

1. Requesting Opportunity for Oral Statement. The time and place for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this Notice. If necessary to

You may submit questions to be asked of any person making a statement at the hearing. Such questions should be submitted to the address indicated above for requests to speak before 4:30 p.m. on the day prior to the hearing. If at the hearing you decide that you would like to ask a question of a witness, you may submit the question, in writing, to the presiding officer. In any case, the presiding officer will determine whether time limitations permit it to be presented for a response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing, including the transcripts, will be retained and made available for inspection at the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for us to cancel a hearing, we will make every effort to publish advance notice in the Federal Register of such cancellation. Moreover, we will give actual notice to all persons scheduled to testify at the hearing. However, it is not possible to give actual notice of cancellations or changes to persons not identified to us as participants. Accordingly, persons

present all testimony, the hearings will be continued to 9:30 a.m. of the next business day following the first day of the hearings.

Any person may make a written request for an opportunity to make an oral presentation at the hearings. You should provide a phone number where you may be contacted through the day before the hearings.

If you are selected to be heard, you will be so notified by the DOE before 4:30 p.m. on the day before the hearing. You must submit 100 copies of your statement before 9:30 a.m., on the date of the hearing at the hearing locations.

2. Conduct of the Hearing. We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing, which will not be adjudicative in nature. Questions may be asked only by those conducting the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

desiring to attend the hearing, are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VIII. Regulatory Analysis

The requirement in sec. 201(f) of the EPCA that a rationing contingency plan must be accompanied by an evaluation of its potential economic impacts was eliminated by an amendment to that section in EPCA sec. 103(c). An economic analysis was prepared for the final contingency rationing rule issued in February 1979, and this analysis will be updated and modified so as to provide a useful discussion of the new plan's economic impacts. Copies of the February 1979 analysis are available at the DOE Freedom of Information Reading Room, GA-152, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. Comments are requested on those portions of the February 1979 economic analysis that remain applicable to the present proposed plan.

The President has not delegated to DOE the authority to issue the Standby Gasoline Rationing Plan rule. This proposed rule is being issued as a ministerial duty by the DOE at the direction of the President. As a result, the authority to issue the rule remains with the President and the provisions of Executive Order 12044, "Improving Government Regulations" (43 FR 12661, March 24, 1978), regarding a regulatory analysis, are not applicable to this proposed rule.

IX. Environmental Report

As more fully explained in Part VI above, the authority to issue this proposed rule has not been delegated to DOE and thus remains with the President. The provisions of the National Environmental Policy Act (NEPA, 32 U.S.C. 4321 et seq.) do not apply to actions taken by the President. As a result, no environmental analysis in accordance with NEPA is required for this rule.

DOE did prepare an environmental report for the rationing plan issued in February 1979. Since the fundamental rationing concepts which could be considered to have an environmental impact have not been changed substantially from that plan, its analysis still is useful. In the Conference Report on S.1030 (125 Cong. Rec. H9142, H9150 (Oct. 12, 1979)) Congress also stated its belief that the existing environmental report is adequate for the new plan. The environmental report is available for public review in the DOE Freedom of Information Reading Room, GA-152, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C.

In addition to the updated economic analysis, DOE also plans to issue the "progress report" required by EPCA sec. 102 at the time the Standby Gasoline Rationing Plan is submitted to Congress. This report is required to contain an analysis of many issues related to the development of a rationing plan.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 11912; Emergency Energy Conservation Act of 1979, Pub. L. 96-102; Executive Order 11912 (41 FR 15825, April 15, 1976), as amended by Executive Order 12038 (43 FR 4957, February 7, 1978).

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued pursuant to the express direction of the President of the United States, in Washington, D.C., December 1, 1979.


 Douglas G. Robinson
 Acting Administrator
 Economic Regulatory Administration

Chapter II, Title 10 of the Code of Federal Regulations is amended to add a new Part 570, to read as follows:

Part 570 - STANDBY GASOLINE RATIONING PLAN REGULATIONS

Subpart A -- General Provisions

- 570.1 Scope.
- 570.2 General definitions.
- 570.3 Penalties and violations.
- 570.4 Reporting requirements.
- 570.5 User fees.
- 570.6 Authority to contract or delegate.
- 570.7 Authority to issue regulations, rules, orders and guidelines.

Subpart B -- Ration Rights: General Provisions

- 570.11 Distribution of ration rights.
- 570.12 Disposition of Government ration checks.
- 570.13 Ration rights.
- 570.14 Mandatory transfers of ration allotments.

Subpart C -- Computation of Reserves and Allotments

- 570.21 Definitions.
- 570.22 Calculations.
- 570.23 Ration rights purchases and sales.

Subpart D -- Supplemental Allotments

- 570.31 Priority class activities.
- 570.32 Farming.
- 570.33 Off-highway vehicles.
- 570.34 Other supplemental allotments.
- 570.35 Application procedures.
- 570.36 Precedence of delivery.

Subpart A -- General Provisions

§ 570.1 Scope.

(a) This Part applies in all or such parts of the United States as specified by DOE to the end-use rationing of gasoline refined in or imported into the United States.

(b) Effective date. These regulations shall become effective severally or in toto on a date or dates to be specified and published by DOE, subject to the provisions of sec. 201(d) of the Energy Policy and Conservation Act (Pub. L. 94-163, EPCA), as amended by the Emergency Energy Conservation Act of 1979 (Pub. L. 96-102).

(c) Relationship to other Parts. Unless otherwise specified, the provisions of Parts 205, 210, 211, and 212 of this Chapter shall apply to this Part.

(d) Title. This Part shall be entitled the Standby Gasoline Rationing Plan.

§ 570.2 General definitions.

For purposes of this Part--

"Allotment" means the value, in gallons of gasoline, of the ration rights issued to a ration recipient.

"Base period" means a period in the base year corresponding to the current calendar month or quarter, or current ration period, as appropriate.

Subpart E -- Purchase of Gasoline

570.41 General.
570.42 Supplier disposition of ration rights and ration checks.
570.43 Supplier's obligation to its supplier.
570.44 Principal supplier's obligation to DOE.
570.45 Redemption advances.
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AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended; Energy Policy and Conservation Act, Pub. L. 94-163, as amended; Emergency Energy Conservation Act of 1979, Pub. L. 96-102; Executive Order 11912 (41 F.R. 15825, April 15, 1976), as amended by Executive Order 12038 (43 F.R. 4957, February 7, 1978).

"Base year" means (1) the 12 calendar month period provided in the definition of "base period" in 10 CFR 211.102; (2) in the event that Special Rule No. 1 of 10 CFR Part 211 is implemented, the same 12 month period as specified in or designated pursuant to the definition of "base period" in 10 CFR 211.102; or (3) in the event Subpart F of Part 211 is not in effect, the 12 calendar month period designated by DOE.

"Bulk purchaser" means any firm which is an ultimate consumer and which, as part of its normal business practice, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm, or (c) receives delivery of that product for use in cargo, freight and mail hauling by truck.

"DOE" means the Department of Energy or the delegate of the Secretary of Energy.

"Eligible individual" means a natural person designated by DOE as eligible to receive ration rights on the same basis as a registrant of a specified vehicle classification.

"Emergency services" means law enforcement, fire fighting, United States Postal Service, snow removal, emergency medical services and telecommunications services.

"Energy production" means energy production as that term is defined in § 211.51 of Part 211 of this Chapter.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship, or any other entity however organized, including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The DOE may, in regulations and orders issued under this Part, treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"Gasoline" means motor gasoline as defined in § 211.51 of Part 211 of this Chapter excluding, however, aviation fuels as defined in § 211.142 of Part 211 of this Chapter.

"Government ration check" means a ration check issued by DOE to a ration recipient.

"National Ration Reserve" means the ration rights reserved by DOE each ration period pursuant to Subpart H of this Part.

"Principal supplier" means a supplier which refines gasoline in or imports gasoline into the United States.

"Public passenger transportation" means (a) facilities and services for surface public transportation whether

publicly or privately owned, including water, rail, bus and van transportation, and taxicabs; and (b) bus and van transportation of pupils to and from school.

"Ration check" means a negotiable document issued pursuant to the authority of this Part, other than a ration coupon or redemption check, evidencing the right to purchase specified volumes of gasoline.

"Ration coupon" means a coupon issued by DOE entitling the bearer to purchase a specified volume of gasoline:

"Ration period" means that period of time for which

DOE calculates the projected available supply of gasoline and determines ration right allotments for ration recipients.

"Ration recipient" means a registrant, eligible individual, firm or other person allotted ration rights under the provisions of this Part.

"Ration rights" means ration coupons and ration checks or any other documents authorized by this Part that shall be evidence of or establish rights to purchase specified volumes of gasoline.

"Ration rights account" means an account opened pursuant to the provisions of § 570.62 of this Part for the deposit and withdrawal of ration rights.

"Redeemed ration rights" means ration rights accepted by a supplier in exchange for the sale of gasoline, and cancelled by that supplier pursuant to § 570.42 of this Part.

"Redemption account" means an account opened by a supplier pursuant to the provisions of § 570.63 of this Part for the deposit of ration rights received and redeemed in exchange for the sale of gasoline, and for the deposit of redemption checks received from other suppliers in exchange for the sale of gasoline.

"Redemption check" means a check drawn on a redemption account by a supplier who is the holder of that account.

"Registrant" means the party with the most recent valid vehicle registration for a vehicle which has been determined by DOE as eligible for an allotment.

"Retail sales outlet" means a site on which a supplier maintains an on-going business of selling gasoline to ultimate consumers, provided that the major gasoline sales activity of that supplier is to supply gasoline to vehicles for consumption in such vehicles as fuel.

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities. Sanitation

services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

"State" means any one of the fifty States, the District of Columbia, Puerto Rico or any territory or possession of the United States.

"State Rationing Office" means the office established or designated by each State to carry out the authorities delegated to that office by DOE pursuant to Subpart I of this Part.

"State Ration Reserves" means the ration rights provided to the State Rationing Offices by DOE for distribution within the States.

"Supplemental allotment" means the allotment distributed to a firm, farming, priority class activity or other person pursuant to Subpart D of this Part.

"Supplier" means any firm or any part or subsidiary of any firm, other than the Department of Defense, which presently, during the base period, or during any period between the base period and the present, supplies, sells, transfers or otherwise furnishes (as by consignment) gasoline to wholesale purchasers or end-users, including, but not limited to refiners, importers, resellers, jobbers, and retailers.

"Telecommunications services" means the repair, operation and maintenance of voice, data, telegraph, video and similar communication services to the public by a communications common carrier, during periods of substantial disruption of normal service, excluding sales and routine administrative activities.

"United States" means the fifty States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

"Wholesale purchaser" means a wholesale purchaser-reseller or wholesale purchaser-consumer, or both.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains gasoline from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of gasoline for its own use in agricultural production in the base year, or (b) purchased or obtained more than 84,000 gallons of gasoline in the base year.

"Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) gasoline and resells or otherwise transfers it to other purchasers without substantially changing its form.

or conceal any falsely made, forged, counterfeited, or altered ration check, ration coupon or other ration right or redemption check.

(c) No person shall buy, sell, exchange, transfer, receive, or deliver any false, forged, counterfeited, or altered ration check, ration coupon or other ration right or redemption check, with the intent that the same be passed, published, or used as true and genuine.

(E) A ration right or any other evidence of right prepared by or on behalf of the United States for use in connection with a rationing contingency plan shall be considered to be an obligation or other security of the United States for purposes of Title 18, United States Code.

§ 570.4 Reporting requirements.

DOE shall require the filing of such information or reports as it deems necessary to administer the Standby Gasoline Rationing Plan.

§ 570.5 User fees.

DOE may impose a uniform fee on each gallon of gasoline sold during the period for which these regulations are in effect solely to defray the expenses of administering and operating the Standby Gasoline Rationing Plan.

§ 570.6 Authority to contract or delegate.

DOE may delegate or contract for the carrying out of all or any part of its functions under this Part.

§ 570.3 Penalties and violations.

(a) Any person who violates any provision of these regulations or any order or rule issued pursuant thereto shall be subject to the penalties as set forth in section 5 of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159), in sections 524 and 525 of the Energy Policy and Conservation Act (Pub. L. 94-163), and in Subpart P of Part 205 of this Chapter.

(b) Any firm having custody, care or control of ration coupons, Government ration checks or other ration rights shall at all times, in receiving, storing, transmitting, or otherwise handling ration rights, take all reasonable precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit ration coupons, Government ration checks or other ration rights, and to avoid any unauthorized transfer, negotiation, or use of ration coupons, Government ration checks or other ration rights. Such firms shall also safeguard ration coupons, Government ration checks or other ration rights from theft, embezzlement, loss, damage, or unauthorized destruction.

(c) No person shall, with intent to defraud, falsely make, forge, counterfeit, or alter any ration check, ration coupon or other ration right or redemption check.

(d) No person shall, with intent to defraud, pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States or keep in possession

§ 570.7 Authority to issue regulations, rules, orders, and guidelines.

DOE may issue such additional regulations, rules, orders, and guidelines, and may make such adjustments, as are necessary to administer and implement the provisions of these regulations.

Subpart B -- Ration Rights: General Provisions

§ 570.11 Distribution of ration rights.

(a) Ration rights will be issued in the form of Government ration checks distributed to ration recipients. DOE in its discretion also may issue ration rights directly to ration recipients, may deposit them directly into ration rights accounts, or may otherwise provide for their distribution.

(b) DOE may establish procedures whereby all or a portion of the ration rights allotted to a State Ration Reserve may be distributed by DOE, or by DOE in accordance with instructions provided by the State Rationing Office in that State.

(c) Notwithstanding any other provision of this Part, DOE may provide for the separate rationing of leaded and unleaded gasoline or gasohol.

§ 570.12 Disposition of Government ration checks.

Government ration checks may be disposed of as follows:

(a) Government ration checks may be exchanged for ration coupons at coupon issuance points pursuant to Subpart G of this Part.

(b) Government ration checks may be deposited in a ration rights account and may be subsequently withdrawn as ration rights pursuant to § 570.62 of this Part.

(c) Government ration checks may be surrendered to a supplier when purchasing gasoline.

(d) Government ration checks may be transferred or sold to any individual or firm.

§ 570.13 Ration rights.

(a) Value of ration coupons. A ration coupon entitles the bearer to purchase the number of gallons indicated on the face of the coupon, or such other amount as shall be determined and announced by DOE.

(b) Validity of ration coupons. Unless declared invalid by DOE or redeemed pursuant to § 570.42, ration coupons of a given series designation shall be valid from a date specified in an Order published by DOE through the end of the Standby Gasoline Rationing Plan.

(c) Validity of the ration rights. DOE may establish limitations on the period of time for which any ration right issued under the authority of this Part shall remain valid.

§ 570.14 Mandatory transfers of ration allotments

DOE may require the lessor of a registered vehicle receiving ration allotments to transfer such ration allotments to the lessee of such vehicle according to terms and conditions established by DOE.

Symbol

Meaning

AI	The allotment index, which expresses the value of the allotment for any vehicle in a given vehicle classification in relation to the allotment for private automobiles (the allotment index for private automobiles will be 1.0).
CVP	The classification vehicle point, which is the sum of all vehicles in a given vehicle classification, multiplied by the allotment index for that vehicle classification.
TVP	The total vehicle points, which is the sum of the classification vehicle points (CVP's) for all vehicle classifications.
SBA	The State basic allotment for each private automobile or other vehicle with an allotment index (AI) of 1.0.
NBA	The distributed basic allotment, which is the number of ration rights in gallons allotted for a given type of vehicle.

570.22 Calculations.

For each ration period, DOE shall project the available supply of gasoline and, based on this projection, shall determine the national total number of ration rights (NTR) to be distributed. The computation of allotments shall be made as follows:

(a) National Net Number of Rights (NNR). The national net number of rights (NNR) is computed by subtracting from the national total number of rights (NTR) the National Ration Reserve (NRR).

$$NNR = NTR - NRR$$

Subpart C -- Computation of Reserves and Allotments

§ 570.21 Definitions.

The following symbols have the following meanings:

Symbol

Meaning

NTR	The total number of ration rights to be distributed within the United States during a ration period.
NNR	The number of ration rights available for distribution within the States.
NRR	The number of ration rights to be reserved for use in the National Ration Reserve for the ration period.
STR	The total number of ration rights available to each State for the ration period.
SBPU	State base period use, which equals the total of gasoline consumption in a given State during the base period.
NBPU	National base period use, which equals the total of gasoline consumption in the United States during the base period.
SNR	The net number of ration rights available to a State for distribution as basic and supplemental allotments.
SRR	The number of ration rights distributed to the States for the State Ration Reserves for the ration period.
SA	The projected number of supplemental allotments to farming, priority class activities and other persons or firms for the ration period.
SBR	The number of ration rights in a State available for distribution as basic allotments.
VC	Vehicle classification(s) to be established by DOE for all vehicles designated by DOE as eligible to receive allotments.

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(2) The sum of the CVP's for all vehicle classifications equals the total vehicle points (TVP):

$$TVP = CVP_1 + CVP_2 + \dots + CVP_n$$

where n = the number of classifications.

(3) The State basic allotment (SBA) equals the State basic rights (SBR) divided by the total vehicle points (TVP) within the State.

$$SBA = \frac{SBR}{TVP}$$

(f) Distributed Basic Allotment (DBA). For each State, the value of ration rights in gallons distributed to the registrant of a given vehicle for a ration period equals the State basic allotment (SBA) multiplied by the allotment index (AI) for that vehicle, such product to be rounded by DOE if necessary.

$$DBA = SBA \times AI$$

(g) Length of the ration period. The length of each ration period shall be three months or such other period as DOE may prescribe.

§ 570.23 Ration rights purchases and sales.

(a) DOE is authorized to issue and distribute by auction, sale or such other means as determined by DOE, additional ration rights where necessary:

- (1) to establish a market for ration rights;
- (2) to equilibrate the number of ration rights issued with the actual supply of gasoline,

or

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(b) State Total Rights (STR). The total number of ration rights available to each State (STR) is determined by multiplying the national net rights (NNR) by the ratio of State base period gasoline use (SBPU) to national base period gasoline use (NDPU).

$$STR = NNR \times \frac{SBPU}{NDPU}$$

(c) State Net Rights (SNR). The net number of rights in a State, available for distribution as basic and supplemental allotments, is computed by subtracting from the State total rights (STR) the number of rights in the State Ration Reserve (SRR).

$$SNR = STR - SRR$$

(d) State Basic Rights (SBR). The number of rights in a State available for distribution as basic allotments (SBR) is computed by deducting from the State net rights (SNR) the projected number of supplemental allotments (SA) to be distributed as provided in Subpart D.

$$SBR = SNR - SA$$

(e) State Basic Allotment (SBA). The State basic allotment is computed as follows:

- (1) The sum of all vehicles registered in the State in a given vehicle classification is multiplied by the allotment index (AI) for that classification to yield a classification vehicle point (CVP).

$$CVP = VC \times AI$$

each firm or classification of priority activity, less all other allotments attributable to its priority activity provided to such firm under any other provisions of this Part:

(1) The Department of Defense, with respect to its activities directly related to the maintenance of national security;

(2) Emergency services;

(3) Sanitation services;

(4) Public passenger transportation; and

(5) Energy production.

(b) DOE may designate other activities as priority class activities, and firms engaged in such activities shall be eligible to apply for a supplemental allotment pursuant to paragraphs (a) and (c) of this section.

(c) Any firm applying for a supplemental allotment as a priority class activity shall submit an application to DOE according to forms and procedures to be established by DOE.

In addition to reporting its total gasoline consumption for the base period, a firm applying for a supplemental allotment for a priority class activity shall report that portion of its total base period gasoline consumption attributable to a priority class activity, and the number and types of vehicles engaged in a priority class activity, and such other information as DOE may require.

(3) for such other purposes as DOE may determine to be appropriate to assure that adequate ration rights are available to carry out the purposes of the Standby Gasoline Rationing Plan.

(b) To the extent that funds are available, DOE is authorized to purchase ration rights where necessary:

(1) to equilibrate the number of ration rights issued with the actual supply of gasoline;

or

(2) to carry out the purposes of the Standby Gasoline Rationing Plan.

(c) Where funds are not available, DOE may take such other actions as may be necessary to equilibrate the number of ration rights issued with the actual supply of gasoline, including making adjustments to the national total number of ration rights (NTR) in the next ration period pursuant to § 570.22.

Subpart D -- Supplemental Allotments

§ 570.31 Priority class activities.

(a) A firm with respect to its activities in any of the following classifications may apply to DOE for a supplemental allotment equal to a percentage of such firm's consumption of gasoline attributable to its priority activities during the base period, such percentage to be determined by DOE for

§ 570.32 Farming.

Supplemental allotments for off-highway vehicles and equipment used in the agricultural production of food and fiber will be provided in a timely manner and in amounts adequate to meet fully food and fiber production goals approved by the President.

§ 570.33 Off-highway vehicles.

A firm may apply to DOE for a supplemental allotment if in the base year such firm consumed gasoline in vehicles or equipment determined by DOE to qualify as off-highway vehicles and equipment and such firms meet such additional eligibility requirements to be established by DOE.

§ 570.34 Other supplemental allotments.

(a) DOE may designate other classes of firms or any individual firm to receive supplemental allotments on a basis to be established by DOE.

(b) Any person, including eligible individuals, may apply to DOE for a supplemental allotment, in accordance with criteria to be established by DOE.

§ 570.35 Application procedures.

A firm or other person applying for a supplemental allotment shall submit an application to DOE according to forms and procedures to be established by DOE.

§ 570.36 Precedence of delivery.

Prior to arranging gasoline delivery schedules for any other purchasers, suppliers shall first establish mutually satisfactory delivery schedules with all their base period purchasers which qualify as priority class firms pursuant to § 570.31 of this Part.

Subpart E -- Purchase of Gasoline

§ 570.41 General.

(a) Except as otherwise provided in paragraph (b) and (c) below, no supplier may sell or otherwise transfer gasoline without obtaining from the purchaser at the time of sale or transfer ration rights equal on a gallon basis to the amount of gasoline transferred.

(b) A retail sales outlet may transfer gasoline to a purchaser without first obtaining ration rights from that purchaser, if the retail sales outlet obtains the appropriate amount of ration rights from any source within a time period to be designated by DOE.

(c) No supplier may sell or otherwise transfer gasoline to a supplier (including a wholesale purchaser-reseller) without securing from the supplier by the close of the first business day following the date of sale or transfer a redemption check or redeemed ration rights equal on a gallon basis to the amount of gasoline transferred.

No supplier may sell or otherwise transfer gasoline to a

rights account on which the ration check (other than a Government ration check) is drawn, the payee shall be liable for the deficiency, with recourse against the payor.

§ 570.42 Supplier disposition of ration rights and ration checks.

A supplier (including a retail sales outlet) which accepts ration coupons or ration checks (including Government ration checks) in exchange for gasoline shall at the time of exchange redeem all such coupons or checks by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed." No supplier shall sell or otherwise transfer gasoline for consumption to a purchaser in exchange for ration coupons that have previously been redeemed.

§ 570.43 Supplier's obligation to its supplier.

(a) A supplier shall deliver to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal on a gallon basis to the volume of gasoline received.

(b) A supplier that has a redemption account shall promptly deposit all redemption checks and redeemed ration rights received in its redemption account.

§ 570.44 Principal supplier's obligations to DOE.

Each principal supplier shall file with DOE in such form and for such period as shall be designated by DOE, a report certifying the volume of gasoline sold during the

wholesale purchaser-consumer or bulk purchaser without securing from the wholesale purchaser-consumer or bulk purchaser by the close of the first business day following the date of sale or transfer ration rights equal on a gallon basis to the amount of gasoline transferred.

(d) No purchaser may tender, and no supplier may accept ration coupons of a given series designation in exchange for gasoline prior to the date for which such series designation has been declared valid by DOE pursuant to § 570.13(b) of this Part.

(c) Subject to the provisions of § 570.64 of Subpart G of this Part, and subject to such regulations as DOE may develop, unredeemed ration rights may be freely transferred for or without consideration.

(f) No supplier (including a retail sales outlet) shall require any purchaser to purchase ration rights from any firm (including itself) as a condition of transferring gasoline.

(g) No supplier (including a retail sales outlet) may refuse to accept valid ration coupons offered as evidence of entitlement to purchase gasoline if such coupons are tendered by a customer at the time of sale. A supplier may accept ration checks, including Government ration checks, from a customer as evidence of entitlement to purchase gasoline, but if there are insufficient ration rights in the ration

reporting period, and shall submit with such report a redemption check equal on a gallon basis to the volume of gasoline sold during the reporting period.

§ 570.45 Redemption advances.

(a) Every supplier shall be entitled to receive an initial redemption advance according to a formula to be established and published by DOE. Such formula shall take into account the needs, if any, of suppliers located in remote areas subject to infrequent or irregular delivery schedules and suppliers in areas subject to highly seasonal demand.

(b) DOE may provide for such additional redemption advances as it deems necessary.

(c) DOE shall require suppliers receiving redemption advances to repay such advances to DOE according to terms and conditions established and published by DOE.

§ 570.46 Inventory changes.

(a) Each supplier (including a retail sales outlet), shall report according to forms and instructions to be issued by DOE its inventory of gasoline, measured on the first day of rationing before any sales of gasoline are made, measured at the end of the rationing program, and measured at intervals to be specified by DOE.

(b) Any supplier (including a retail sales outlet), whose inventory at the close of the rationing program or at such other intervals as designated by DOE is less than its inventory measured on the first day of rationing may be required to submit a redemption check or redeemed ration rights to DOE or its delegate equal on a gallon basis to the amount of inventory drawdown, less an amount to be specified by DOE for losses due to spillage, evaporation and shrinkage.

§ 570.47 Blends.

For fuels which are a blend of motor gasoline and other substances, DOE may make such volumetric adjustments as it deems appropriate.

Subpart F -- Allocation of Gasoline

§ 570.51 Relationship to Parts 210 and 211.

(a) Except where inconsistent with the provisions of this Part, the provisions of Parts 210 and 211 of this Chapter shall continue to apply when this Part is in effect.

(b) The allocation levels as provided in § 211.103 shall not apply when this part is in effect. Each purchaser entitled to an allocation level under section 211.103 shall have an allocation level of 100 percent of base period use subject to an allocation fraction. However, DOE may raise the allocation levels for firms receiving supplemental allotments or with priority classification.

(c) Each supplier and wholesale purchaser-reseller shall supply to each wholesale purchaser and bulk purchaser volumes of gasoline in accordance with Part 211 of this Chapter; provided, that each purchaser's right to receive product is limited by the requirements under § 570.41 of this Part to provide either ration rights or redeemed ration rights, as applicable.

Subpart C --- Ration Banking

§ 570.61 Coupon issuance points and participating banks.

(a) Payees or endorsees of ration checks or such other documents or evidence of right as DOE may authorize may exchange them for ration coupons of equal value at coupon issuance points.

(b) Subject to terms and procedures to be established by DOE, DOE may authorize certain firms and institutions to act as (1) coupon issuance points to issue ration coupons in exchange for ration checks or such other documents or evidence of right as DOE may authorize, and (2) participating banks to provide ration rights accounts and redemption accounts.

(c) Coupon issuance points and participating banks shall maintain such records and issue such reports as may be required from time to time by DOE.

§ 570.62 Ration rights accounts.

(a) Any firm or individual may establish a ration rights account in accordance with forms and procedures to be established by DOE. DOE may by order and notice establish a minimum initial deposit, allowable fees, and other terms and conditions governing the operation and maintenance of ration rights accounts.

(b) No individual or firm shall issue a ration check for which no ration rights account has been established or drawn upon a ration rights account in which there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account.

§ 570.63 Redemption accounts.

(a) Each supplier, including a retail sales outlet, may open a redemption account at any participating bank for the deposit of an initial redemption advance, if any, redeemed ration rights, and redemption checks.

(b) DOE may require some or all suppliers to open and maintain redemption accounts.

(c) The opening of a redemption account and the receipt of deposits therefor shall be made at participating banks according to forms and procedures to be established by DOE.

(d) No individual or firm shall issue a redemption check for which no redemption account has been established or drawn upon a redemption account in which there are

insufficient deposits to cover that redemption check and other outstanding redemption checks drawn on that account.

(e) Redemption checks shall not be valid for deposit in a ration rights account, nor shall redemption checks be valid for the purchase of gasoline by a wholesale purchaser-consumer, bulk purchaser or other ultimate consumer.

§ 570.64 Restrictions on endorsements.

DOE may establish limitations on the endorsements of ration checks and redemption checks.

Subpart II -- National Ration Reserve

§ 570.71 National Ration Reserve.

(a) The National Ration Reserve shall be used by DOE to meet national disaster relief needs, or to provide ration rights for sale to the public in order to establish a market for ration rights, or to provide allotments to meet the needs of Canadian and Mexican firms, or for any other purpose at the discretion of DOE.

(b) For each ration period, DOE shall determine a percentage of the national total number of ration rights for which ration rights shall be reserved by DOE for the National Ration Reserve.

Subpart I -- State Ration Reserves

§ 570.81 State Ration Reserves.

(a) For each ration period, DOE shall establish for each State a percentage of that State's total number of ration rights (SRK, as determined in Subpart C) for which ration rights shall be reserved by DOE for that State as a State Ration Reserve to meet the needs and hardships of end-users.

(b) For the initial ration period, the State Ration Reserve shall be five percent of the State total number of ration rights, or such other percentage as DOE may determine. A State may apply to DOE at any time to reduce or increase the amount of ration rights to be included in the State Ration Reserve.

(c) For each subsequent ration period, the State Ration Reserve allotment shall be determined by DOE after consultation with each State.

§ 570.82 Establishment of State Rationing Offices and local boards.

(a) As soon as practicable after the Standby Gasoline Rationing Plan is approved by Congress in accordance with EPCA Sec. 201(d), DOE will establish procedures for delegation of functions under this Part to a State Rationing Office and to officers or local boards (of balanced composition reflecting the community as a whole) of a State or political subdivision thereof.

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(b) Within 60 days after DOE establishes procedures under subsection (a), each State may submit to DOE a plan to receive a delegation of authority from DOE and to administer the State Ration Reserve. The State plans shall include such information as DOE may request, including the following:

(1) how the State proposes to establish a State Rationing Office and local boards to meet hardship needs and to provide for the mobility needs of the handicapped; (2) efforts to be undertaken during the effective period of the Standby Gasoline Rationing Plan to meet the needs of those persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system; and (3) the percentage of the State total number of ration rights requested by the State as a State Ration Reserve.

(c) DOE shall review the State plan submitted under subsection (b), and if approved DOE shall delegate appropriate authority to administer the State Ration Reserve allotted by DOE to that State. DOE also shall inform the State of the percentage of the State total number of ration rights to be allotted as a State Ration Reserve.

(d) Any State which does not have a State plan approved under subsection (c) shall not be provided any ration rights for a State Ration Reserve.

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(e) The State Ration Reserves will be distributed by DOE to the State Rationing Offices by transmitting a Government ration check to each State.

(f) Each month the State Rationing Office shall report to DOE with respect to the preceding month: (1) the number of hardship petitions received by category of hardship alleged, (2) the disposition made of hardship applications, (3) the amount of ration rights issued from the State's Ration Reserve, and (4) such other information as DOE shall require.

(g) The State Rationing Office may redelegate the authority given to it by DOE to local rationing boards, provided they meet the balanced composition criteria set forth in paragraph (a).

(h) No State shall issue a ration check drawn upon a ration rights account if there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that ration rights account.

(i) DOE may authorize the States to sell to the public a portion of the ration rights from the State Ration Reserves in order to establish a market for the sale of ration rights.

(j) DOE may establish procedures whereby all or a portion of the ration rights allotted to a State Ration Reserve may be distributed by DOE, or by DOE in accordance with instructions provided by the State Rationing Office in that State.

§ 570.83 Hardship applications and guidelines.

(a) Hardship applications will be received by the State Rationing Office or its delegate for review and determination. In its administration of the State Ration Reserve, a State Rationing Office or its delegate shall consider the mobility needs of handicapped persons. In addition, the State Rationing Office or its delegate shall consider the hardship needs of other individuals and firms, such as low-income, long-distance commuters, migrant workers, persons engaged in household moves, and other recurring or one-time hardship needs, and the needs of persons in suburban and rural areas, particularly mid-sized cities, small towns and rural communities not adequately served by any public transportation system.

(b) For purposes of this section, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services and who has a substantial impediment to mobility.

Notices

Federal Register

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Monday, December 10, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

North American Auction Co., Platte City, Mo.; Proposed Posting of Stockyards

The Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture, has information that the livestock market named below is a stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

MO-248, North American Auction Company
Platte City, Missouri.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyard named above as a posted stockyard subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards, Agricultural Marketing Service, United States Department of Agriculture Washington, D.C. 20250, by December 26, 1979.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 3rd day of December 1979.

Edward L. Thompson,

Chief, Registrations, Bonds and Reports
Branch Livestock Marketing Division.

[FR Doc. 79-37745 Filed 12-7-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Paddy Creek Wilderness Study Area; Mark Twain National Forest, Texas County, Missouri; Intent to Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement for the Paddy Creek Wilderness Study Area. The Paddy Creek Area was designated a wilderness study area by Pub. L. 94-557, October 19, 1976. It was also an inventoried area in the Forest Service Roadless Area Review Evaluation (RARE II) process which culminated in a final environmental impact statement released on January 4, 1979.

The RARE II process served to identify issues and concerns that will be developed in the Paddy Creek Wilderness Study. It also established the possible alternatives that will be considered: (1) Designation as wilderness, (2) continue present management, (3) designation as special management area under the Forest Service's authority.

It is anticipated that the draft environmental impact statement will be available in February 1980, and the final environmental impact statement in June 1980. A public hearing will be held during the draft review period; time and place to be announced at a later date.

R. Max Peterson, Forest Service Chief, is the responsible official and James T. Hunt, Forester on the Mark Twain National Forest (314-364-4621) is the coordinator for the environmental impact statement.

Comments on the Notice of Intent or on the project should be sent to the Forest Supervisor, Mark Twain National Forest, 401 Fairgrounds Road, Rolla, Missouri, 65401.

December 4, 1979.

R. Max Peterson,
Chief, Forest Service.

[FR Doc. 79-37780 Filed 12-7-79; 8:45]
BILLING CODE 3410-11-M

Soil Conservation Service

Paw Paw Bottoms Watershed Project, Okla.

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Availability of the Record of Decision.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624-4360.

NOTICE: Pursuant to the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that a decision has been made to implement the drainage and flood prevention plan developed for Paw Paw Bottoms Watershed project, Sequoyah County, Oklahoma. The planned works of improvement include 8.13 miles of channel work and three grade control structures.

The environmental impact statement prepared for this federally-assisted action indicates that the impacts of the project are primarily beneficial and that the minor adverse impacts are acceptable in terms of tradeoffs. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the plan for this project should be implemented.

The draft environmental impact statement has been circulated for review and the final environmental impact statement has been filed with the Environmental Protection Agency (EPA).

The record of decision has been forwarded to the EPA. A limited number of copies of this document are available to fill single copy requests. The copies may be requested from the Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624-4360.

Date: November 30, 1979.

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

[FR Doc. 79-37719 Filed 12-7-79; 8:45]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket No. 37163]

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended November 30, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air

carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
Nov. 27, 1979	37163	Ozark Air Lines, Inc., Lambert-St. Louis International Airport, St. Louis, Missouri 63145. Application of Ozark Air Lines, Inc. under Subpart Q, pursuant to Section 401 of the Act, requests amendment of its certificate of public convenience and necessity for Route 107 so as to authorize it to engage in nonstop scheduled air transportation of persons, property and mail over the following segment: Between the alternate terminal points, Baltimore, Maryland; Washington, D.C. (National); and Washington, D.C. (Dulles); and the alternate terminal points Chicago, (O'Hare) and Chicago (Midway), Illinois; Dallas/Fort Worth, Texas; Kansas City, Missouri; Milwaukee, Wisconsin; Nashville, Tennessee; and Indianapolis, Indiana. Answers may be filed no later than December 11, 1979.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-37784 Filed 12-7-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 33361 and 32413]

Former Large Irregular Air Service Investigation (Application of Standard Airways); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on February 12, 1980, at 9:30 a.m. (local time), in Hearing Room 1003 B, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and

other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 4, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-37783 Filed 12-7-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 37020]

Intra-Alaska Service Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-styled case is set to be conducted on January 8, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

In light of time constraints (the 150 day Rule) the procedural dates for the proceeding are established as follows:

A. Requests for information, restatement of issues and/or subsumed/subordinate issue—December 12, 1979.

B. Responses to "A" above, not later than December 28, 1979.

C. Prehearing Conference, if any, January 8, 1980.

D. Hearing—January 22, 1980.

E. Briefs—February 12, 1980.

It is the hope of the Judge that a prehearing conference will be unnecessary in which event the hearing and briefs will be advanced to January 8, 1980 and January 22, 1980, respectively. Every effort by Counsel for the parties should be bent to iron out their stipulations, statements of position, etc. and exchange of direct cases reasonably prior to the hearing, having in mind good faith efforts by all concerned. Accordingly, exchanges by phone between all counsel to this end are encouraged. Counsel for the Bureau will notify the Judge prior to the Prehearing/Hearing date of the outcome of such discussions, looking toward the elimination of the prehearing phase or simultaneous prehearing and hearing commencing on January 8, 1980.

Dated at Washington, D.C., December 4, 1979.

Richard M. Hartsock,

Administrative Law Judge.

[FR Doc. 79-37782 Filed 12-7-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Exporters' Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10:00 a.m., on January 9, 1980, in Room 3817, U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee, which is comprised of 24 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data
2. Report on Conditions in the Export Market
3. Recent Foreign Restrictions Affecting Textiles

4. Other Business.

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202/377-5078.

Dated: December 5, 1979.

Paul T. O'Day,

Acting Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-37619 Filed 12-7-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF ENERGY

Alaska Power Administration

Eklutna Project; Order Confirming, Approving and Placing Increased Power Rates in Effect on an Interim Basis

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Notice of Rate Order, Eklutna Project, Alaska.

SUMMARY: Notice is given of a Rate Order No. APA-2, of the Assistant Secretary for Resource Applications under Delegation Order No. 0202-33, 43 FR 60636 (December 28, 1979), placing increased power rates into effect January 1, 1980, on an interim basis for power marketed by the Alaska Power Administration from Eklutna Project, Alaska. The rate order involves wholesale rate schedules A-F8 for firm power and A-N7 for nonfirm power. The increased rates will produce an increase of \$369,600, which is equivalent to approximately 23 percent more than the amount produced by rates previously in effect. The rates are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATE: The rates are confirmed and approved on an interim basis effective January 1, 1980.

FOR FURTHER INFORMATION CONTACT: James A. Braxdale, Office of Power Marketing Coordination, Department of

Energy, Room 3349, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633-8338.

Gordon J. Hallum, Chief, Power Division, Alaska Power Administration, Department of Energy, P.O. Box 50, Juneau, Alaska 99802, (907) 586-7405.

SUPPLEMENTARY INFORMATION: Rate Schedules A-F8 and A-N7, applicable to wholesale customers, supersede Rate Schedules A-F7 and A-N6. Rate Schedules A-F7 and A-N6 were confirmed and approved by the Federal Power Commission, FPC Docket No. E-7045 issued March 7, 1975. FPA approval of Rate Schedules A-F7 and A-N6 expires December 31, 1979.

Issued in Washington, D.C., December 4, 1979.

Ruth M. Davis,

Assistant Secretary, Resources Applications.

[Rate Order No. APA-2]

Alaska Power Administration—Eklutna Project Power Rates

Order Confirming and Approving Increased Power Rates on an Interim Basis

December 4, 1979.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under the Eklutna Project Act of July 31, 1950, 64 Stat. 382, as amended were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resources Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Contractual Arrangements and Existing Rates

The Eklutna Project was completed by the U.S. Bureau of Reclamation in 1955. The Alaska Power Administration (APA) has operated and maintained the project since 1967. The Eklutna Project is a single-purpose project, comprised of a dam, reservoir, 80,000-kV

hydroelectric plant, 45 miles of 115-kV transmission lines, and four substations serving the Anchorage and Palmer areas. All project costs are allocated to power. The entire output of the project is under contract with three preference customers in the Anchorage-Palmer area. Pursuant to a 1969 negotiated operating agreement with its three firm power customers, APA annually allocates 153,000,000 kWh to the three customers. Allocations are: 25,500,000 kWh to Matanuska Electric Association; 45,900,000 kWh to Chugach Electric Association; and the remaining 81,600,000 kWh to the City of Anchorage, all on a take-or-pay basis. The allocations are subject to adjustment due to extended curtailment of service from uncontrollable forces, including inadequate supply of water for power generation.

Rate Schedules A-F7 and A-N6 for the Eklutna Project were confirmed and approved by the Federal Power Commission, FPC Docket No. E-7045, issued March 7, 1975. The rate schedules expire December 31, 1979. Existing rates produce approximately \$1,636,000 annually.

Schedule A-F7 for wholesale firm power service, available to wholesale power customers, provided for a charge of 10.3 mills/kWh for all firm energy, with no capacity charge.

Schedule A-N6 for wholesale non-firm power service, available to firm power customers normally maintaining their own generating facilities provided for a charge of 3.0 mills/kWh for all non-firm energy, with no capacity charge.

Schedule A-L6 for domestic retail service provided for an energy charge of 3 cents for the first 100 kWhrs., 2 cents for the next 100 kWhrs., 1.25 cents for the next 400 kWhrs., and 1 cent for the balance of energy. This schedule expires December 31, 1979, and is not being continued. We anticipate the one remaining customer will be served by a local utility starting January 1, 1980.

Public Notice and Comment

APA prepared revised Power Repayment Studies in January 1979. The studies showed an increase in project rates are necessary for production of revenues sufficient to amortize the project investment and pay annual expenses. Based on the repayment studies, an increase in annual revenues of \$369,600 was proposed for a 5-year period beginning January 1, 1980, and the increase is approximately 23 percent.

Opportunities for public review and comment on the proposed increased rates were announced in the Federal

Register September 13, 1979; 44 FR 53288, and by paid advertisement in Anchorage and Palmer, Alaska, newspapers on September 7, 19, 20, 21, 24, and 25, 1979. The three project customers were notified by mail. Each customer also received a copy of the proposal. A public comment forum was held in Anchorage, Alaska, on September 24, 1979, and in Palmer, Alaska, on September 25, 1979. The proposal was discussed with each of the customers individually on September 24 and 25, 1979. Opportunity for oral presentation of views was afforded at the forums. Written comments were invited by the newspaper notice for a period of 30 days after the date of the public comment forum.

Participation at the public forum held in Anchorage, Alaska, was slight. There was no participation at the public forum held in Palmer, Alaska. A tape recording transcript of the forum held in Anchorage, Alaska, was made.

Chugach Electric Association, Inc., offered no objection to the rate proposal at the Anchorage, Alaska, forum. Matanuska Electric Association submitted a letter of no objection on October 8, 1979.

The other Eklutna customer, Anchorage Municipal Light and Power, requested additional information orally at the Anchorage forum and by letter dated October 1, 1979. The requested information was furnished by letter to Anchorage Municipal Light and Power on October 23, 1979. No other oral presentations were offered at the forum and no other written comments were received.

Project Repayment

The Eklutna Project Act states: "The capital investment properly allocable to each unit of said project, as determined by the Federal Power Commission, shall be amortized over a reasonable period of years, and interest shall be charged on the unamortized balance of the full capital investment in said project at a rate of 2½ per centum per annum and shall be covered into the Treasury of the United States to the credit of miscellaneous receipts."

APA tests the adequacy of repayment of investment with an annual Power Repayment Study. This study covers a 50-year period, starting with 1955. Included in the study are all revenues from the sale of power and energy, interest expense, and other expenses, such as payment for old Eklutna. The data include all historical and estimated future revenues and expenses from FY 1955 through 2005.

The 1978 Current Power Repayment Study shows that the annual revenues

from the existing rate schedules are inadequate to pay annual expenses and amortize the project investment by FY 2005. This is due to increased operation, maintenance, administration and general expenses, and increased costs for additions and replacements.

The 1978 Revised Power Repayment Study shows that annual revenues from the proposed rates will be sufficient to amortize the project investment and pay annual expenses.

The increased rates will produce an estimated increase of \$369,000 in annual revenue or an increase of 23 percent above existing rates. Projected annual revenues will total \$2,006,500 with the rate increase.

Rate Design

The rate design used here is the same as previously employed. The charges are for energy with no capacity charge because of take-or-pay provisions in the contracts and the operating agreement. Each unit of firm energy will be sold for 12.5 mills per kWh, and each unit of nonfirm power will be sold for 6 mills per kWh.

The Eklutna Project supplies less than 10 percent of the energy required in the Anchorage-Palmer area. Therefore, a complex rate structure incorporating peakload pricing and seasonal pricing is not required.

Environmental Impact

The possible environmental impact of the rate adjustment under consideration has been reviewed. It has been concluded that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Price Stability

APA is a "Government enterprise" within the meaning of the price standard of the President's Council on Wage and Price Stability; the rate increase approved herein complies with the operating margin limitation of these standards because the revenues will be only those necessary to cover the Government's costs and expenses.

Availability of Information

Information regarding this rate adjustment, including studies, comments, transcripts and other supporting material, is available for public review in the offices of the Alaska Power Administration, Room 825, Federal Building, 709 West Ninth Street, Juneau, Alaska 99802 and in the

Office of the Director of Power Marketing Coordination, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461.

Submission to the Federal Energy Regulatory Commission

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective January 1, 1980, Rate Schedules A-F8 and A-N7. These rates shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the Federal Energy Regulatory Commission conforms and approves these or substitute rates on a final basis.

Issued in Washington, D.C. December 4, 1979.

Ruth M. Davis,

Assistant Secretary Resource Applications.

Schedule A-F8

Eklutna Project, Alaska

Schedule of Rates for Wholesale Firm Power Service

Effective: January 1, 1980.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To wholesale power customers for general power service.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

Monthly Rate: Capacity charge: None.
Energy charge: All energy at 12.5 mills per kilowatt-hour.

Minimum Annual Capacity Charge: None.

Billing Demand: Not Applicable.

Adjustments

For Transformer Losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

For Power Factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 90 percent lagging and 90 percent leading.

For Auxiliary Power Service: Auxiliary power supplies may be used in conjunction with the service

hereunder if the parties hereto, prior to the Contractor's utilization of any such auxiliary power supply, have entered into a written operating agreement defining the procedure by which the amount of power and energy supplied by the United States will be determined.

Schedule A-N7

Eklutna Project, Alaska

Schedule of Rates for Nonfirm Service

Effective: January 1, 1980.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To firm power customers normally maintaining generating facilities or other sources of energy sufficient to supply their requirements.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at points of delivery and voltage to be determined by the Alaska Power Administration.

Monthly Rate: Demand charge: None.

Energy charge: 6.0 mills per kilowatt-hour for all energy under this schedule.

Minimum Bill: None.

Adjustments

For Character and Conditions of Service: None.

For Transformer Losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

[FR Doc. 79-37732 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-R-79-22A]

Public Conferences To Discuss the Gas Utility Rate Design Study Required by the Public Utility Regulatory Policies Act of 1978

Notice is hereby given that public conferences to discuss the preliminary results of the gas utility rate design study required by the Public Utility Regulatory Policies Act of 1978 will be held January 15 and 16, 1980, at the Department of Energy, 12th Street and Pennsylvania Avenue, NW., Room 3000A, Washington, D.C. 20461.

Representatives of the natural gas industry, residential consumers, small commercial users, industrial and large commercial users will be invited to attend these conferences. These invited participants will be asked for oral comments. Questions or comments will be heard from the audience as time permits.

Previous conferences were held by ERA on the gas utility rate design study on August 9 and 10. This is a continuation of that effort.

The conferences, schedules for which are shown below, will be informal and open to the public. Seating will be made available on a first-come, first-served basis.

Schedule

Natural Gas Industry, January 15, 9:00 a.m.-12:00 noon.

Industrial and Large Commercial Users,

January 15, 1:30 p.m.-4:30 p.m.

Consumers/Small Commercial, January 16, 9:00 a.m.-12:00 noon.

Transcripts of the conferences will be made available for public review and duplication at the Freedom of Information public reading room, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

The Chairman for the conferences is Dr. Stephen S. Skjei, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C. on November 29, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

[FR Doc. 79-37721 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Opinion No. 69]

[Docket Nos. CP78-391, CP75-278, CP77-556, and CP75-283]

Great Plains Gasification Associates, Successor to ANR Gasification Properties Co. and PGC Coal Gasification Co.; Opinion and Order on Requests for Certificates Involving Proposed Coal Gasification Project

Issued: November 21, 1979.

Appearances

Richard J. Flynn and Frederic G. Berner, Jr. for Great Plains Gasification Associates
S. Kinnie Smith and Wilford J. Lundberg for ANR Coal Gasification Company
Charles V. Shannon, S. Kinnie Smith and Wilford J. Lundberg for ANR Gasification Properties Company and Michigan Wisconsin Pipe Line Company
Hart T. Mankin and William L. Black for Columbia Coal Gasification Corporation
Leonard Sergeant, L. Michael Bridges and John D. Daly for Columbia Gas Transmission Corporation

Joseph M. Wells, Paul E. Goldstein, Richard E. Terry and Constance DeYoung for PGC Coal Gasification Company

Harry Albrecht, Joseph M. Wells, Paul E. Goldstein, Richard E. Terry and Constance DeYoung for Natural Gas Pipeline Company of America

Harold L. Talisman, Terrence J. Collins, L. R. Pankonien, John F. Grube and Boyd L. Henderson for Tenneco SNG Incorporated and Tennessee Natural Gas Pipeline Company

Thomas F. Ryan, Jr., Robert J. Hardy, Richard T. Boone, Brian F. O'Neill, Dan Fleckman and W. N. Bonner for Transco Coal Gas Company and Transcontinental Gas Pipe Line Corporation

James D. McKinney, Jr., William R. Napes, Jr., Bradford Ross, William Mogel, John M. Rady and Narinder J. S. Kathuria for Great Lakes Gas Transmission Company

Robert C. Goodwin, Jr. for the United States Department of Energy

Ronald D. Eastman, Lynda S. Mounts, Frank J. Kelley and Walter V. Kron for the State of Michigan and the Michigan Public Service Commission

Lorraine Gerson, Bertram Goltz, Neal Atterman and John J. Degnan for the State of New Jersey Department of Energy

Richard A. Solomon, Dennis Lane and Peter H. Schiff for the Public Service Commission of the State of New York

Margaret Ann Samuels and William A. Spratley for the State of Ohio Office of Consumers' Counsel

Glen Howard, Edward J. Grenier, Jr., Richard Noland, Laurel W. Glassman, Otis M. Smith, Julius Jay Hollis, Robert W. Clark, III and Jack F. Wheatley for General Motors Corporation

Philip J. Mause for the Environmental Defense Fund

Francis J. McShalley and John K. Archambault for TransCanada PipeLines Limited

William E. Herron, William J. Kenney and Lynda Troutman for the Dayton Power and Light Company

Charles A. Crampton and E. J. Hartmen for Iowa-Illinois Gas & Electric Company

John J. Haley, Joseph Tompkins and Garry L. Cowan for Michigan Consolidated Gas Company

Robert A. Neurnberg, Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Gas Company

Gerald J. O'Brien and Ned Willis for North Central Public Service Company

Willard S. Stafford, Bruce F. Kiely and Catherine C. Wakelyn for Madison Gas and Electric Company

Harry K. Wrench, Jr., Glen H. Bell, Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Fuel & Light Company

Lilyan Sibert, L. R. Pankonien, Anthony D. Preyer, Harold L. Talisman and Terence J. Collins for Midwestern Gas Transmission Company

Griffin G. Dorschel, Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Power & Light Company

Robert H. Diaz, Jr. for Wisconsin Power Company

Robert H. Diaz, Jr., Bruce F. Kiely and Catherine C. Wakelyn for Wisconsin Natural Gas Company

Harold Borden, Jr. for Public Service Electric & Gas Company of New Jersey
 Douglas K. Porter for Pacific Coal Gasification Company
 George E. Meinshausen for The Cincinnati Gas & Electric Company and The Union Light Heat & Power Company
 Michael W. Hall for The Brooklyn Union Gas Company
 Vic Karges for Hazen, North Dakota, School District
 Harold J. Van Groll for Wisconsin Public Service Company
 Marvin I. Resnik and Harris S. Leven for the Public Utilities Commission of Ohio
 John W. Glendening and John S. Schmid for New England Customer Group
 John I. Norton for the Dakota Resource Council
 H. Paul Friesema and Errol Meidinger appearing *pro se*
 Robert J. Haggerty for Montana-Dakota Utilities Co.
 William J. Cronin for New York State Electric & Gas Corporation
 David B. Ward for Northern Natural Gas Company
 James A. Patten for the Northern Plains Resource Council
 Gregory A. Thomas for the Sierra Club
 Michael J. Manning and Patrick J. Keeley for the Tennessee Small Distributor Group
 Raymond N. Shibley, Brian D. O'Neill and Michael A. Ross for Citibank, N.A.; Bank of America N.T. & S.A.; and Morgan Guaranty Trust Company of New York
 Joel F. Zipp, Kathleen Boyle, Allar W. Anderson, Jr., Joel Cockrill, David Huard, Robert W. Cleveland and Robert Nordhaus for the Staff of the Federal Energy Regulatory Commission
 Before Commissioners: ¹ Georgiana Sheldon, Acting Chairman; Matthew Holden, Jr., and George R. Hall.

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¹As announced previously, Chairman-Curtis has recused himself from any participation in this decision.

2. The PC&N Standard.
- F. Is the Basic Financing and Tariff Proposal Reasonable?
 1. Overview of Financing Plan.
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I. Background

A. Introduction

This case concerns a proposal by Great Plains Gasification Associates (Great Plains)² to construct a coal gasification project to be located in Mercer County, North Dakota, designed to produce an average of 125,000 Mcf of synthetic gas per day at a minimum heating value of 970 Btu per cubic foot.³ The applicants request various certificates under Section 7 of the Natural Gas Act to carry out the project. The proceeding is now before the Commission on review of an initial decision issued June 6, 1979, which recommended that the applications for certificates be denied. We reverse and offer conditioned certificates of public convenience and necessity. In addition, we find that this is a demonstration project within the definition of research,

²Great Plains is a general partnership formed by five corporations that are in turn affiliates of certain jurisdictional pipeline companies (Customer Pipeline Companies). The partners are: Columbia Coal Gasification Corporation (Columbia Coal), an affiliate of Columbia Gas Transmission Corporation (Columbia); ANR Gasification Properties Company (ANP), an affiliate of Michigan Wisconsin Pipe Line Company (Michigan Wisconsin); PGC Coal Gasification Company (PGC), an affiliate of Natural Gas Pipeline Company of America (Natural); Tenneco SNG Inc. (Tenneco SNG), an affiliate of Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee); and Transco Coal Gas Company (Transco Coal), an affiliate of Transcontinental Gas Pipe Line Company (Transco).

³The plant would have a design capacity of 137,500 Mcf per day and is expected to operate at 91 percent of capacity on an annual basis.

development and demonstration promulgated by Order No. 566.⁴

The project seeks to demonstrate the technological and commercial feasibility and the environmental acceptability of converting coal into pipeline quality gas by constructing and operating the first commercial-size high-Btu coal gasification plant in the United States.⁵ The facility has been characterized by the parties as a "demonstration project,"⁶ a demonstration project in the RD&D [research, development and demonstration] mode,⁷ a "research, development and commercial demonstration project,"⁸ a "grass roots RD&D project,"⁹ a "commercial demonstration facility,"⁹ and as a "pioneer commercial plant."¹¹ Regardless of the nomenclature, it is clear that this project presents the Commission with important issues of public policy relative to the natural gas industry's place in the Nation's overall energy activities and the role—if any—of synthetic coal gas in supplementing our supplies of natural gas. The initial decision, and the exceptions and replies to exceptions filed on the basis of that decision, discuss, *inter alia*, such vital matters as: whether the national interest requires a present demonstration of the financial, environmental, social, political, institutional and regulatory acceptability of the technology of coal gasification at a commercial-size configuration in a real world setting; whether a project of the type here proposed should be funded by taxpayers or by natural gas consumers; if any gas consumers should pay for the project, whether to require that all gas consumers share the cost burden; the

⁴Docket No. RM78-17, issued June 3, 1977.

⁵Coal gasification proposals have been before the Commission before. The Transwestern Coal Gasification Company (WESCO), owned by Texas Eastern Transmission Company and Pacific Lighting Corporation, was granted a conditioned certificate of public convenience and necessity in FPC Opinions Nos. 728 and 728-A in 1975. No final financing plan has been submitted, as required in our decision, and the project seemingly has been dropped by its sponsors. Earlier, El Paso Natural Gas Company applied for a certificate of public convenience and necessity for coal gasification and transportation in 1974 but later requested deferment and the case is still in limbo.

In Opinion No. 14, issued May 10, 1978, we permitted Northern Natural Gas Company to recover certain expenditures for research and development incurred in connection with a Coal Slagging Gasifier Project but rejected the inclusion in rates of other amounts attributable to a Coal Gasification Study.

⁶Tr. p. 3143.

⁷Tr. p. 3334.

⁸Tr. 3192.

⁹Tr. 3195.

¹⁰Tr. 3196-97.

¹¹Tr. 2883, 5288-89. The underlying distinctions, including the reasons for the disagreement on its proper characterization, will be considered shortly.

monitoring of the project; whether the proposed funding arrangements are acceptable and, finally, the appropriateness of the proposed tariff provisions.

B. Description of Great Plains Project

The proposed plant and related facilities are to be located in Mercer County, North Dakota, and will be owned by Great Plains. Utilizing a coal gasification process developed by Lurgi Kohle and Mineralotechnic (Lurgi) of Frankfurt, Germany, the plant has been designed to produce an average of 125,000 Mcf per day of pipeline quality gas from lignite reserves held under option for that purpose. The plant will be constructed and operated by the project administrator, ANG Coal Gasification Company (ANG), an affiliate of Michigan Wisconsin. ANG will receive technical assistance from Lurgi; the Lummus Company; Kaiser Engineers; the South African Coal, Oil and Gas Corporation, Limited (Sasol); Ralph M. Parsons Company; and the USS Engineers and Consultants, Inc.

ANG will secure the feedstock required for plant operations from surface coal mines contiguous to the plant under a Coal Sales Agreement with Coteau Properties Company (Coteau), a subsidiary of the North American Coal Corporation (NACCO). The volumes of water needed for the gasification process will be obtained from nearby Lake Sakakawea pursuant to a conditional water permit granted by the State of North Dakota and a water service agreement to be executed with the Secretary of the Interior. The plant's power requirements will be supplied by Basin Electric Power Cooperative (Basin Electric), which is constructing an electric generating facility adjacent to the coal gasification plant.

The gas produced at the plant would be transported to the point of sale for Great Plains by Great Lakes Gas Transmission Company (Great Lakes) under two separate agreements.¹² Under a Synthetic Gas Transportation Agreement, Great Lakes would first transport the gas through a pipeline to be constructed from the tailgate of the plant to a point on Great Lakes' existing pipeline system near Thief River Falls, Minnesota. At that point, the synthetic gas would be commingled with natural gas and then transported through Great Lakes jurisdictional facilities to a point on Michigan Wisconsin's transmission facilities near Crystal Falls, Michigan. At Crystal Falls, Great Plains would sell

equal quantities of commingled synthetic and natural gas (equivalent in heating value to the output of the gasification plant, less line loss) to each of the Customer Pipeline Companies. The gas will then be delivered through displacement or otherwise. Michigan Wisconsin proposes to construct and operate additional facilities to receive the gas and provide the subsequent transportation.

The total installed cost of the gasification plant in 1978 dollars is estimated to be \$890 million; the coal mine development is estimated to require an additional capital investment by Great Plains of \$85 million. Assuming an annual rate of inflation of 7.5%,¹³ the capital costs of the gasification plant and the portion of the coal mine dedicated to Great Plains are estimated to total \$1,176,165,000. The estimate assumes that the pre-operational costs of capital will be borne by ratepayers on a current basis; otherwise, the capital costs are estimated to exceed \$1.5 billion.

In 1978 dollars, the cost of gas at the tailgate of the plant is projected by the sponsors to be \$5.66 per Mcf during the first full year of operations.¹⁴ Considering the impact of inflation, possible plant change costs and changes in plant output, the initial cost of gas could range from \$5.56 to \$8.62 per Mcf. Applicants assert that as a result of declining rate base and a relatively low proportion of variable costs, the tailgate cost of gas would thereafter increase at a rate well below either the rate of inflation or expected increases in new natural gas prices, so that by the early 1990's it would cost less than new supplies from conventional sources.

Great Plains proposes to finance the construction of the coal gasification project on a project financing basis. The financing plan contemplates that the plant and related facilities will be financed on a 75 percent debt, 25 percent equity basis while the coal mine will be 100 percent debt financed.

The terms and conditions under which the prospective lenders purport to be willing to lend the debt capital are set forth in a loan commitment letter (Ex. 133-A)¹⁵ which was negotiated with the project's commercial bank advisors—Citibank, N.A.; Morgan Guaranty Trust Company of New York; and Bank of

¹²This is the inflation rate used in the record.

¹³As discussed in Appendix A (p. 2), this value overestimates the cost of gas in 1978 dollars because of an inflation premium included in the assumed rates of return and interest rates.

¹⁴The letter, addressed to Great Plains, reflects the position of the banks at the time of the last hearing sessions to lend money to the project and is subject to later revision by the banks.

America, NT and SA. According to the lenders they will require, *inter alia*, Commission approved tariff provisions at the outset that (1) provide for full recovery of debt service (both principal and interest) in all circumstances, (2) permit the collection of debt financing costs during the construction period, (3) allow the outstanding debt to be amortized over a five-year period if abandonment should occur and in certain other events, (4) permit Great Plains to charge the Customer Pipeline Companies rates based on a full cost-of-service formula, (5) authorize the Customer Pipeline Companies to recover all such project costs on a current basis through their proposed "tracking" provisions, and (6) permit the Customer Pipeline Companies to market the plant's output on a rolled-in basis. Also, the lenders state that they require assurances from the Commission of its intent that these tariff mechanisms will remain in full force and effect until the debt is completely repaid.

The equity capital is to consist of three elements—paid-in equity, investment tax credit and an after-tax return of 15 percent during construction. The paid-in equity is to be contributed in equal amounts by each partner either from its earnings, its borrowings, or sale of its stock. The investment tax credit portion of the equity investment represents the excess of Federal income taxes charged to ratepayers over the amount actually paid by each partner to the Internal Revenue Service, each sponsor using the credit to reduce its tax liability by a statutory percentage of its share of the project's construction costs. The 15 percent return and associated taxes would be charged the ratepayers to compensate each partner during construction for its equity investment and will be reinvested in the project.

To achieve the project's funding requirements, Great Plains and its partners seek approval of interrelated and interdependent rate and tariff mechanisms, which are detailed in Exhibits 3C and 3D (Revised). The Precedent Agreement (Exh. 3C), which has already been executed, provides that upon the issuance by the Commission of satisfactory certificate authorization, separate Funding Agreements (Exhs. A and G to Exh. 3D (Revised)) and Gas Purchase Agreements (Exh. D and E to Exh. 3D (Revised)) will be executed; Great Plains will file the Gas Purchase Agreements as its FERC Gas Tariff; and the Customer Pipeline Companies will file tariff provisions (Exh. F to Exh. 3D (Revised)) which will permit the tracking of project costs. However, the

¹⁵Great Plains has the option of choosing another pipeline transporter if better transportation arrangements are available.

transportation agreement with Great Lakes will not be executed by Great Plains until necessary to meet the project's time schedule in order to afford Great Plains the option to select an alternative transportation service if that is found advantageous. Further, upon the issuance of satisfactory regulatory approvals, 60 percent of the property rights in the project will be sold by the present co-owners (ANP and PGC) to the other general partners (Columbia Coal, Tenneco SNG, and Transco Coal) under the Project Acquisition Agreement at a price equal to the 60 percent plus a return thereon.

The Funding Agreements specify the project costs to be paid in the Construction and Start-Up periods, which precede the In-Service date of the plant. Prior to the In-Service date, the Customer Pipeline Companies would collect funds equal to interest and related expenses on debt plus an amount equal to the return on equity invested in the project and related income taxes. In the event the project is abandoned for any reason prior to the commencement of the Start-Up period (when gas begins to flow), the pipeline would collect over a five-year period amounts sufficient to amortize partnership debt and interest thereon and to satisfy contractual obligations and related expenses.

The applicants propose that the equity investment would not automatically be recouped if the project were abandoned for reasons of technological failure or failure to complete because of cost overruns, unless such failures were due to changes in laws or regulations with which the plant was designed to comply. However, in the event an abandonment resulted for any other reason, the Customer Pipeline Companies would collect funds equal to the amounts required to permit the recovery of equity, as well as to earn the allowed return on unrecovered equity, over a five-year period.

The Gas Purchase Agreements will be filed with the Commission as Great Plains' FERC Gas Tariff and payments would commence upon the initial delivery of gas. During the Start-Up period, prior to the In-Service date of the plant, the proposed tariff provides for the recovery of transportation charges, while carrying costs on debt and equity will continue to be recouped under the Funding Agreements. Commencing with the In-Service date, the tariff provides for the collection of the actual cost of service of the plant, including a 15 percent return on equity, the cost of coal, transportation charges, and all other related project expenses. In the

event of abandonment after initial delivery of gas, Great Plains would collect charges from the Customer Pipeline Companies under its tariff in essentially the same manner as described above for a pre-completion abandonment.

Upon the issuance of satisfactory certificate authorization, the Customer Pipeline Companies' proposed "tracking" provisions would permit those companies to collect on a current basis all payments made under both the Funding Agreements and the Gas Purchase Agreements. The gas purchased by the pipelines will be resold on a rolled-in basis.

Applicants ask that their proposed financing plan and tariff mechanisms be viewed as an inseparable package. In particular, they seek approval of the following: (1) recovery of debt from ratepayers in all events and, in the event the project goes awry, recovery on a five-year accelerated basis; (2) recovery of equity, plus a 15 percent return, from ratepayers on a five-year accelerated basis if the project is abandoned except where such abandonment is due to circumstances of cost overruns or technological failure not caused by governmental action; (3) a 15 percent return on equity during the construction and operating phases—with a minimum guaranteed return during the latter stages of the operating phase; (4) during the construction period, collection from ratepayers on a current basis of the cost of debt and equity capital; (5) a cost-of-service tariff enabling Great Plains, once it becomes a natural-gas company, to recover its costs on a current basis from the affiliated pipelines; (6) "tracking" provisions enabling the affiliated pipelines to recover their costs on a current basis from their ratepayers, even during the construction period, for the charges covering costs of capital; and (7) rolled-in pricing of the cost of the coal gas with the cost of natural gas to be marketed by or on behalf of the affiliated pipelines.

C. Procedural Background

This proceeding was initiated on March 26, 1975, when ANG and Michigan Wisconsin filed an application for certificates of public convenience and necessity in Docket No. CP75-278 authorizing (a) the sale by ANG to Michigan Wisconsin of commingled gas equivalent on a Btu basis to the output of the coal gasification plant in Mercer County, which was proposed at that time to be designed to produce an average of 250,000 Mcf of pipeline quality gas per day, and (b) the construction and operation by Michigan Wisconsin of the facilities necessary to

enable it to receive and transport such gas to its customers. The application also sought, *inter alia*, approval of a cost-of-service tariff governing ANG's sales to Michigan Wisconsin and of a modification of the purchased gas adjustment provisions of Michigan Wisconsin's tariff to permit the collection of both the cost of the coal gas and of a surcharge during plant construction and testing to cover carrying costs on debt and equity investments.

In a related application filed on March 31, 1975, Great Lakes sought certificate authority to transport commingled gas for the account of ANG from a point on its main transmission line to the point of delivery to Michigan Wisconsin and to construct, modify and operate facilities required for such transportation. At the initial hearings held between January 22 and February 25, 1976, the applicants presented the testimony of 20 witnesses who discussed the scope and purpose of the project, its technological feasibility, its environmental impact, the availability and cost of feedstock, the marketability of the synthetic gas, the financial plan for the project, the proposed tariffs covering the sale of commingled gas to and by Michigan Wisconsin, and the related transportation services and facilities.

Prior to the time fixed for the submission of evidence by the Commission staff, the applicants advised the law judge that they had concluded that the problems associated with constructing and financing this massive project and the potential socio-economic impact of the planned development in North Dakota would be ameliorated if the project were constructed in two separate phases. Following the issuance of an order by the law judge fixing dates for the submission of additional evidence relating to the Phase I plant and for the subsequent submission of staff evidence, hearings reconvened on May 18, 1976 and were completed on June 7, 1976. At these hearings the applicants called 14 witnesses to describe the planned phased construction and its effect in terms of costs, engineering, financing, environmental impact and related matters. Staff presented two witnesses, one who discussed the proposed financial plans and one who testified with respect to the price of the commingled gas to be marketed by Michigan Wisconsin and its customers.

When these hearings were concluded, the prospects for prompt enactment of loan guarantee legislation which would have provided the necessary financial support for the debt portion of the

project's financing requirements seemed favorable, but it subsequently became evident that such guarantees would not be available for some time. In light of the financial burden which continuation of the project under those circumstances would have imposed on the American Natural Resources System (American Natural), ANG and Michigan Wisconsin requested the law judge to defer a decision pending efforts to reduce this burden by inviting the participation of one or more additional major gas systems in the coal gasification project. The applicants' request was granted.

After extensive negotiations, PGC agreed to a co-ownership arrangement involving an equal sharing with ANP of all costs, obligations, plant output and project revenues (Ex. 102). On May 9, 1977, an amendment to the application in Docket No. CP75-278 was filed to reflect the co-ownership of the Phase I facilities by ANP and PGC, the substitution of ANP for ANG as an applicant, and the execution of agreements (Ex. 103) with Basin Electric relating to the construction of a lignite-fired steam-electric generating station at the coal gasification plantsite. Thereafter, on August 8, 1977, PGC and Natural filed an application in Docket No. CP77-556 requesting authority both for PGC to sell Natural a quantity of commingled gas equal in hearing value to one-half of the plant's output, and for Natural to file and make effective revised tariff provisions permitting timely recovery of PGC's share of the project costs.

Additional evidence showing the impact of co-ownership by ANP and PGC was thereafter received into evidence at hearings that began on December 13, 1977 and ended on March 6, 1978. In those hearings the applicants presented 19 witnesses in support of their revised proposals, staff offered the testimony of three witnesses on matters relating to transportation, technology and tariffs, and Montana-Dakota Utilities Company sponsored a witness to explain its request for a portion of the plant output. The applicants' proposals continued to presume the availability of Federal loan guarantees to support the debt component of the project's capitalization.

At the conclusion of these hearings, the applicants' witnesses testified that neither loan guarantees nor foreign financing of the debt could be obtained on a timely or satisfactory basis. However, officials of the Department of Energy (DOE) had suggested that if a consortium of companies could be formed to support the project, then DOE would recommend approval by the

Commission of tariff mechanisms providing consumer credit support to the extent DOE concluded such provisions were necessary to finance the project. The applicants informed the law judge and the parties at that time that they intended to pursue this alternative by seeking the participation of additional gas systems in such a consortium. Thereafter, the Great Plains consortium was established to carry out this project.

On June 2, 1978, Great Plains and the Customer Pipeline Companies filed another amendment to the applications in Docket Nos. CP75-278 and CP77-556, which, as supplemented, sets forth the proposal to be addressed (Item H by Reference). Following a hearing held on June 13, 1978, to receive an Environmental Impact Statement (EIS) prepared by the Department of the Interior and Staff's environmental testimony into the record, hearings on the merits of the amended applications were conducted from October 31 to December 4, 1978, when the record was closed. In this last phase of the proceeding, 18 witnesses were presented by the applicants, three by DOE, four by the prospective commercial bank lenders, one by the New Jersey Department of Energy (New Jersey), two by the Ohio Consumers' Counsel and seven by staff.

D. FERC Jurisdiction and Requested Authorizations

Because the Great Plains plant will produce "artificial" rather than "natural" gas, the Commission has no jurisdiction under the Natural Gas Act over the project facilities in North Dakota. Nor does the Commission have jurisdiction over the synthetic gas pipeline that Great Lakes proposes to construct, since the transportation of "artificial" gas is not subject to regulation under the Act. Sections 1(b) and 2(5) of the Natural Gas Act, 15 U.S.C. §§ 717(b) and 717a(5); *Henry v. FPC*, 513 F. 2d 395 (D.C. Cir. 1975).

Once the output of the gasification plant has been commingled with natural gas, however, the Commission would possess full and complete jurisdiction to regulate any subsequent transportation of the gas in interstate commerce and its sale in interstate commerce for resale for ultimate public consumption. 15 U.S.C. § 717(b). The Commission's involvement arises by virtue of several Section 7 applications for certificates to transport commingled coal gas and natural gas and to make sales thereof for resale to the Customer Pipeline Companies. Moreover, the Commission's jurisdiction over the transportation and sale for resale of the commingled gas "gives it a corollary authority and

responsibility to look into 'all factors bearing on the public interest,' " including Great Plains' non-jurisdictional facilities and Great Lakes' synthetic gas pipeline. *Henry v. FPC*, *supra*, 513 F. 2d at p. 405. In addition, the Commission's authority to regulate the rates of the Customer Pipeline Companies obviously empowers it to determine the propriety of those companies' rate and tariff proposals. The applicants have requested that we approve certain specific certificate and rate proposals. Under Section 7 they ask that we find the public convenience and necessity would be served by granting:

(1) Great Plains' application to make jurisdictional sales of equal volumes of commingled gas equivalent on a Btu basis to the output of the coal gasification plant to each of the Customer Pipeline Companies;

(2) Great Lakes' application to transport the commingled gas and to construct and operate the additional jurisdictional facilities required to receive and transport that gas; and

(3) Michigan Wisconsin's application to construct and operate the additional facilities needed to receive and transport the gas.

They also request that the Commission:

(1) accept and approve the Gas Purchase Agreements for filing as Great Plains' FERC Gas Tariff;

(2) accept and approve the tracking provisions proposed by the Customer Pipeline Companies; and

(3) accept and approve the Gas Transportation Agreement as part of Great Lakes' FERC Gas Tariff.

They further request that we make certain other findings and determinations which are alleged to be necessary to provide the assurances required to permit the project to be financed. To the extent deemed necessary, these matters are addressed in this Opinion.

II. Initial Decision and Exceptions

A. Initial Decision

The law judge at the outset of his decision dismissed staff's and various parties' arguments that the project should be disapproved because the near term and future natural gas supply picture does not warrant the project at this time. The judge concluded that their views were "too sanguine". The judge also found that the sponsors' attempt to prove the near term need for a coal gasification industry contained "major flaws" and was not sufficiently persuasive. With regard to DOE's view of the project, that it is a means for establishing the viability of a coal

gasification industry in the future to ameliorate possible service interruptions due to a shortage of natural gas and soaring price increases by foreign suppliers of oil and natural gas, the judge determined that while "[T]here may well be a national need to get on with efforts to develop a coal gasification technology," the costs of such development should be borne by the taxpayers, rather than by only a portion of the natural gas consumers, since "whatever benefits are to be derived from this project will be shared by the entire country, not merely some ratepayers." The judge concluded that this finding disposed of the matter.

The conclusion by the law judge that a coal gasification demonstration project should be financed from the public treasury, not through gas tariffs, was crucial to his recommendation that the applications should be denied. However, assuming it was determined that the ratepayers should properly bear the risks of this project, the judge found that the sponsors' financing plan, considered as an indivisible package, did not comport with the public convenience and necessity. On the specifics of the financing plan and the positions taken thereon, the judge made the following determinations:

(1) He rejected staff's position that the sponsors should be required to repay the debt in the first instance if the project were to go awry; (2) he approved the proposal to permit recovery of the debt from ratepayers on an accelerated five-year basis, if the project were to go awry; (3) on the proposal for the recovery of the equity portion of the investment if the project were to go awry, he denied any automatic recovery of equity (including costs of equity capital), but would permit the sponsors an opportunity to prove the reasonableness of such recovery at a hearing before the Commission; (4) since the financing plan would be modified if his proposals were adopted, he recognized that additional risks would be incurred and therefore recommended a 15 percent return during construction and the first 12 months of operation, with a fluctuating return on equity determined in separate Commission proceedings for the remainder of the project's life; (5) he denied the sponsors' request for a minimum guaranteed return; (6) he denied the request for a preoperational surcharge; (7) he approved the concept of the cost-of-service tariff for Great Plains and of the "tracking" provisions for the Customer Pipeline Companies; and (8) he approved the sponsors' request for rolled-in pricing.

The judge then examined and determined the following issues: (1) on the matter of the sponsors' concern about the regulatory risk of actions by future Commissions in changing any of the matters being approved here, he found that the sponsors have ample existing safeguards to protect themselves against such a "potential threat"; (2) he denied the sponsors' request for a blanket assurance that the ratepayers will provide funds to Great Plains to permit its discharge of all contractual obligations, but would permit the sponsors an opportunity for a Commission hearing on a specific request; (3) he denied Great Lakes' application as being premature; (4) on the requests for controls to assure the lowest costs possible, he (a) denied a request for a "cap" on "cost overruns"; (b) denied a request that funds be loaned at no more than the prime rate; (c) denied a request to hinge the level of return on equity on the success of plant operations; and (d) touched on certain items raised by staff, but concluded that these have "not been fleshed out to allow reasoned determinations"; (5) to reduce costs, the judge adopted the following suggestions: (a) a requirement that the coal agreement be amended to specify the exact quantity and quality of the coal needed for the project; (b) to require the use of whatever method is adopted by the Commission in the proceeding involving *Columbia Gulf Transmission Co., et al.*, Docket Nos. RP75-105, *et al.*, for determining the Federal income tax component of applicants' cost-of-service tariff; and (c) to require credits against operating costs whenever the project receives monies apart from revenues generated from coal gas sales; (6) he denied the request by Montana-Dakota Utilities Company (MDU) for special treatment in obtaining five percent of the coal gas which ANR allegedly agreed to offer to gas distribution companies in North Dakota; and, finally, (7) found that the environmental issues have been adequately addressed to satisfy the requirements of the National Environmental Policy Act (NEPA).

B. Exceptions

Exceptions to the Initial Decision were filed by Great Plains, staff, the Public Service Commission of the State of New York (New York), the Office of Consumers' Counsel of Ohio (Ohio), Elizabethtown Gas Company (Elizabethtown), MDU, Great Lakes and DOE.¹⁶ We believe it noteworthy that in

¹⁶The Governor of North Dakota filed comments to the decision in the form of a letter to the

those exceptions no party objected to the construction and operation of the project *per se*, although some intervenors (e.g., New York) did indicate that they opposed issuance of the certificate authorizations unless their suggestions were accepted.¹⁷ The exceptions primarily addressed the question of whether the Customer Pipeline Companies' consumers should bear the risks and costs of the project or whether the Nation's taxpayers should bear those risks and costs.

Further, exceptions were taken as to what risks and costs should be borne by the consumers with and without taxpayer support. For example, exceptions were taken to the judge's denial of the applicants' proposal for the automatic recovery of equity in the case of project abandonment and the surcharge provision, the allowance of a 15 percent return on equity for the construction period and during the first 12 months of operation, the use of a consolidated effective tax rate in computing the income tax component of the cost-of-service tariff, denial of a conditional certificate to Great Lakes, denial of MDU's proposal for obtaining a portion of the coal gas produced and the judge's requirement for modification of the coal contract.

In the introduction to its exceptions Great Plains states that, while the project can be financed on the basis of the financing plan, "it cannot be financed on terms that differ materially from those proposed." Further, Great Plains asserts that each company's willingness to participate is predicated on acceptance of the entire package of proposals and agreements and, therefore, the Commission is urged "to consider the various proposals as links in a chain which cannot be broken if the project is to be successfully financed and constructed."¹⁸

Additionally, Great Plains states that it recognizes that Congress is considering various forms of government support for synthetic fuel projects. It, therefore, agrees that if such support is enacted and is available for this project, applicants will seek to obtain such support and will modify their financing plan and tariff (subject to Commission approval) to reflect that legislation.¹⁹

Commission requesting FERC consideration of certain non-record "critical factors".

¹⁷Briefs opposing exceptions were filed by New York, staff, Great Plains, Ohio, General Motors Corporation, the State of Michigan and the Michigan Public Service Commission, and DOE.

¹⁸Brief on exceptions, p. 15.

¹⁹*Id.*, p. 16.

III. Is Issuance of Certificates for the Great Plains Project in the Public Interest?

The initial decision of the law judge, the exceptions to that decision, and the record in general raise four basic questions the Commission must answer in reaching a decision concerning the public need for this project. First, is it likely that a large scale coal gasification industry will be needed in the near future? If the answer to this question is no, *i.e.* that a coal gasification industry is not likely to be needed for a number of decades, it is unnecessary to construct this project now to demonstrate the commercial feasibility of coal gasification. The construction of such a demonstration project can be postponed until it appears more likely that a coal gasification industry will be needed. In that event, a more advanced technology for coal gasification may be available for the demonstration project.²⁰

If the answer to this first question is yes and it is likely that a large scale coal gasification industry will be needed in the near future, then the second question is whether the demonstration benefits of the specific facility are worth the cost of the project. For example, what will this project demonstrate and how will this project advance the development of coal gasification? The Commission must attempt to evaluate the benefits and the cost of this project to determine if this project is in the public interest.

If the answer to the second question is that the benefits of the project are worth the cost, then the third question is whether it is reasonable for the ratepayers and customers of the five sponsoring companies to pay for the cost of this project and to provide the necessary financial guarantees to the investors in the project. Even though a coal gasification industry may be needed in the near future, and the demonstration benefits of the Great Plains project may exceed the cost, a more equitable or fairer method of supporting this project may be available. The alternatives include support by additional natural gas consumers or taxpayers in general.

Even if it is reasonable for customers of the sponsoring pipelines to provide general support for this project without assistance from other gas consumers or general taxpayers, the fourth question is whether all of the specific finance and tariff proposals of the sponsors are reasonable and in the public interest. Should any specific tariff provisions

proposed by the sponsors be modified or altered by the Commission?

The parties in these proceedings disagree about the correct answers to each of these four basic questions. We address each in turn. Preliminarily, however, a brief review of the current status of the national energy situation is of assistance in providing a frame of reference for our examination of these issues.

A. The National Energy Situation

The national interest aspects of this project must be evaluated against the background of the nation's present and future energy balance. This country, which had been a major exporter of fossil fuels prior to World War II, became a net importer in the early post-war period and now we rely on imports for one-quarter of all of our energy needs. All projections of our energy balance show continued reliance on imports.

The tangible economic and intangible political and social costs of these imports to the economy are significant. Oil imports this year will be almost three times the 1970 level and payments, approximately \$60 billion, will be about 20 times the 1970 outlay. Gas imports in 1970 averaged about \$0.25 per Mcf. The price of gas imported from Canada recently was increased to \$3.45 per Mcf; initial deliveries of Mexican gas, scheduled to commence in the Summer of 1980, are now priced at \$3.625 per Mcf. The nation's economy and its political and social structure are under stress because of our excessive reliance on foreign sources for our energy needs.

There is widespread and increasing agreement that our energy policy should pursue several goals simultaneously. We should attempt to reduce the extent of our exposure to economic disruption due to oil embargoes or similar acts by promoting conservation, establishing a strategic petroleum reserve and taking similar damage-limiting acts. Another goal is to shift from our extensive dependence on depleting oil and gas sources towards use of more abundant energy sources such as coal, waste and renewable resources. Finally, in the longer run we must transit to a solar-fuel based energy economy. Applicants contend that this project is pertinent with respect to the first two goals. It is asserted that demonstration of an economically attractive technology for converting coal to natural gas would reduce the likelihood of supply interruptions or mitigate the consequences of disruptions should they occur. It is also argued that a demonstration of the commercial attractiveness of coal gasification would

speed up the process of shifting our energy economy from oil and gas to coal.

This proposed project will not solve all our energy problems. It has the limited goal of providing a basis for evaluating the potential role, if any, of coal gasification in the improvement of our energy situation. However, it is clear that the Nation's future energy prospects mandate the need for change. It is in the interest of everyone to encourage the evaluation of possible new energy sources that could reduce this Nation's dependence on expensive, insecure foreign supplies. Coal gasification may be one of these. If so, demonstration of the role it might play would be particularly significant to gas consumers who have a major investment in gas facilities and who might be forced in the future to convert to other less satisfactory or less secure energy sources.

B. Potential for a Coal Gas Industry

The record in this case concerning the issue of the need for a coal gasification industry contains a number of diverse and conflicting arguments. The project sponsors and the Department of Energy have argued that a coal gasification industry will be needed very soon. Commission staff witnesses and a witness representing the Ohio Consumers' Council argued that natural gas produced from coal will not be needed until 1990 or later.

Determining the likely need for coal gas is very difficult because it requires predicting energy markets and prices decades into the future. No individual or government agency has a crystal ball that will accurately predict the energy future for this country with absolute certainty. The Commission must make a reasoned judgment about the future potential of a coal gasification industry while recognizing the inherent uncertainty in that judgment.

When a coal gas industry will be commercially viable will be primarily determined by the future cost of oil related to the cost of gas produced from coal. For the foreseeable future, imported oil will be the marginal or variable energy source. Gas from coal will most likely be substituted for or used instead of imported oil. Thus the central issue is when, if ever, coal gas will be an economical substitute for imported oil.

As recent events in the Middle East dramatically illustrate, predicting the future supply or price of imported oil is very difficult. The record in this case contains almost no discussion of future oil prices. In any case, evidence on this issue in the record would probably be

²⁰ For example, the Department of Energy is now sponsoring research on other coal gasification technologies.

superseded by the events in the international oil markets since the record was closed.

The record contains substantial information about the estimated cost of gas from the Great Plains project. These estimates are the best guide available to the Commission about the likely future cost of coal gas. The engineering, design and cost studies for the Great Plains project are more thorough and complete than for any other similar project and thus the cost estimates are the best available to the Commission. However, as discussed below, the uncertainty about these estimates of cost is still substantial.

Appendix A presents a comparison of the likely cost of gas from Great Plains with the cost of imported oil under various assumptions. The basic annual cost of service estimates for Great Plains are taken from the record in the proceeding, and the Commission in Appendix A has computed certain average and total cost estimates. Appendix A indicates that the life time or "lifecycle" costs of high Btu gas produced from coal may already be less than the cost of imported oil over the same period. Also if oil continues to rise in price, the economic merits of coal gasification will improve.

It does not follow that this Nation should begin the immediate construction of numerous coal gasification plants. There are major uncertainties concerning all aspects of coal gasification, particularly the cost of the gas. A commercial-size demonstration plant such as the Great Plains proposal would materially help to resolve many of the uncertainties surrounding coal gasification and help to verify that a large scale industry would be in the public interest.

The project sponsors attempted to compare the cost of gas produced from coal with the cost of electricity produced from coal. Other parties argued that this cost comparison was inaccurate in a number of significant ways. Regardless of the accuracy of the cost comparison, the Commission believes that a comparison between the cost of coal gas and the cost of electricity is not particularly important or relevant since it is unlikely that coal gas will compete for the same market or uses as does electricity. Unless domestic supplies of natural gas decline at a rate below what most observers now expect, there should be enough natural gas supplies from conventional sources to supply most high-priority users for the foreseeable future. Thus, it is much more likely that coal gas will have to compete with oil in industrial markets, and that

the relevant comparison is with the price of imported oil.

The witness for the Ohio Consumers' Council and staff's witnesses compared the cost of coal gas with the cost of new natural gas produced from domestic wells. However, as discussed above, a better comparison is with the cost of imported oil. Also as price controls over natural gas are removed, one can expect gas prices to increase towards the level established by oil prices. These witnesses testified prior to the recent large increases in the international price of oil and probably underestimated both the likely future price of oil and the likely future price of natural gas. Consequently, their conclusions have little pertinence.

The sponsors provided an estimate of \$7.16 per Mcf as the cost for the gas in the first year of the operating life of the project based on the prices that will prevail in 1983 (the first year of operation).²¹ It thus includes a substantial premium for inflation. Such a price cannot be compared to the current price of alternatives such as imported oil. Another estimate given by the sponsors, \$5.66 per Mcf, purports to be in 1978 prices but is still only for the first year of operation of the project.²² Following conventional original-cost ratemaking methodology, the rate base of this project will decline over time as depreciation is accumulated, and thus the charge per unit of gas produced likewise can be expected to decline over time. By citing the unit cost for the first year of operation, the law judge and other parties have overstated the average cost of gas over the life of this project.

The more meaningful calculation presented in Appendix A estimates the average cost of gas produced from this project over its anticipated operating life based on the cost of service calculations provided in the record. This estimate of the lifetime average cost of gas from this project in 1979 prices is \$4.06 per Mcf. This price is equivalent to the cost of imported oil selling at \$23.50 per barrel, or only slightly more than the current cost of imported oil and is well within the probable cost of oil during any future period in which the Lurgi technology might be an important component of our gas supply.²³

²¹ Exhibit No. 15-A. This rate assumes that pre-operational costs of capital are recovered on a current basis.

²² Exhibit No. 19-D. As discussed in Appendix A, even this lower price is not truly in 1978 dollars.

²³ In Appendix A, a mid-1979 imported oil price of \$20.00 per barrel is used as the starting point for comparisons with coal gas. According to the U.S. Department of Energy publication *Weekly Petroleum Status Report*, the July 1 estimated

Though this estimate indicates that the lifetime average cost of gas from the Great Plains project would be approximately 15 percent more expensive than the current cost of imported oil, many knowledgeable observers predict that the "real" cost of imported oil will continue to rise in the future. Appendix A shows that if the cost of imported oil rises at a rate 1.5 percent higher than the general rate of inflation,²⁴ consumers of energy would find gas from the Great Plains project over its life to be less expensive than the purchase of an equivalent amount of imported oil over the same period.²⁵

It is possible that gas produced from coal gasification plants such as the Great Plains project is already more economical than purchasing imported oil over the next two or three decades. If not so at this time, coal gasification may become more attractive than imported oil by the time a significant number of plants could be constructed. In any event, the economics of coal gasification are sufficiently attractive to merit a closer examination of this supply option.²⁶

C. Need for Great Plains Project

1. Purpose of the Project.—The goal or purpose of the Great Plains coal gasification project according to the sponsors is to demonstrate the technical, environmental and economic feasibility of producing high Btu gas from coal. Many of the objections to the construction of this project and to the proposed financing plan and tariff provisions are based on the assumption that the purpose of this project is to produce an economical supply of natural gas. As discussed hereafter, the Commission believes that the project falls within the definition of the commercial demonstration category of

average FOB price for OPEC oil was \$20.37 per barrel. By November 1, this estimate had increased to \$21.26. According to another DOE publication, *Monthly Energy Review*, the U.S. refiner acquisition cost for imported oil was \$23.09 in July. Recent press reports describe short term spot sales of crude oil at prices of \$30.00 per barrel or higher.

²⁴ According to former DOE Deputy Secretary O'Leary, it is a "near certainty" that in the late 1980's world oil production will peak and result in much higher prices for oil and other energy products.

²⁵ This comparison is based on the discounted total costs of purchasing coal gas or imported oil over the expected productive life of the Great Plains plant.

²⁶ There are other less tangible benefits of supplying our nation's energy needs with domestically produced energy rather than imported oil. The social, economic and political stresses that attend our considerable reliance on foreign energy sources were alluded to previously. These energy concerns are so well known that we need not dwell on them here. The point is that because of them, dollar comparisons undervalue the advantages of new domestic supplies.

our policy regarding research, development and demonstration expenditures. Therefore, the Commission will evaluate this project and the proposed tariff and financing provisions by RD&D criteria. These criteria or standards are different from those that the Commission would normally apply to a conventional gas supply project.

2. Benefits and Cost of Coal Gas Demonstration.—There is a great deal of uncertainty surrounding coal gasification. The cost of constructing coal gas plants may be much higher than now estimated. The techniques for producing gas from coal may prove less efficient than now estimated. Coal gasification could have unanticipated impacts on the environment that no one now envisions. These and other major uncertainties surround the future of the production of high Btu gas from coal and could deter those who might be potential entrepreneurs from undertaking coal gasification investments.

The basic argument of the project sponsors and the Department of Energy²⁷ is that the Great Plains project is needed to eliminate or reduce these uncertainties. Their witnesses testified that this project is necessary to demonstrate the commercial feasibility of coal gasification. For example, Deputy Secretary O'Leary stated: "We know that the Lurgi process works, but it needs to be refined on a commercial

²⁷The Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*, enacted by Congress on August 4, 1977 charges DOE, *inter alia*, with the responsibility to develop (or, more precisely to participate in the development of) a coordinated national energy policy to deal with the short, mid- and long-term energy problems of the Nation and to develop plans and the programs for dealing with domestic energy production and import shortages; to carry out the planning and support of a balanced and comprehensive energy research and development program, including assessing the requirement for energy research and development and developing priorities to meet these requirements; and to assure, to the maximum extent practicable, that the productive capacity of private enterprise is utilized in the development and achievement of the policies and purposes of the Act.

On June 1, 1978, DOE announced its intention to intervene in this proceeding in support of the proposed coal gasification project, a decision which it characterized as a key step in implementing the energy supply initiatives which DOE had developed and transmitted to Congress and which have been designed to improve the Nation's capability to commercialize new energy supply technologies. DOE participate actively in this proceeding, strongly supporting the issuance of the requested certificate authorizations. Deputy Secretary O'Leary testified that "[t]he development of such a coal gasification capability is an important element of DOE's energy policy" and that, in DOE's considered opinion, this plant promises to provide a sound demonstration of that capability, thereby establishing the technological and economic predicates for a future coal gasification industry. (Tr. pp. 4087-88, 4197, 4331).

scale. We need to develop data on the construction and operating cost for Lurgi plants. We need to reduce the uncertainties regarding the commercial application of that technology." (Tr. 4090)

In a letter addressed to the Chairman of the House Committee on Interstate and Foreign Commerce, the Deputy Secretary stated that what is needed is a plant: "which is sized to demonstrate, to the satisfaction of the financial and technical community, the commercial viability of the technology, including its economics, its environmental acceptability, its technological applicability, its socioeconomic impact and such other factors as are appropriate" * * * "Generally speaking, plants up to and including one-half of commercial scale" * * * "can be regarded as demonstration plants." (Tr. 2653, 2682-83).

After reviewing the record, the Commission has concluded that the demonstration benefits of this project should be significant. Also, the overall net economic cost to consumers of supporting this project is likely to be small or non-existent and is certainly within a reasonable range considering the benefits they will derive.

The demonstration benefits of this project can be grouped into three categories. The first benefits it that this project will allow the financial community, government planners and the gas industry to better assess the economic and technical feasibility of producing high-Btu gas from coal. There are at present two major uncertainties in estimating the cost of coal gas. The first is the cost of construction and operation of the plant. The second is the efficiency of the plant. Higher than estimated construction and operating costs coupled with lower than estimated plant efficiency could result in a higher ultimate cost of coal gas.

Recent experience in the United States indicates that the ultimate cost of constructing large complex facilities often proves to be substantially greater than early cost estimates made during the design or planning stages.²⁸ Until a

²⁸A study by Walter Mead cites 12 examples, including the Trans-Alaska Oil pipeline, a rapid transit system, nuclear power plants, bridges, dams, and even office buildings. (*Transporting Natural Gas from the Arctic: The Alternative Systems*, American Enterprise Institute for Public Policy Research, Washington, D.C., 1977, pp. 83-94). The projects studied on average had 121 percent cost growth after adjustment for inflation and changes in scope for the project. The Rand Corporation prepared a study for the Department of Energy which shows that 10 energy process plants have experienced an average increase in cost of 141 percent from the first available estimate to the actual cost of construction. (*A Review of Cost Estimation in New Technologies: Implications for*

coal gasification plant of the size and complexity of the Great Plains plant is constructed, estimates of the cost of producing coal gas are uncertain. The project sponsors argue that they have estimated the cost of constructing this plant with a high degree of accuracy, but this may be typical of the early optimism of supporters of large scale and complex projects. Only a commercial-size demonstration facility can provide the empirical data needed to resolve these questions.

The ultimate cost of gas from the project is also dependent on the technical success of the plant design. This plant will demonstrate whether a coal gasification plant can be built following the design proposed by the sponsor. If the plant is not able to produce gas in the manner in which its designers claim or unexpected technical problems result, the most likely outcome is that substantial sums of money and time will have to be expended to modify the design. Even then the plant may not operate at the high levels of efficiency claimed by the sponsors. The major consequences of technical problems are most often higher costs and delays in plant startup.

Although many of the individual components of the proposed plant utilize proven technology, the record in the case indicates that there is significant uncertainty related to the following:²⁹

"(1) The various components of the plant will be put together in a particular sequence for the first time;

"(2) The methanation process of raising coal gas Btu from 350 to 900-plus Btu has not been used in this precise way before;

"(3) The sizes of some of the components are larger than have been used commercially elsewhere; . . ." ³⁰

Complications or difficulties resulting from any of these factors could result in cost overruns, delay in start-up, or reduced plant efficiency with attendant implications for the long-run future of coal gasification.

In contrast to the possibility of cost overruns is the potential for increased efficiency in throughput of the plant. A witness for the project sponsors testified that there is "an excellent chance" of producing up to 151,300 Mcf per day compared to the design output of 137,500 Mcf per day.³¹ A staff witness was less optimistic,³² but plant efficiency will

Energy Process Plants, Edward W. Merrow, Stephen W. Chapel, and Christopher Worthing, Rand Corporation, July 1979).

²⁹This is intended to be an illustrative list and not necessarily all-inclusive.

³⁰Staff initial brief, p. 81.

³¹Tr. p. 3265.

³²Tr. p. 4964.

only be known when the plant is actually operating.

Although this project will not be financed under conventional arrangements because the financing of this project is based on special tariff conditions, the project will reduce the uncertainties surrounding coal gasification and thus make easier the future financing of coal gasification projects. Investors in general and debt investors in particular are unwilling to risk sizable sums of money on projects which have many unresolved uncertainties or risks unless very high rates of return are allowed or other assurances are granted to investors. Because of the many uncertainties and unknowns surrounding the Great Plains project, debt investors have expressed an unwillingness to make the necessary commitments to the project without special guarantees from gas consumers, as are here involved, in the form of a tariff that would guarantee the repayment of debt both in the event of abandonment prior to commencement of operation and during the operating period. The economic, regulatory, technological and environmental uncertainties surrounding this project appear to make it impossible for the sponsors to obtain financing under more conventional terms. If coal gasification were a mature industry with numerous plants already in operation, with a long record of producing gas at competitive price, with proven environmental acceptability, and with a proven technology, investors would be willing to commit funds for the construction of a coal gasification plant without relying on special tariff provisions or guarantees from the government. Most private investments in this economy do not require consumer or government guarantees. The Great Plains project will be a major step forward in reducing the risk and uncertainties surrounding the coal gasification industry and should result in more conventional financing arrangements for future coal gasification plants.

The second category of potential demonstration benefits is information about the regulatory and governmental approval processes on the Federal, State and local levels. The sponsors of large, complex projects often have complained that they suffer major difficulties, delays and expense in obtaining the necessary permits at all levels of government. The sponsors of the Great Plains project will have to obtain many permits and approval from various governmental

agencies.³³ The difficulties or problems encountered in obtaining these approvals can only be known after the sponsors have actually attempted to obtain them. After this project has obtained the various governmental approvals required, future sponsors and financial investors in coal gasification projects will have better information concerning the institutional problems, the substantive issues and the associated costs. If there turn out to be major barriers to commercialization due to such requirements, a predicate for possible regulatory change would be established.

Third, the Great Plains project will have demonstration value in the area of environmental impacts. A number of large construction projects in recent years have been delayed or cancelled because of concern about their environmental impact. The environmental impact statements and the extensive testimony on environmental issues indicate that this project and its related facilities such as the coal mine will be acceptable from an environmental standpoint.³⁴ As discussed below, we affirm the presiding judge in his finding that the environmental impact statements for this proposal are adequate. Nonetheless, important information concerning the environmental impacts of coal gasification can only be learned through actual plant operation. For example, the record indicates that the Environmental Protection Agency has not issued air emission standards for facilities of this type (Tr. 5370), and there is a possibility that the cost of environmental protection has been underestimated. Also, the Great Plains project will demonstrate the socioeconomic impacts of coal gasification in the rural areas in which future coal gasification projects are likely to be built and the public acceptance of these projects.

The usual justification for a demonstration plant is the need to demonstrate the technical feasibility of a new process or technique. However, as previously discussed, we believe a broader focus for demonstrations is permissible if there are non-technological uncertainties that also need resolution. In today's complex world, the major uncertainties surrounding large energy projects of this type often concern ultimate cost, environmental impacts, institutional problems, the ability to finance and the governmental regulatory processes. The

³³ Exh. No. 114, pp. 1-9 and 1-10, contains a list of major permits and approvals which must be secured before operation can commence.

³⁴ Initial decision, pp. 47-48.

Great Plains project will provide valuable information about all of these areas, as well as the technical issues related to producing high Btu gas from coal.

Any excess cost of coal gas to consumers relative to alternative forms of energy can be viewed as the cost of providing the demonstration benefits of this project. If the expected cost of gas to consumers from this project were substantially in excess of the cost of alternative forms of energy available to those consumers, then it can be said that the expected cost of this demonstration project would be high. Alternatively, if the expected cost of the gas from this project were less than the cost of alternative forms of energy, then the demonstration benefits of this project will be expected to be provided at no cost.

Because one of the major uncertainties that this project will help to resolve is the ultimate cost of producing high Btu gas from coal, it is impossible to be definitive about the ultimate cost to the consumer of this demonstration at this time. The estimates in the record in this proceeding were provided by the project sponsors, and they may prove to be optimistic if the project experiences cost overruns of the magnitude experienced by many other large energy projects.

On the other hand, the cost of this gas, even assuming substantial cost overruns, may be less than the cost of alternative forms of energy if the price of oil continues to rise rapidly. As discussed in greater detail in Appendix A, the "lifecycle" cost of gas from this project based upon the capital and operating cost estimates provided by the sponsors will be less than the "lifecycle" cost of imported oil over the same period if the price of imported oil rises at a rate faster than 1.5 percent per year in real terms. In other words, the price of oil must increase at a rate 1.5 percentage points higher than the general rate of inflation. Such future prices are sufficiently probable that the cost of the demonstration benefits of this project, as measured by the difference between the cost of coal gas and the cost of imported oil, will likely be small. It is unlikely that the support of this project by consumers of natural gas would constitute a major cost burden.³⁵

³⁵ Even if the plant were to encounter serious cost overruns, environmental problems or technological difficulties, it is unlikely that the plant would be abandoned after substantial sums of money have been invested. In the event of such catastrophic developments, the most likely outcome would be that the plant would still be completed but at a greater cost in order to overcome the technical or environmental problems encountered during

Footnotes continued on next page

A final issue concerning the demonstration benefits and cost of this project is the size of the proposed project. A staff witness argued that most of the potential demonstration benefits could be realized from a plant half the size of the proposed Great Plains project. (Tr. 5308). The New York Commission also argues on behalf of a requirement reducing the plant to one-half the size proposed. Although most of the technical demonstration benefits associated with the integration of the various components into a smoothly functioning plant could be achieved with a smaller scale plant, only a large project can adequately demonstrate the cost of producing coal gas, the regulatory requirements, the environmental impacts, and the financing requirements for coal gasification facilities. A demonstration project much smaller than the one here proposed would provide far fewer demonstration benefits. Accordingly, we will not require a down-sizing of the project.

3. Environmental Acceptability.—In addition to the other more direct costs discussed herein, the Commission must consider the probable environmental impact of this project.³⁶ The Federal agencies³⁷ having major involvement in the regulation and approval of this project recognized that their individual

and collective actions constituted a "[m]ajor Federal action significantly affecting the quality of the human environment * * *" and prepared a series of final environmental impact statements (FEIS) which assessed the site-specific effects of the coal mining operation, steam electric plant, coal gasification plant and gas pipeline on the physical, biological and socioeconomic environments during construction and operation of these facilities.³⁸ The Department of the Interior, acting as "lead agency", prepared the FEIS on the gasification project as a whole. This FEIS was made a part of the record during the hearings. However, since the Interior FEIS did not assess the environmental impact associated with the natural gas pipeline system facilities needed to receive and transport the commingled gas in the interstate market, the FERC staff prepared a supplement to that FEIS which it sponsored and introduced into the hearings.³⁹ Staff presented witnesses who testified on both FEIS. No intervenors participated in the hearings on the environmental issues. In his initial decision, the judge found that the adverse environmental consequences of the project had been identified and that the requirements of the National Environmental Policy Act had been fulfilled.

The U.S. Department of Agriculture FEIS on the Antelope Valley (Basin Electric) Station, entered as an item by reference, had been analyzed previously by staff which submitted comments on the draft version on November 18, 1977. In addition, a draft Environmental Impact Study prepared jointly by the Department of the Interior (Bureau of Land Management) and the State of North Dakota entitled "Draft West Central North Dakota Environmental Impact Study on Energy Development" also was entered into the record. This latter document evaluates the impact of the Federal coal leasing program in the environs of the proposed action.

The major environmental impacts resulting from approval of this action can be summarized as (a) permanent changes in the land surface and a restructured ecology of 12,500 acres due to the removal of coal; (b) degradation of air quality due to the emission of air pollutants from the coal gasification plant and Basin Electric's Antelope

Valley power plant; (c) degradation of surface water and alteration of ground water characteristics due to the construction of facilities and the operation of the coal mine; and (d) socioeconomic effects due to the influx of large numbers of construction workers and plant operations personnel into a rural area.

The reclamation plan proposed for regrading and restoring the area that will be stripmined is designed to return the land to productive, albeit modified usage. Enforcement is to be the responsibility of the North Dakota Public Service Commission. The gasification and Basin Electric plants will be required to operate in compliance with both Federal and State Ambient Air Quality Standards, Significant Air Deterioration Limits and New Source Performance Standards. Comparing emissions from the entire project, the majority will be produced by the power plant rather than the gasification plant. It may be noted that our action is not controlling on construction of the Antelope Valley generation station since REA has stated that the station will be built even if the Great Plains sponsors do not proceed with their project.⁴⁰

Surface water effects will be temporary and generally limited to the period of plant and pipeline construction; ground water effects will be tracked by a monitoring program. Effects on social systems and community infra-structures will be significant, considering the large number of workers and their families that will move to the area to build and operate the facilities. A phased-construction plan has been prepared to reduce the number of new people in the area at any given time during the construction phase. This plan, coupled with impact funds, will mitigate the social impact. However, some permanent social change will be unavoidable.

Staff made several recommendations regarding alternative routing of the product and natural gas pipeline in its Supplement to the Department of Interior's FEIS (Section I). We would support those recommendations dealing with the alternative placement of the Great Lakes looping and the recommendation to substitute a 25-mile SNG line to the proposed Northern Border Pipeline Company line (Docket No. CP78-14) in place of the proposed 365-mile long SNG pipeline. The latter recommendation, in particular, would seem to have significant environmental

Footnotes continued from last page construction. (See, however, our discussion regarding the Commission's reservation of the right to direct abandonment and of the Project Monitoring System, *post*). The incremental cost to completion after substantial sums have already been spent on construction would probably impel completion and thus gas would be produced even though at a cost higher than predicted at the outset. Because the risk of abandonment during construction is small, the potential cost to consumers in the event of abandonment should not be given large weight in the evaluation of the benefits and cost of this demonstration project.

³⁶Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*, 83 Stat. 852, Pub. L. No. 91-190 (1979)) requires in pertinent part that all agencies of the Federal government shall:

"(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."

³⁷Federal Energy Regulatory Commission; Bureau of Reclamation of the Department of the Interior; and Rural Electrification Administration, Department of Agriculture.

³⁸FEIS, ANG Coal Gasification Company (ANGCGC), North Dakota Project, Upper Missouri Region, Bureau of Reclamation, Department of the Interior, (INT FES 78-1), January 20, 1978.

³⁹Supplement to the USDI FEIS, ANG Coal Gasification Company North Dakota Project, Federal Energy Regulatory Commission (FERC/EIS-0001), April 1978.

⁴⁰FEIS, Antelope Valley Station, U.S. Department of Agriculture (USDA-REA-EIS (ADM) 77-8-F), May 1978 (Summary Sheet).

advantages: In addition to elimination of the SNG line across North Dakota, it could eliminate 245 miles of looping along Great Lakes and Michigan-Wisconsin's system, with savings for both ratepayers and the environment. From an engineering and systems operation standpoint this is a feasible and attractive alternative.

However, as discussed in the later section dealing with the Great Lakes application, we have concluded that certificates for transportation of the coal gas or commingled coal-natural gas should not be issued at this time. Consequently, our statements regarding the apparent advantages of staff's recommendations with regard to the routing of the lines required to transport the coal gas should be considered only in the nature of observations for the future consideration of the respective applicants. Also, we have some concern that the timing of these two projects (Great Plains and Northern Border Pipeline) may not be sufficiently synchronistic to permit this approach. A more accurate evaluation of the validity of this option will be possible when the date for the commencement of operations by Great Plains is more certain, while still leaving sufficient time for approval and construction of either of the SNG lines.⁴¹

The environmental documentation presented during these proceedings has been exhaustive and we are satisfied that in conjunction with the extensive testimony given, all of the significant environmental impacts have been identified and assessed, that a reasonable range of alternatives had been considered, and that a concerted effort has been made to develop and recommend measures to mitigate any adverse environmental effects. On this basis, and assuming compliance with all related Federal, State and local laws, we find that this coal gasification project can be constructed and operated in an environmentally acceptable manner and will provide a reasonable demonstration of the environmental acceptability of the entire coal gasification process.

We make these findings cognizant of the questions about environmental uncertainties pointed out in staff's briefs. As discussed previously, one of the fundamental arguments that this project is in the public interest is the need to clarify and learn more about the environmental implications of a major coal gasification industry. The record is clear that the likely environmental impacts are such that proceeding with this project is appropriate. We are also aware that the nature of the project

demand continuous evaluation of environmental matters. We therefore adopt the judge's findings that the requirements of NEPA have been fully met and that the sponsors are obliged to comply with the requirements of Chapter 4 of the FEIS (Exh. No. 114):

D. Who should support the Great Plains Project?

1. Gas Research Institute.—The Gas Research Institute (GRI) is the only nationwide gas research organization which has broad-based support.⁴² GRI was formed in 1976 to expand the gas industry's research and development activities. Its Articles of Incorporation state that it is organized "[e]xclusively for scientific and educational purposes . . . in the general areas of production, transmission, storage, distribution, utilization and conservation of natural and manufactured gases and related products, and in the analysis, demonstration and dissemination of results derived from such research and development programs. . . ."

GRI is a planning and management organization which engages in RD&D activities through project contracts with laboratories, universities and others. It is not designed or financed⁴³ either to organize or manage a project of the nature, scope or size of Great Plains. Consequently, this organization cannot be considered as a source of support for this project.

2. Taxpayers v. Gas Consumers.—The pivot of the recommended rejection of the project in the initial decision was a judgment that it was inappropriate to place the costs of the project on the shoulders of gas consumers rather than the general taxpayers. The initial decision and exceptions thereto place before us the issue of whether it is reasonable for consumers of approximately one-third of the Nation's interstate natural gas to provide the guarantees and support that are necessary for this project.

Many of the parties in the proceeding have argued that this burden placed on a minority of natural gas consumers is unfair and inequitable. Instead, they contend that the general taxpayers, through the Federal government, should provide any special support that this project requires. The law judge held that

⁴²Two other groups having essentially national representation, The American Gas Association and the Interstate Natural Gas Association of America, are both non-profit trade associations of companies engaged in the natural gas business and do not themselves directly engage in industrial activities or operations.

⁴³Initial membership payments to GRI were in the range of \$2,000 to \$10,000 for each participant. Its 1979 budget for all operations was \$39.9 million, with an increase to \$57.9 million in 1980.

"It would simply be inequitable to have perhaps one-third of the country pay all the costs of the project, including paying for the modest volumes of coal gas to be obtained if the project is successful, while the benefits of learning whether or not it is practicable to manufacture and market coal gas would inure to the nation as a whole." ⁴⁴He concluded that the Federal government should provide loan guarantees to repay the investment in the project in the event of abandonment. In addition, he argued that the government should pay for part of the cost of the gas produced by the project equal to the difference between the cost of the coal gas and the cost of new natural gas supplies from other sources.⁴⁵

One goal of regulation is to try to achieve a matching of the benefits to cost, *i.e.*, to try to assure that the beneficiaries of a project or policy pay the cost of that policy or project.⁴⁶ The goal of a perfectly fair and equitable allocation of the benefits and cost of research, development or demonstration projects is very difficult to achieve for a variety of reasons. The benefits of research and development often cannot be predicted with certainty and, as a result, it is almost impossible to ascertain which individuals in society will benefit therefrom. As an example, military and National Aeronautics and Space Administration research often have resulted in technological breakthroughs that have wider application in commercial enterprises. Also, the benefits of research and development can occur decades (or even centuries) after the research and development activity. Society today is still reaping enormous benefits from scientific research, development and demonstration undertaken years ago.

Because of the difficulty in predicting the results of specific research, development and demonstration activities or the beneficiaries of that research, a large portion of RD&D activities in this country is paid for by the Federal or state governments from tax revenues. The parties who oppose the financing plan proposed by the

⁴⁴Initial decision, p. 5.

⁴⁵*Id.*, pp. 28-29.

⁴⁶One theoretical method of providing a matching of the benefits and costs for the Great Plains project that would be close to ideal would be to set aside the excess cost of the coal gas compared to imported oil in a special fund to be accumulated and paid for by future consumers of coal gas when coal gas has developed into an economical industry. The equitableness of this procedure is that it would require those who benefit from a coal gasification industry to pay for the research, development and demonstration cost of developing that industry. Such a scheme, however, seems excessively complex and theoretical for consideration in connection with the present proposal.

⁴¹See pp. 102-104, *post*.

project sponsors argue that similar government support should be obtained for the project. However, the fact that government has often supported RD&D activities with tax revenues does not necessarily imply that this is the only fair or equitable method of supporting research and development activities. Government support is simply a practical way to pay for many RD&D activities because of the inherent difficulty in identifying the beneficiaries of the particular project and requiring them to pay the costs.

An argument might even be made that general taxpayer support of a project such as the one proposed would not be fair or equitable. Gas consumers have a substantial investment in the gas transmission and distribution system as well as gas-using equipment. Gas is a premium fuel with special advantages. While a new gas supply source would benefit everyone because of the relationships among the various components of our energy economy, gas consumers would receive special benefits. On this basis it could be argued that gas consumers, not taxpayers, should shoulder the costs of the additional supply.

The benefits of the Great Plains Coal Gasification project will accrue widely to present and future consumers of both oil and natural gas. If coal gasification does prove to be an economical source of energy compared to the primary alternative of imported oil, then gas from coal can replace our own depleted reserves of natural gas from conventional sources and thus avoid requiring natural gas consumers to switch to more expensive imported oil. Increased supplies of gas transported through existing pipelines will allow the fixed costs of these facilities to be spread over more units of throughput, thus reducing the unit cost of all gas. Alternatively, gas from coal may be used in the future to expand natural gas markets and allow current consumers of oil to switch from higher cost oil to lower cost gas produced from coal.

Also, as indicated earlier, the development of secure domestic energy sources will reduce the cost of future disruptions in imported oil supplies. An increase in secure domestic energy supplies could result in a reduced strategic oil storage program and thus reduce the cost to the general taxpayer of that program. The development of additional domestic energy supplies will tend to reduce upward pressure on world oil prices, benefiting present and future oil consumers and also benefiting gas consumers to the extent that the price of gas will track the price of oil.

Deputy Secretary O'Leary stated that he preferred to think of the coal gasification industry as a national insurance policy. In his view, the development of a capability to produce natural gas from coal on a large scale would be available for prompt utilization in the event that large increases in future oil prices made coal gasification economical.⁴⁷ This again would benefit oil consumers who would then be able to switch to lower cost coal gas.

In a sense, comparison of the proposal before us with the alternative advocated by the initial decision is academic because Congress has not chosen to provide taxpayer support for a commercial-size demonstration of coal gasification. There is presently, as there has been from time to time, interest in Congress in such programs. Nonetheless, the record indicates that Deputy Secretary O'Leary believed that the time necessary to obtain loan guarantees or other government support would be approximately two years.⁴⁸ Even then it may not be possible to secure such support for the project.

The project sponsors have promised to restructure the financing of the project if government support for high cost energy projects becomes available in the near future.⁴⁹ If such general support is made available, we shall require that the financing of the project be restructured commensurately.

We continue to support the general principle that individual gas companies or consortia of gas companies should continue to support research, development and demonstration of new gas technology, even in the absence of Federal support, because of the desirability of a diversified approach to RD&D. To have all research concerning natural or synthetic gas controlled and supported by one or two organizations, for example, the Gas Research Institute or the Department of Energy, can have serious disadvantages. It is very difficult to predict what avenues of research will be the most productive or have the greatest payoff. If many agencies or organizations are able and willing to pursue the avenues of research that they believe to be the most advantageous, then a greater variety of research projects and different points of view are likely to receive support; and the possibility that a valuable new technology is overlooked or not developed is reduced. Thus, the Commission believes that worthwhile gas research programs undertaken by a

variety of organizations, including individual gas companies and *ad hoc* consortia supported by the customers of those companies are in the public interest.

Finally, although the Great Plains project could impose a cost burden on the ratepayers of the five sponsoring companies if the cost of the coal gas produced exceeds that of its alternatives, the ratepayers of these and other companies have and will continue to support RD&D efforts or projects whose purpose is to obtain gas supplies from supplementary and relatively expensive sources. We do not believe that the ratepayers of these same five companies should be asked, in the future, to be the sole support of other coal gas demonstration projects or other large demonstration and research projects.

In sum, the law judge may be correct in his determination that since the project eventually may benefit the entire country, the costs would best be shared by all potential beneficiaries.⁵⁰ The matter is academic, however, because we do not have before us a proposal involving all taxpayers or all gas ratepayers and that option is not in our power to order. Applicants have expressed their willingness to restructure the financial aspects of the project if Federal assistance becomes available. We will hold them to that position by requiring the submission of a revised financing plan if and when any financial assistance becomes available. However, unless and until governmental support is available, we must address the proposal before us.

The law judge concluded that denial of the applications was preferable to permitting the project to proceed under the existing sponsorship. We believe this project is consistent with the public convenience and necessity and we are prepared to extend certification on the basis of the sharing of costs as will occur under the existing sponsorship contingent upon appropriate tariff and financing arrangements.⁵¹

3. Sponsorship Proposal.—The applicants contend that the project meets the requirements of the public convenience and necessity test and it is reasonable that the costs of the project should be provided by the gas consumers served by the participating

⁴⁷ Though, as noted, valid arguments to the contrary can be raised.

⁴⁸ In a sense, the importation of liquefied natural gas as approved by our predecessor agency, the Federal Power Commission, in its Opinion No. 552, also could be viewed as a demonstration of energy technology, but the costs involved were supported by the consumers served and were not assigned to the Nation's taxpayers.

⁴⁹ Tr. pp. 4195; 4212.

⁵⁰ Tr. pp. 4273-78.

⁵¹ Great Plains brief on exceptions, p. 10.

pipeline companies.⁵² These are the consumers that will directly benefit from the operation of the plant and from the additional gas supplies that will result therefrom. Quantitatively and geographically they represent a sizable portion of the gas-consuming public. The area to be served by the plant is also the area of our country that potentially will reap the greatest benefit from additional gasification plants and be most directly effected by future implementation of this technology. Benefits of national significance may not be evident until subsequent gasification production units are placed in service, at a time that may well be late in the next decade.

Wider sponsorship would have been preferable to provide a greater dispersion of costs. Nevertheless, it is our opinion that the existing sponsorship is adequate to permit inclusion of the costs of this project in the rates of the sponsoring pipeline companies as RD&D costs, subject to the provisions of this decision. The key consideration is not ideal equity as a result of a perfect matching of costs and benefits but, rather, whether there is a sufficient sharing of the risks and responsibilities such that no single customer will be required to bear unreasonable costs or risks.

Accepting for present purposes the figure of \$4.06 per Mcf which we have estimated as the likely cost of the coal gas produced from Great Plains over the life of the project (Appendix A) on the basis of the figures in the record, and including the anticipated production volume of 125,00 Mcf per day into the total sales made in 1978 by the five sponsoring Customer Pipeline Companies, our computations indicate that the average price of all sales would have increased by about 2.60 cents per Mcf. Furthermore, assuming the "worst case" based on the cost estimates in the record, namely abandonment of the project at the conclusion of construction and without any production, the cost to the resale customers of the sponsoring pipelines on a one year payout basis would be 28.817 cents per Mcf. On a five year amortization for debt and equity investment, and including interest at 11 percent on the unamortized debt balance and an illustrative 15 percent return on outstanding equity, the annual

⁵² The initial decision seems to imply that a significant defect of this project is that only one-third of the Nation's natural gas ratepayers would be involved. However, since the judge immediately moved to the conclusion that the taxpayers should support the project, he did not reach the question whether, assuming ratepayer support was found appropriate, support by the five sponsoring pipelines was adequate. See, however, our discussion of rate of return allowed on equity, pp. 70-75, *post*.

cost burden would range from 6.0 to 8.5 cents per Mcf.⁵³

This project will be supported by consumers of approximately one-third of the Nation's interstate gas and any burden will be small and will be justified by the benefits to those consumers. We find this to be satisfactory for a finding that there is a sufficient sharing of costs and benefits so that, assuming the other requirements are met, the public convenience and necessity will be served by granting the requested certificates.

As discussed in the initial decision, the final three sponsors—Columbia Coal, Tenneco SNG and Transco Coal—did not join the project until 1978, after two series of hearings had been conducted and it had become apparent, after discussions with DOE officials, that additional sponsorship was necessary to spread the costs and risks of the project. By the terms of their agreement, those latter three sponsors are passive and are not required to participate actively in the project or to share in its costs until the project has been fully authorized. Finally, even after all regulatory authorizations are secured, the three passive sponsors, as well as the active sponsors, ANP and PGC, are free to withdraw from the project.⁵⁴

The existing scale of sponsorship and the diffusion of costs and risks attendant thereon is fundamental to our certification. Accordingly, if the certificate tendered herein is accepted, we shall require as a condition the continued involvement of the five sponsors. Any withdrawal by a sponsor shall be subject to prior approval by the Commission.

E. Threshold Public Convenience and Necessity Determination

1. Commission's RD&D Policy as Basis for PC&N Finding.—The applicants argue that the project satisfies the Commission's "commercial feasibility" test for treatment of the proposed facility as a Research, Development and Demonstration (RD&D) Project.⁵⁵ The Department of Energy argues that the project, if not within the letter of our RD&D policy, is in accord with the general spirit and objectives of that policy. This question is important because the Commission has stated that it stands ready to give special treatment for RD&D investments different from that afforded to other types of pipeline investments and

expenditures.⁵⁶ The Commission's RD&D regulations envision rate filings under Section 4 of the Natural Gas Act rather than certificate applications under Section 7 as are involved here, but if this project falls under the RD&D rubric the case for treatment different from that accorded ordinary pipeline investments is stronger.

Both the applicants and DOW argue that the "demonstration" value of the project justifies its certification (and, thus, of course, a finding that the project and the proposed financing plan are in the public convenience and necessity). The sponsors' principal policy witness, Mr. Arthur R. Seder, Jr., stated:⁵⁷

"[T]his project has now become truly a demonstration of the technological, economic and environmental viability of the coal gasification process. Since no single member of the Great Plains consortium will receive significant volumes of gas from the plant it is clear that the motivation of these consortium members—and the public interest justification for its construction—is to provide concrete evidence to the financial community and the public that a commercial sized coal gasification plant will produce gas at a rate of production, at a price and with environmental consequences that will lead to the construction of many more gasification plants in the years to come."

Some participants, including the New York Commission and staff, seem to argue that the proposed Mercer County facility is not a proper RD&D project since it embodies an established technology and the application of this technology to the lignite reserves dedicated to this project or to other domestic coal reserves could be tested in a much simpler and less expensive fashion.

As discussed in an earlier section of the Order, there are a number of technical uncertainties surrounding the design, construction, and operation of this plant. However, the Commission does not believe that the sole or primary purpose of this project is to demonstrate the technical feasibility of the Lurgi process for coal gasification. Instead, this project will provide valuable information about the economic, commercial, regulatory and environmental feasibility of coal

⁵⁴ Order No. 483, *Research and Development; Accounting and Reporting*, Docket No. R-402; 49 FPC 1054 (1973); *Research Development and Demonstration; Accounting; Advance Approval of Rate Treatment*; Docket No. RM 76-17, Notice of Proposed Rulemaking issued June 17, 1978; Order No. 566, *Order Prescribing Changes in Accounting and Rate Treatment for Research Development and Demonstration Expenditures*, Docket No. RM 76-17, issued June 3, 1977, reheating denied August 3, 1977.

⁵⁷ Tr. p. 3176.

⁵³ See Appendix B for computations.

⁵⁴ Exh. No. 119.

⁵⁵ Initial brief, pp. 25-27.

gasification. Therefore, the issue is whether the Commission's RD&D policy should be limited to evaluations of new technology or new technological issues, as some of the parties to this proceeding imply, or whether the "demonstration" concept can properly be extended to a broader set of concerns as the applicants and DOE suggest.

Proper evaluation of this question requires review of Federal Power Commission and Federal Energy Regulatory Commission policy towards RD&D. This policy has evolved slowly over years, largely in response to the need to deal with the reduction in the discovery of new conventional sources of natural gas and the increasing costs associated with substitute supply sources. The original scope of cognizable research and development (R&D) activities was set in Order No. 322 issued May 26, 1966, 35 FPC 820, and was extremely limited. By a Notice of Proposed Rulemaking issued on December 13, 1972,⁵⁸ the Commission proposed various changes to Order No. 322 in order to broaden the definition of R&D (specifically, to expand the types of activities qualifying for the special rate and accounting treatment). The Commission explained that it "[b]elieves that research and development is an essential part of the national energy policy demanding a high priority of industry and government leadership."

The responses to the Notice and subsequent evaluation by the Commission led to the adoption of Order No. 483 to encourage a wider range of R&D. The definition of R&D included expenses incurred in the "design, development or implementation of . . . a plant process [and] amounts expended in connection with the proposed development and/or proposed delivery of substitute or synthetic gas supplies (alternative fuel sources for example, an experimental coal gasification plant * * *)⁵⁹ but did not include demonstration projects.

It was not until the adoption of Order No. 566 on June 3, 1977, that the existing definition of R&D was expanded to recognize the participation in full scale demonstration facilities, under certain conditions, as justifying special consideration and treatment. In the Notice of Proposed Rulemaking⁶⁰ which preceded and formed the basis for Order No. 566, the Commission emphasized the need for a significantly expanded national energy R&D program as part of the solution to the problem of an

increasing imbalance between energy supply and demand and stated:⁶¹

"Many of the energy technologies under serious investigation in the nation's R&D are not only known to be technically feasible but also are in operation on a laboratory scale, or on a working scale, as in a pilot plant. However, uncertainty with regard to the economics of commercial-scale operation is, in many cases, so great as to preclude normal methods of financing the construction of the first, or the first several commercial-scale facilities. Therefore, because of the Nation's need for rapid development of new energy technology, the construction of commercial-scale demonstration facilities must be regarded as a vital part of the national R&D program." (emphasis supplied)

Thus, the revised definition of RD&D as stated in Order No. 566:

". . . includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and economically feasible operations are verified. . . . The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional pipeline gas supplies that rely on technology that has not been verified previously to be feasible. . . ."

It is important to note that the thrust of the just quoted excerpts is that RD&D treatment will be accorded not only to facilities that test the technological soundness of the engineering concepts embodied in the facility but also to the economics of commercial-size plants. That is, it is not only whether the technology "works" in an engineering sense but also whether it is commercially viable as a potential source of supply.

The law judge concluded that Order No. 566 ". . . says nothing whatever as to what constitutes the public convenience and necessity under Section 7(c)-(e) of the Natural Gas Act."⁶² We believe this is an unduly restrictive application of Order No. 566 in these circumstances; as a minimum Order No. 566 stands for the Commission's willingness to consider permitting ratepayer support of demonstration projects to advance our knowledge about new sources of gas.

Finally, in denying an application by California and the California Commission for rehearing of Order No. 566 with regard to the verification of commercial feasibility, the FPC stated that "[C]ommercial feasibility refers to a determination that a technology proved

in a pilot plant will be operable on a commercial scale as well. For our purpose, it does not refer to whether the cost of the final product will be low enough to make it competitive with other processes now, but it does refer to an evaluation that the cost of the final product will be reasonable at some future date. It is anticipated that the need for verification will require the construction of at least one demonstration plant."⁶³

We agree with the project's sponsors that the present proposal is consistent with Order No. 566 and the relevant planning guidelines. Order No. 566 expressly includes "expenditures for the implementation or development of new and/or existing concepts until operations become technically and economically feasible." Even if the project is unsuccessful in producing pipeline quality gas within a reasonable range of the prices forecasted, significant benefits will nevertheless accrue as a result of the knowledge to be gained in the project's construction and, more importantly, in establishing whether coal gasification is or is not a viable energy alternative, either in the long-run or as a stop-gap measure capable of being relied on pending the development of other more long-term energy sources such as solar power.

We believe that the demonstration aspects of the Mercer County project are important to the national effort to develop supplemental energy sources. However, consistent with Order No. 566 (mimeo pp. 11-12), we shall evaluate this project on its own terms and shall attach certain conditions to ensure that the project is consistent with the public interest. As discussed more fully immediately below, the public convenience and necessity standard of section 7(c) of the Natural Gas Act is sufficiently broad to permit certification of the proposal as conditioned by us.

Viewed in this light, applicants and DOE make a reasonable argument when they state that the proposed Mercer County facility is within the definition of a demonstration project as included in the Commission's basic RD&D concept. There are many questions about the Lurgi process that are crucial to determining whether it is commercially acceptable. Staff, for example, challenges the view that the results of the project will be acceptable. These questions raise again issues that have been debated for years. Data from an actual, commercial-size facility would do much to resolve them. In the absence

⁶² Order Denying Application for Rehearing of Order No. 566, Issued August 3, 1977, mimeo. pp. 4-5.

⁵⁸ 37 Fed. Reg. 27640.

⁵⁹ 49 FPC at p. 1059.

⁶⁰ Docket No. RM78-17, issued June 17, 1976, 41 Fed. Reg. 25914.

⁶¹ *Id.*, mimeo. p. 6.

⁶² Initial decision, p. 27.

of a demonstration they are likely to be debated for many more years with the Nation continuing to need to know as much as possible about all reasonably potential supplemental energy supplies.

While supporting the concept of large scale demonstration plants funded by RD&D organizations, the FPC also made clear that⁶⁴

"[w]e will not tolerate a proliferation of simultaneous large scale demonstration plants in the name of RD&D to be funded by natural gas consumers if there is major duplication of new technology. These plants require enormous sums of capital and we must be cognizant of the impact of each proposal on the public as well as the cumulative impact on the public. We therefore urge the companies we regulate to proceed with caution in proposing the construction of large scale demonstration plants that will be funded by natural gas consumers of this country."

We reaffirm this policy and note its particular relevance for the Lurgi process.

2. The Public Convenience and Necessity Standard.—As noted, *supra*, the Commission is requested by the applicants to find, consistent with Section 7 of the Natural Gas Act, that the public convenience and necessity would be served by granting certain specific certificate and rate proposals. The question of whether the public convenience and necessity permits the certification of a proposed jurisdictional transaction has been viewed by the Commission, from the outset of its administration of the Natural Gas Act, as involving broad avenues of inquiry into the interest of the public in the particular proposal. Thus, for example, in *Kansas Pipe Line & Gas Company, et al.*, 2 FPC 29 (1939), one of earliest reported decisions interpreting Section 7, the Commission stated:

"We are aware that the term 'public convenience and necessity' is not susceptible of precise definition. Judicial decisions interpreting the phrase are in conflict. We believe that any definition of the term must fundamentally have reference to the facts and circumstances of each given case as it arises.

"We do not view the term as meaning indispensably requisite. Rather we view the term as meaning a public need or benefit without which the public is inconvenienced to the extent of being handicapped in the pursuit of business or comfort or both—without which the public generally in the area involved is denied to its detriment that which is enjoyed by the public of other areas

similarly situated. We do not construe the phrase to mean an absolute necessity but rather a reasonable necessity having a regard to the convenience of the public in the area involved and its welfare. In determining what is the 'public' whose convenience and necessity are the subjects of inquiry, we have conceived of that public as the public which exists in the area or territory proposed to be served, not merely the applicants nor those persons or towns who believe they would benefit from the proposed construction."⁶⁵

Similarly, in *Commonwealth Natural Gas Company, et al.*, 9 FPC 71 (1950), involving a major pipeline extension to introduce natural gas into the Tidewater area of Virginia, the Commission—quoting in part from an earlier decision granting a certificate for a major interstate pipeline—held:

"Public convenience and necessity comprehends a question of the public interest. Or stated another way: Is the proposal conducive to the public welfare? Is it reasonably required to promote the accommodation of the public? The public interest we referred to has many facets. To the limit of our authority under the law our responsibility encompasses them all."⁶⁶

The wide scope accorded by the Commission to the considerations relevant to a determination of the public convenience and necessity has been set out in numerous decisions. Indeed, the matter is now so commonly accepted that recent references are infrequent. Judicial interpretations of the legislative standard, both in the Natural Gas Act and in other regulatory enactments, are consistent with the Commission's interpretation in the instant matter. The courts have long held that the "public convenience and necessity" is not a phrase of fixed content to be mechanically applied regardless of the diversity of facts presented in particular cases. On the contrary, the statutory standard encompasses many considerations which in number and importance vary as the circumstances of the cases vary. Accordingly the standard of "public convenience and necessity" must be interpreted in right of the facts of each case, giving it a scope consistent with the broad purpose of the organic statute and applying it in pursuance of the policies the Natural Gas Act is intended to serve.⁶⁷

⁶⁴ 2 FPC at p. 56 (citations omitted).

⁶⁵ 9 FPC at p. 85.

⁶⁷ *U.S. v. Detroit Navigation Co.*, 326 U.S. 236, 241 (1945); *National Broadcasting Co. v. U.S.*, 319 U.S. 190, 216 (1943); *I.C.C. v. Railway Labor Executives Ass'n*, 315 U.S. 373, 376-377 (1942); *F.C.C. v. Pottsville Broadcasting Co.*, 309 U.S. 134, 138 (1940);

A general example of this latitude may be helpful. In the past, when natural gas supplies were relatively abundant, the public convenience and necessity was applied strictly in the sense of specific, long-term reserve estimates being required before construction of a pipeline into a new production area would be certificated. Because on a national scale gas was readily available, the appropriate inquiry was whether the specific reserves to be attached could, in effect, adequately support the cost of the new pipeline. In this way, the natural gas consumers served by the interstate pipeline system were fully protected and the ample gas supply enjoyed by the Nation was delivered at the lowest possible cost.

Later, the natural gas supply situation worsened, and a legitimate concern developed as to whether interstate consumers could be adequately supplied, even at substantially higher prices. In these circumstances, the Commission properly shifted the emphasis of its section 7(c) analysis. Rather than require long-term reserve estimates, the commission in appropriate circumstances certificated pipelines into new production areas where specific reserve data of the type required in the past were not yet available. Responding to the need to encourage exploration and development of new reserves, the Commission recognized and applied a somewhat different public convenience and necessity standard, one which would serve the present public interest of encouraging supply, while at the same time attempting to protect consumers as to price by appropriately conditioning the certificates issued. See, for example, *HIOS*, Docket No. CP75-104, and *Cities Service*, Docket No. CP76-500.

The proposal before us is similar to such cases in that its certification would be based, in substantial part, on the determination that the public convenience and necessity requires the commercial demonstration of coal gasification. The Mercer County project will aid the public interest by providing data as to the availability of this process as a supplemental energy source. Just as certain pipelines have been certificated, at least in part, for the reason that they would encourage exploration and development in new production areas,

Radio Comm'n v. Nelson Bros., 269 U.S. 266, 285 (1933); *Chesapeake & Ohio Ry. v. U.S.*, 263 U.S. 35, 42 (1931); *City of Pittsburgh v. F.P.C.*, 237 F.2d 741, 754-755 (CA DC, 1956); *National Coal Ass'n v. F.P.C.*, 191 F.2d 462, 467 (1956); *National Coal Ass'n v. F.P.C.*, 191 F.2d 462, 467 (CA DC, 1951); *Scrapps Howard Radio v. F.C.C.*, 189 F.2d 677, 680 (CA DC, 1959), *cert. den.*, 342 U.S. 830.

the proposal here may lead to the construction of numerous coal gas plants resulting in a significant additional amount of gas available to consumers.

We have considered, and our decision here reflects, not only an evaluation of the specific component elements of the project advanced by the applicants but also—and unquestionably of even wider significance—the potential importance of the project in evaluating the feasibility of converting the Nation's abundant coal reserves into pipeline quality gas.

In these circumstances, we find that the public convenience and necessity is served by the issuance pursuant to Section 7(c) of the Natural Gas Act of a properly conditioned certificate authorizing the proposal before us.

F. Is the Basic Finance and Tariff Proposal Reasonable?

1. Overview of Financing Plan.—Great Plains proposes to finance the construction of the coal gasification project on a "project financing" basis and thus the major security for the investors would be the flow of income to the project resulting from charges to gas consumers as determined by the project tariff and the tariffs of the sponsoring pipeline companies purchasing and reselling the synthetic gas. We must determine whether the financing plan and the related tariff provisions proposed⁶⁸ are reasonable for this project.⁶⁹

The project sponsors have proposed tariff provisions that would guarantee the debt investment in the project under all circumstances and the equity investment in the project in most circumstances. Staff has opposed

⁶⁸ The term "tariff" refers to the Funding Agreements and the Gas Purchase Agreements submitted by the sponsors into the record of this proceeding.

⁶⁹ Despite its overall strong support for this project DOE did not recommend blanket approval of every aspect of the sponsor's proposal; to the contrary, DOE made a point of supporting only those conditions "[i]ntended solely to assure the success of this particular project." Thus, it took no position with respect to any particular rate of return on equity but, rather, recommended that the Commission give appropriate consideration to the degree to which the risks associated with the project would be pre-guaranteed by consumers. Also, whereas the sponsors seek full recovery of their equity investment on an accelerated basis in most circumstances if the project is aborted, DOE has recommended automatic recovery of only 60 percent, with the remainder to be recovered only if authorized in a separate proceeding. In determining the terms and conditions which are necessary in our view to protect the interest of gas consumers in this project and which do not involve fundamental considerations of national energy policy, we have weighed the arguments of DOE as a co-equal party to the proceeding without according any unusual weight to its views by virtue of its agency position.

authorization of all the terms and conditions sought by the applicants and has proposed an alternative financing plan which it believes represents a fairer and more equitable sharing of the risks between the sponsors and their customers. The proposed consumer guarantee of debt and equity investment has almost no precedent in other projects under the jurisdiction of this commission. Nevertheless, we are willing to approve an atypical sharing of the costs and risks under the proposed financing plan and tariff provisions, subject to certain conditions discussed in more detail below, because this project is not a conventional gas supply or transportation proposal but is, instead, an RD&D project designed to demonstrate the technical, commercial, institutional and environmental feasibility of producing synthetic gas from coal.

Our action here does not imply that it would be reasonable to allow this type of tariff or financing plan for a project whose purpose was to supply or transport natural gas from conventional sources nor should approval of the proposed financing plan and tariff, even with the modifications herein ordered, be considered as a precedent or an indication of what the Commission would allow for a future coal gasification project if coal gas becomes competitive with alternative forms of energy. If this demonstration plant or future research and development does indicate that gas produced from coal is economical, then any future coal gasification projects should be financed without the reliance on extraordinary financial guarantees by natural gas consumers.

In their application to this Commission, the sponsors of the Great Plains project explicitly have requested to be regulated as a utility with the price for the manufactured coal gas to be set according to conventional cost of service principles. The project sponsors freely admit that the Commission's jurisdiction technically does not extend to this project. It is clear that once the output of the gasification plant is commingled with natural gas in jurisdictional facilities, the Commission will have jurisdiction over the transportation and sale for resale of the commingled gas. The project sponsors desire utility treatment by the Commission and for the Commission to extend its regulation to the Great Plains facilities so that the investors will be assured that revenues derived from charges to consumers will always be available to repay the debt and equity

investment in the project (including interest and a return thereon).

In requesting the project to be treated akin to a public utility, the sponsors propose to forego a number of advantages that would be available to a completely unregulated coal gasification facility. In the future, if the project actually demonstrates commercial viability, corporations or groups of firms should be willing to undertake synthetic gas projects on an unregulated basis. The high risk associated with the development of a new synthetic gas industry would be offset by the potential for substantial profits or high rates of return if the gas could be produced at a price less than the competitive market price. Therefore, the Commission does not believe that it would be reasonable to extend the extraordinary financing and tariff provisions that we allow in this decision for the Great Plains project to future coal gas projects when the economic feasibility of coal gasification is known with greater certainty. In this regard, the Commission notes with some concern the statement by Deputy Secretary of Energy O'Leary in his testimony in the hearings that two or more demonstration plants in addition to the Great Plains plant may be necessary. As indicated several times previously, approval of special financing arrangements for the Mercer County facility does not imply approval of similar arrangements for other plants.

2. Ratepayer Guarantees.—The key element of the financing plan proposed by the project sponsors is that gas consumers will, in effect, guarantee the repayment of and interest on the debt in all circumstances and the repayment of and return on equity invested in this project under most circumstances. The project sponsors, who will provide the equity capital for the project, are unwilling to guarantee the debt investment and are unwilling to invest the equity in the project unless consumers also guarantee the equity investment under most circumstances. The project sponsors are unwilling to underwrite or guarantee the project debt because this project is a demonstration plant and is not intended to be a source of significant new gas supplies for any of the sponsoring companies.

Lenders and equity investors in a facility that is project financed look among other things to the tariff of the project and the tracking provisions of the purchasing pipelines for assurance that revenues to the project will be adequate to repay their investment and a return thereon. The Commission recognizes that equity investors and lenders will provide funds for the

construction of this project in reliance on the tariff and tracking provisions permitted by this Order.

The sponsors, however, insist that before investors will provide the substantial funds necessary to construct this project, they not only must be assured of the basis on which their investment will be made, but also that the tariff and tracking provisions on which they rely for the security of their investment will not be changed to their detriment during the period that their investment is outstanding. In resolving this issue, the judge noted that "the Commission's issuance of a certificate carries with it a high level of protection to its holder * * *" and concluded that "[t]he sponsors have ample safeguards through their own resources to protect themselves against such a potential threat and to achieve their objective of maintaining the integrity of any certificate which the Commission might issue to them."⁷⁰

The project's sponsors in their brief on exceptions seek to have the Commission evidence an awareness as to how the various contractual and tariff arrangements will operate as well as an awareness that the lenders and sponsors are relying on these arrangements in committing capital to the project. We have noted our awareness of the reliance that will be placed on this decision. No additional assurances appear necessary. Insofar as the law judge recommended against the request for further assurances, we sustain his ruling.

With regard to ratepayer guarantees of the debt investment or bank loans to the project, the law judge concluded that it would be reasonable for the debt to be recovered from ratepayers on an accelerated basis of five years if the project were abandoned or never completed. No party to the case objects to this finding. We sustain the law judge's ruling. The Commission will allow the project to charge rates adequate to provide debt service in all events on the terms proposed both during the operation of the project and prior to operation if the project should be abandoned.

In addition, the project sponsors have proposed that the equity investment and related taxes in the project should be recovered in the unlikely event of a project abandonment if the abandonment resulted from " * * * any act or omission or any circumstances other than cost overrun or technological failure of the gasification plant to produce pipeline quality gas at a rate which is acceptable to seller

(unless such technological failure or cost overruns are due to changes in any government law or regulation in which the plant was designed to comply)." The staff, on the other hand, argued for a total loss of the equity investment if the project is abandoned, regardless of the circumstances, with no opportunity for a hearing before this Commission. The Department of Energy would allow an automatic recovery of 60 percent of the sponsor's equity in most circumstances, with the remaining 40 percent to be recovered only if the Commission authorizes it in a separate proceeding. The law judge rejected the sponsors' proposal, finding that "[t]hese standards are too vague and open-ended to be adopted as a standard * * *." In particular, the judge found it highly unlikely that the project sponsors would abandon the project due to cost overruns, and observed that there practically always would be some government action to which blame could be ascribed for the overrun.⁷¹

We agree with the judge's observations, and add one of our own: as all parties to this proceeding appear to agree, total technological failure on this project is highly unlikely; rather, whatever technological failure may develop is likely to be manifested in cost overruns and extremely high-priced gas. In short, the risk the sponsors are willing to assume is too vaguely defined to give us or, we should think, the sponsors themselves, any clear sense of what is likely to transpire in the event that the project goes awry. Put another way, the criteria proposed by the sponsors to determine who bears the risk of abandonment are simply not conducive to a reasoned administrative determination. For example, neither of the grounds for abandonment on which the equity holders bear the risk embodies any implicit or explicit benchmarks. In the context of this project and the sponsors' proposal, what is a "cost overrun"? What is "technological failure"?

A second, related, problem is that the sponsors' proposal contains no means by which the Commission may compel abandonment after having determined that any further benefits to be derived from the project are not worth the requisite incremental investment. If, for example, the sponsors fear that the reason for abandonment is one of those as to which they have assumed the risk, they may be unlikely to seek abandonment at all. Under their proposal, the Commission might have to stand by while more money was

invested in the project, without a concomitant public benefit.

Moreover, in light of the special nature of this project, we do not think it particularly appropriate that the sponsors bear the risk of losing their investment in all circumstances where cost overruns or technological failure would or should lead to abandonment. In our view, if the project were to fail or be abandoned because it demonstrated that coal gasification is not technologically, environmentally, or commercially feasible, then the project would have served a very useful purpose. So long as the cost overruns or technological failure had occurred despite the best and prudent efforts of the project management, we do not think it inappropriate under these circumstances for the sunk investment to be recovered from the ratepayers.

We therefore conclude that the appropriate standard to be employed here in determining whether or not the sponsors may recover their equity is prudence, the traditional standard employed in our proceedings concerning matters of cost recovery. We must make it clear, however, that in this matter prudence has more than one aspect. First, as in more conventional undertakings, the management of the project and the expenditure of monies must be prudent. Second, as is appropriate to a demonstration project such as this, the sponsors must exercise an ongoing prudent judgment as to whether continuation of the construction or operation of the project is warranted. If, for example, all that can be learned at a reasonable price has been learned, or if it should be clear that completion of the project, through no fault of the sponsors, is no longer economically justified, then the sponsors have an obligation to inform the Commission and request abandonment. Failure to promptly request abandonment may result in a disallowance of costs incurred after that point when the continuation of the project is no longer in the public interest.

As we indicated above, the mechanism for abandonment is of real concern to us and warrants discussion. Of course, after the plant has operated and gas has been delivered to an interstate pipeline, Great Plains must seek authorization for abandonment under Section 7(b) of the Natural Gas Act in order to terminate the certificated service. Due to the unique circumstances of this case—in particular, the recovery of both debt and a return on equity prior to the initiation of service, and the prospect for recovery of both in the event the project never produces gas—

⁷⁰ Initial decision, p. 39.

⁷¹ Initial decision, p. 32.

we must insist that the sponsors secure our authorization before abandoning the project prior to completion. Consequently, we hereby make our approval of the recovery of both ongoing debt and equity, as well as the ultimate recovery of all debt and equity, expressly conditional upon the sponsors' applying for and receiving Commission authorization for abandonment of the project prior to the initiation of service under the certificate.

3. Tracking Provisions.—As part of the chain of contracts or agreements that would provide assurance of a flow of revenue from the ratepayers to the investors in the project, the project sponsors have proposed tracking provisions in the tariffs of the pipelines that would purchase the gas produced by Great Plains. Such tracking provisions would allow the automatic recovery (following notice but without suspension or refund obligation) of all project costs by the pipelines that purchase gas from the project in rates to the customers of the pipelines.

During the hearings, the Commission staff objected to tracking provisions by the pipelines because of the potential for over-collection or under-collection of costs by the pipelines if the throughput increased or decreased. This position by the staff was rejected by the law judge. The staff in its brief on exceptions withdrew its objection to tracking. The staff, however, did suggest that it would be desirable to require the pipelines which purchase gas from the project to submit a general rate filing with the Commission under Section 4(e) of the Natural Gas Act "sufficiently prior to the in-service date to effectuate a timely matching of cost and revenue." The purpose of such rate filing would be to adjust the general rates charged by the pipelines to reflect the anticipated increase in volumes resulting from the Great Plains project. If this were not done, staff claims there is the possibility that the increase in throughput resulting from the Great Plains project could result in an over-collection of the fixed costs of the pipeline to the detriment of ratepayers.

Staff's proposal reflects an effort to achieve a proper balancing between the need to protect consumers and the need to provide a certainty of revenue flow to the investors in the Great Plains project. However the result can be achieved without initiating a Section 4 proceeding by requiring the pipeline companies to support the tracking provisions in the same manner that is required for PGA provisions, *i.e.*, through a cost-revenue study. Consequently the Commission will affirm the law judge on this issue

and permit tracking but will not approve any specific tracking provisions at this time. The pipeline companies will be required to file amendments to their respective tariffs and will be required to submit cost-revenue studies in the form prescribed in Section 154.38 (d)(4)(vi) of the Regulations prior to the anticipated In-Service date to support the flow-through of costs attributable to the Great Plains project.

4. Rolled-In Pricing.—One of the essential elements of the proposed financing plan is that the cost of the synthetic gas would be "rolled-in" or averaged with other sources of gas supply purchased by the pipelines. The pipelines contend that they should not be required to market the Great Plains gas to their own customers on a separate or "incremental"-basis. Incremental pricing has been advocated by some parties as a way of providing a market test for high cost supplemental gas. In other words, under incremental pricing the supplemental gas would be sold separately to customers at a price adequate to cover its full, separate cost in order to test whether the value to the customer of this gas exceeded the cost.

Such an approach may or may not have merit for a project whose basic purpose is the production of substantial amounts of supplemental gas, but the purpose of this project is to demonstrate the feasibility of coal gasification, rather than to supply gas at a price competitive with alternatives. The use of incremental pricing would serve no useful purpose in this context. The law judge's ruling in favor of rolled-in pricing is affirmed.

5. Surcharge During construction.—As noted above a component of the project sponsors' equity contribution is a proposed surcharge that would be levied during the construction and testing of the project. The surcharge would be levied on the pipeline sponsors which would be authorized to pass the surcharge through to their own customers. The costs to be recovered by the surcharge would include interest expense on debt, financing charges, the return on equity and related taxes, and similar carrying charges incurred by Great Plains under the coal purchase agreement with ANG.

The law judge determined that the surcharge was an unjustified departure from the usual procedures of this Commission regarding the treatment of interest, finance charges and rate of return during construction. On exceptions staff supports the conclusion of the judge. The applicants contend, however, that the surcharge is both necessary to achieve project financing and can permissibly be approved by the

Commission as an exercise of administrative discretion.

The Commission having found that this project qualifies as an RD&D investment, it follows that special financing provisions are appropriate. The Commission's task, therefore, is to determine which specific provisions will achieve the RD&D objectives of the project in a way that is appropriate and equitable to the ratepayers of the sponsoring pipelines. In the absence of appropriate and equitable tariff and financing conditions, the project will not meet the public convenience and necessity test.

The standard procedure used by the Commission is that interest charges and rate of return on equity during construction of a project are capitalized and added to the rate base of the project to be recovered through charges to customers during the operating life. The capitalized amount of interest and on equity return is commonly referred to as an "allowance for funds used during construction" or AFUDC. The basic reason why the Commission has generally required the inclusion of AFUDC in rate base is that the AFUDC method usually provided a more equitable allocation of the costs over time to ratepayers. Under this concept, customers who receive the benefits of the gas supply project pay for the entire cost of the project, including interest costs and return on equity during construction. In most supply projects the benefits are proportional to the amounts of gas consumed. Consequently, the Commission has in the past required such interest charges and equity allowances to be capitalized and included in rate base to be recovered by customers when the project is actually in operation and gas is flowing to the ultimate consumers.

The AFUDC procedure should not be applied inflexibly to the Great Plains project because as explained above, it is not a gas supply project but, rather, is an RD&D project. The financing provisions of a demonstration project are considered by the Commission on the basis of the individual project.⁷² For this project the knowledge generated about the commercial, technical, institutional and environmental feasibility of coal gasification will benefit both current and future ratepayers. Because of this wide class of beneficiaries, the Commission does not find its AFUDC policy to prohibit the type of surcharge proposed here. Moreover, the adoption of the surcharge provision is beneficial in that it spreads the costs of the project over a longer

⁷² See Order No. 568 at pp. 11-12.

period of time to a greater number of ratepayers.

A surcharge that permits the recovery of interest on debt and return on equity represents one method of assisting the financing of this project. Other financing options have been referred to in the record, such as a surcharge limited to the recovery of debt costs or treating this project similar to more conventional RD&D projects. The method approved, however, must be one that assures ratepayers are adequately protected. The Commission believes that the type of surcharge proposed by the project sponsors is a reasonable approach in light of the safeguards described in this Order and which will be attached to the Commission's approval of this project. Among those safeguards are the project monitoring system, the Commission's ability to terminate the project and the authority to determine whether equity recovery will be permitted in the event of abandonment or termination of the project. Considering, as is essential the entire package of finance-assisting arrangements and consumer-protection arrangements, the Commission concludes that a surcharge to recover interest and financing costs on debt, and a return on equity together with associated taxes (as well as similar carrying charges incurred by Great Plains under the coal purchase agreement with ANG), is a feature that is reasonable for inclusion in the project's financing plan.

6. Rate of Return on Equity.—One of the elements of the surcharge is the recovery of a return on equity. Since the initial decision rejected the surcharge as a part of the financing plan for this project, it did not prescribe a return on equity during the period that the surcharge would be in effect. However, during construction and for the initial year of operation of the project the initial decision approved a 15 percent equity return.⁷³ Our determination to approve a surcharge requires that a return on equity be prescribed both for the period that the surcharge is in operation and the initial year thereafter.

For this period of the surcharge and until changed by the Commission, the project sponsors, although emphasizing the unique nature of the project, request rate of return treatment on a basis similar to that accorded gas pipelines and argue that for this project a rate of return on equity of 15 percent is justified. The project sponsors state that a 15 percent return is necessary because

the risk of technological failure is "substantially greater" than for a pipeline project using established technologies and, further, the risk of cost overruns is higher than for conventional pipeline projects because of the longer duration of the construction period for this project. The sponsors also argue that they will experience higher than normal risks because their proposed tariff includes a cost disallowance feature that results in equity capital absorbing the first loss of any revenue deficiency. Finally, the applicants argue that they risk the repayment of investment tax credits if the project is not completed or abandoned prior to expiration of the recapture period.

Although staff opposes a surcharge, it argues that if the Commission nevertheless approves the surcharge and all other aspects of the applicants proposed financing plan, the return on equity for this project should be no more than 10 percent. According to staff there are three principal risks associated with this project: (1) marketability, (2) technology, and (3) cost overruns. Staff argues that none of these represent significant risks because the use of rolled-in pricing obviates the risk of marketability; the technical risks are minimal or nonexistent since all parties concur that it is unlikely that the plant will not operate as designed and; applicants' own witness concedes that there is little risk of cost overruns. Staff further argues that the applicants' equity contribution enjoys substantial safeguards as evidenced by the very limited circumstances in which there would not be a recovery of equity. The staff concludes on the basis of this analysis that the applicants have not made an equity contribution to the project but a contribution more in the nature of a loan. Having reached that conclusion, the staff argues that an equity return of 10 percent is appropriate to reflect risks only slightly greater than that of long term debt investors in BBB rated utility companies, the lowest rating applicable to any of the sponsoring pipelines.⁷⁴

As the parties recognize, the appropriate return on equity is a function of the risks borne by the

⁷³The Ohio Consumers' Counsel and the New York Public Service Commission also oppose a 15 percent return on equity. Since both of these parties agreed with the judge that a surcharge should not be permitted, their objections are directed to the equity return that will apply after service commences. For this period New York proposes a rate of return on equity of 12.5 percent while the Consumers' Counsel proposes a return of approximately 13 percent. Each of these proposals, however, was made in conjunction with a financing proposal that varied substantially from the one approved here or those proposed by the applicants or staff.

sponsors. However, a rate of return analysis is not wholly an empirical endeavor but requires both judgment and expertise to determine the weight to be given the various risk factors and thereafter drive a single equity return within a range of reasonableness. The equity return approved by the Commission must also conform to the principles of the *Hope*⁷⁵ and *Bluefield*⁷⁶ decisions which require a balancing of the protection of gas consumers from unreasonably high rates against the need to maintain the financial integrity of the project and provide an adequate return on investment. Employing such criteria the Commission finds that the 15 percent rate of return on equity for the surcharge and initial year of operation is not justified by the record of this proceeding. Instead, the Commission concludes for the reasons set forth below that a 13 percent rate of return on equity should be prescribed for this period.

Although the law judge approved a 15 percent rate of return on equity, his analysis was based on a financing plan and tariff conditions significantly different from those which the Commission is approving.⁷⁷ For example, the initial decision and the Commission's Opinion herein differ with respect to our approval of a surcharge. The law judge recognized that the financing plan and tariff conditions that are approved will vary the risk exposure of the sponsors. We agree with that conclusion and base our decision both on the arguments raised and the financing and tariff conditions that are approved in this order.

The sponsors' arguments that the risks of cost overruns and technological failure justify a 15 percent rate of return on equity are unpersuasive. In the Commission's view the applicants concern with cost overruns and technological failure is partly due to the vagueness of those terms. As discussed above, those criteria provide no implicit or explicit benchmarks that would aid the sponsors (or the Commission) in determining the risks associated with those factors. A different standard employing prudence has therefore been prescribed. This standard will reduce the uncertainty of the vaguely-defined terms of "technological failure" and

⁷⁵*F.P.C. v. Hope Natural Gas Company*, 320 U.S. 591 (1943).

⁷⁶*Bluefield Water Works and Improvement Company v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923).

⁷⁷Thus, we do not consider here the reasonableness of the 15 percent rate of return that the judge would have applied to the financing and tariff conditions recommended in his initial decision.

⁷³The effect of the law judge's decision to permit a 15 percent return on equity during the construction period but not permit a surcharge is that the 15 percent return would be accumulated and included in rate base when the project becomes operational.

"cost overruns" and will place in the hands of the sponsors an opportunity to better control the risks of this project.

Further, the argument of the applicants concerning the exposure of equity capital is not a persuasive reason for adopting a rate of return of 15 percent. While it may be that the cost disallowance feature of the proposed tariff requires equity holders to "absorb the first loss of a revenue deficiency . . . resulting from any FERC disallowance of costs from the earnings investment base of the project," the risk of such deficiencies is not significant because, as set forth *infra*, the Commission will not require a minimum performance provision for this project. In the absence of imprudent action on the part of the project sponsors, there will continue to be a flow of revenues to the sponsors. We believe that the decision not to require a minimum performance provision substantially reduces the risk of a diminution of revenues and adds assurance to lenders and investors.

Finally, the risk of loss of investment tax credits is not a risk that sufficiently buttresses the sponsors' request for a 15 percent equity return. This risk is directly related to the risk that this project will not be completed. As indicated above, the Commission has concluded that this risk is minimal. That is a conclusion based in part on the sponsors' own assessment of the likely success of completing this project⁷⁸ and we believe that the actions taken in this decision will not significantly diminish that likelihood. In summary, we do not find that this risk factor, either separately or together with the other risks cited by the applicants, justifies a rate of return on equity of 15 percent.⁷⁹

The Commission also finds that it should reject the 10 percent rate of return on equity proposed by the staff. Recently, the Commission undertook an analysis of the range of the equity returns it had allowed pipelines. In Order No. 31 concerning the incentive rate of return for ANGTS, the Commission concluded that the allowed

return on equity for pipelines within the continental United States generally had been established within the range of 12 to 15 percent.⁸⁰ This RD & D project is unlike other pipeline supply projects and a comparison to that decision cannot precisely resolve the issue of the proper rate of return here. Nevertheless, we conclude, for the reasons set forth below, that the study undertaken in Order No. 31 provides a relevant point of departure for analyzing the range of reasonableness on equity return for this project.

The 10 percent return on equity proposal of the staff was made in the context of a set of circumstances in which the basic assumption was that there would be no changes to the proposal originally offered by the applicants. As described in this Opinion, that assumption is not applicable since changes have been made to the project sponsors' proposal. Further, although the staff characterizes the sponsors' equity contribution as similar to a loan, those revenues will be subject to risk, albeit at a lower risk exposure than the project sponsors assert. The equity investment of the sponsors will be subject to a prudence standard and to that extent their investment is not risk free. The applicants, although having control over their actions that will be judged by this standard, will still be subject to the possibility that a course of action they perceive as prudent will nevertheless be found imprudent by the Commission. In the Commission's judgment these factors place the staff's proposal of 10 percent beyond the lower end of the range of reasonableness and indicate that the more appropriate limit should be no less than 12 percent.

The Commission, however, will approve a rate of return on equity that is higher than the minimum level that would otherwise be reasonable. We believe that a rate of return on equity of more than 12 percent is appropriate because of the uncertainties of this project. As we have indicated, this is the first time that a project of this nature and magnitude will be undertaken in this country. Uncertainties will exist and will be resolved, reduced or eliminated only as the project goes forward. If the project is to generate knowledge and reduce the uncertainties, it must be allowed a rate of return on equity that meets the traditional criteria of providing a return comparable to returns on investments in enterprises having corresponding risks and maintaining the credit and capital attraction ability of the partnership. On balance the Commission believes that these factors,

taken together with our discussion of the applicants' arguments regarding the risks of this project, indicate that a rate of return on equity of 13 percent is appropriate.

The Commission recognizes that its reduction in the requested return on equity will decrease the amount of revenues that will be generated by the surcharge and included in the project as equity contribution. The result, however, is a consequence of the Commission's analysis of the risks to be borne by the project sponsors and, also, the risks and responsibilities that will be borne by their ratepayers. Where extraordinary certificate conditions such as a surcharge are requested, the Commission views it as essential that those requesting such conditions demonstrate a high order of commitment to the success of the endeavor. In this instance, that commitment is best demonstrated by the level of their own funds that the project sponsors are willing to dedicate to this project. The difference in revenues between a return of 15 percent and the 13 percent approved here will be relatively small but that additional investment by the sponsors would reflect a reassuring commitment to the project.

One other matter relating to the surcharge requires consideration. As pointed out previously, the surcharge would enable the project sponsors to recover interest on debt and an allowance on equity funds, including associated taxes. While we are willing to permit a surcharge to recover capital costs associated with funds actually invested in the project, we are not willing to require consumers to bear the costs of funds transferred to the project and not actually utilized. Therefore, the capital costs to be included in the surcharge permitted in this Order will be limited to the capital actually invested in the project as determined for each month.

G. Other Issues

In this section we consider a number of other tariff and ratemaking matters raised either by the filings or by the parties throughout the proceedings, or by their exceptions to the initial decision.

1. Additional Tariff and Rate Issues:

(a) *Review of Rate of Return on Equity.*—An issue related to the Commission's discussion of return on equity question is when and under what circumstances the rate of return on equity will be reviewed during the life of the project and possibly be either increased or decreased. The law judge interpreted the proposed financing plan to mean that the project sponsors were

⁷⁸ Tr. pp. 73, 118-19, 512; see also p. 4960.

⁷⁹ In Order No. 31 concerning the Alaska Natural Gas Transportation System (ANGTS), the Commission concluded that with the exclusion of two risk factors unique to the ANGTS project, a return on equity of 14 percent was reasonable because of certain risk-increasing factors such as the Arctic operating environment, the use of a previously untried high pressure pipeline, and the low equity capitalization of the ANGTS project. In contrast, this project does not exhibit all these risk-increasing factors but does exhibit several of the risk-reducing factors cited by the Commission in Order No. 31, including the availability of a cost-of-service tariff, the opportunity to use rolled-in pricing and the provisions made herein for tracking of costs.

⁸⁰ Order No. 31 at p. 62.

requesting a constant 15 percent return on equity throughout the life of the project. He argued that such a guarantee was unreasonable and that the rate of return should fluctuate over time as economic conditions change.

In their brief on exceptions, the project sponsors made clear that they did not seek a guarantee that the return on equity would remain fixed at 15 percent. The applicants recognize that the rate of return may need to be adjusted upwards or downwards depending upon changing conditions. They believe it is unnecessary for the Commission to require any specific procedures at this time under which such a review would take place. The applicants argue that the Commission can institute proceedings under the Natural Gas Act to review the level of return on equity whenever conditions should so require. However, the Commission's authority to initiate such a review derives from Section 5 of the Natural Gas Act. Relying upon Section 5, the burden of proof would be placed upon the Commission and any changes in the allowed rate of return would have prospective effect only.

We conclude that it is appropriate to require a periodic rate of return review for the Great Plains project.⁸¹ Beginning one year after the In-Service date for the project, and every three years thereafter, the project's sponsors will be required to justify to the Commission the rate of return on equity to be applied during the next three year period. Any amounts collected prior to determination of the rate of return to be used for any three year period will be subject to refund pending final disposition of the rate of return issue. The revenue subject to refund will be only those amounts attributable to the rate of return on equity and associated taxes.⁸²

In their brief on exceptions, the sponsors argued that any future consideration of the level of return on equity must consider the risks undertaken during construction, the assurances given to lenders, and the equity ratio as it reflects the terms upon which debt funds can be obtained and the project refinanced. Staff, in its brief opposing exception, took issue with the sponsors' attempt "to obligate the Commission to consider certain factors

⁸¹ Recently, the Commission has approved a cost-of-service tariff for the Alaskan Gas Project similar to the cost-of-service tariff proposed by the sponsors of the Great Plains project. As part of that approval, the Commission required that the tariffs shall provide for a periodic rate of return review.

⁸² Some additional refund obligation could arise due to our treatment of the cash working capital allowance. See our discussion of "Cash Working Capital", *post*.

in its future deliberations on rate of return." We believe that the staff's concern on this issue is well taken. The future review of return on equity required by our determination, *infra*, should be open to a free ventilation of all matters bearing on the proper rate of return for the relevant period. We will not preclude any interested party from presenting relevant evidence on the rate of return issue in any future hearings. The 13 percent level found appropriate for the construction and first 12 months operating periods will be adjusted upward or downward in the future proceedings on the basis of an evaluation of all relevant factors applicable to the period that the rate will be in effect.

Similarly, the Commission will not attempt to decide now whether or not a minimum level of return to equity investors of \$10 million per year is reasonable as urged by the project sponsors. Late in the operating life of the project, when depreciation has reduced the rate base of the project to a low level, the total return would also be reduced to a relatively low level. At that time, in the course of a periodic rate of return review, it would be appropriate for the Commission to consider whether it is reasonable to allow a minimum return to equity. It is simply not possible for the Commission to attempt now to anticipate the conditions and circumstances that may prevail for this project late in its operating life and thus to determine whether or not a \$10 million minimum return on equity is reasonable.

(b) *Investment Tax Credit*.—Portions of the investment in the Great Plains project may qualify for a 10 percent investment tax credit (ITC) under both Section 38 of the Internal Revenue Code (26 U.S.C. § 38) and Section 301 of the Energy Tax Act of 1978 (26 U.S.C. § 48(1)(3)(A)(iii)). These Federal tax credits encourage commitments of equity capital by reducing the tax liability of investors (including both regulated and unregulated companies) by a percentage of their investment in particular assets. These credits have been proposed to be one of the three elements of the sponsors' equity.⁸³ Staff has argued that the equity investors in the Great Plains project should not be permitted to earn a return on these ITC benefits. According to staff, an amount equal to the Accumulated Deferred Investment Tax Credits should be removed from Great Plains' rate base, with a ratable portion of the credit to be restored over the life of the project.

⁸³ Exh. No. 25-C.

The law judge declined to rule on staff's proposal in the initial decision. The sponsors allege that the Great Plains project cannot proceed without a ruling on this issue. While the law judge suggested that the parties' testimony and briefs left "substantial questions unanswered",⁸⁴ it appears that staff's proposal raises purely legal and policy issues involving no questions of fact. Accordingly, the propriety of that proposal can be decided wholly on the basis of the arguments presented on the record and in the briefs filed herein. We are prepared to resolve the issue on this basis solely for the purposes of this proceeding. Our determination here is not to be considered as a precedent for any other proceeding since, as stated above, this project is unique and our determinations herein are predicated on that status.

An investment tax credit was first enacted in 1962.⁸⁵ One year later, however, Congress became aware that several Federal regulatory agencies (including the Federal Power Commission) were considering a plan to transfer a major share of the benefits of the investment tax credits earned by regulated companies from the shareholders to the customers of the companies. Finding that such rate treatment was "clearly contrary to the intent of Congress" in enacting the credit,⁸⁶ Congress enacted Section 203(e) of the Revenue Act of 1964 (Pub. L. 88-272, 78 Stat. 35 (1964)), which provided as follows:

"Treatment of Investment Credit by Federal Regulatory Agencies. It was the intent of the Congress in providing an investment credit under Section 38 of the Internal Revenue Code of 1954, and it is the intent of the Congress in repealing the reduction in basis required by Section 48(g) of such Code, to provide an incentive for modernization and growth of private industry (including that portion thereof which is regulated). Accordingly, Congress does not intend that any agency or instrumentality of the United States having jurisdiction with respect to the taxpayer shall, without the consent of the taxpayer, use—

(1) *in the case of public utility property* (as defined in Section 46 (c)(3)(B) of the Internal Revenue Code of 1954), more than a proportionate part (determined with reference to the property with respect to which the credit was allowed) of the credit against tax

⁸⁴ Initial decision, mimeo, p. 43.

⁸⁵ Revenue Act of 1962, § 2.

⁸⁶ H.R. Rep. No. 749, 86th Cong., 1st Sess., pp. 38-37 (1963); see, also, S. Rep. No. 80, 80th Cong., 2d Sess., p. 43 (1963).

allowed for any taxable year by Section 38 of such Code, or

(2) *in the case of any other property*, any credit against tax allowed by Section 38 of such Code, to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method." (emphasis added).

When Congress reinstated the investment tax credit in the Revenue Act of 1971,⁸⁷ Section 203(e)(1) was superseded by an amendment to Section 46(e) (later redesignated 46(f)) of the Internal Revenue Code which permits regulatory agencies to order a ratable flow-through of the credit arising from the purchase of "public utility property" unless the product furnished by the regulated company was determined to be in short supply, in which case any reduction of rate base would result in a disallowance of any credit and the realization of no benefits by either investors or customers.⁸⁸ On the other hand, Section 203(e)(2) of the 1964 Act was not altered and therefore continues to govern the ratemaking treatment of "any other property".⁸⁹

In staff's view, the gasification plant does not qualify as "public utility property" under the Internal Revenue Code (26 U.S.C. § 46(f)(5)(ii)) because "it clearly does not transport gas by pipeline . . . it manufactures or produces synthetic gas."⁹⁰ The sponsors agree with staff's conclusion that the coal gasification project facilities would constitute "any other property" for purposes of the prohibition set forth in Section 203(e)(2). We believe the sponsors and staff are correct in their resolution of this question.

As between these parties, the controversy boiled down to the proper construction of Section 203(e)(2)'s prohibition against the use of investment tax credits "to reduce such taxpayer's Federal income taxes for the purpose of establishing the cost of service of the taxpayer or to accomplish a similar result by any other method." Staff argues that Section 203(e) prohibits only the "flow-through" of ITC benefits to consumers and does not preclude its proposed treatment, which it contends is analogous to the ratemaking-accounting concepts involved in the "normalization" of certain tax benefits which serves to assign those benefits to ratepayers over the period when they

are paying rates based on service from the plant.⁹¹ The sponsors argue that Section 203(e)(2) "[f]latly prohibits the adoption of staff's proposal to reduce Great Plains' rate base by any portion of the investment tax credits or the adoption of any other proposal that would reduce Great Plains' revenue to reflect ITC benefits."⁹²

In support of its position, staff refers to certain cases involving other utility regulatory agencies where a requirement for ratable flow-through of ITC benefits had been upheld in the courts and to a "Congressional and Commission preference for normalization treatment". Great Plains contends that pertinent legislative history at the time of Congressional consideration leading up to the adoption of the 1964 and 1971 Revenue Acts shows that no flow-through of ITC benefits to consumers, ratable or otherwise, was intended.

In our opinion it is not necessary, for purposes of this decision, to resolve the legal issue of whether a portion of the benefits of the investment tax credits generated by the construction of the Great Plains project may or may not be flowed-through to consumers. The procedure outlined by staff for dividing the tax benefits between the sponsoring pipeline companies and their customers is not mandated under the Internal Revenue Code, even assuming *arguendo* the validity of staff's arguments. It is clear that the statute permits reasonable regulatory determinations to decide whether or not those benefits should be shared.⁹³ In the circumstances of this specific demonstration project, we believe that the sharing procedure recommended by staff, even if statutorily permitted, should not be adopted. As discussed above, the project is intended to demonstrate the viability of coal gasification in assisting to meet the future energy needs of our Nation—a demonstration that we believe is a matter of importance. The sponsors have placed great importance on their retention of the ITC benefits so that they can be utilized in the financing of the project. They will not be dissipated either in the form of dividends to the shareholders of the sponsoring pipeline companies or, possibly, by investment in other activities having no relation to the

present or future gas supply needs of their customers. This is a factor in our determination. Taking into consideration the general U.S. energy shortage and gas supply need in particular and the general concerns expressed by Congress in enacting the investment tax credit legislation, it is appropriate to have these funds utilized for capital formation purposes. We conclude that in light of the purposes intended to be served by this demonstration project and in consideration of all the features of the tariff and financing arrangements taken as a whole, adequate justification exists in this instance not to require a sharing of these benefits.

(c) *Federal Income Tax Computation.*—The judge held that whatever decision was reached in the case of *Columbia Gulf Transmission Company, et al.*, Docket Nos. RP75-105, *et al.*, involving the use of consolidated tax savings in determining the income tax component of the pipeline's cost-of-service, which was pending before the Commission at the time of his decision, ought to control the resolution of the same issue in this case. As the applicants correctly noted, the Commission in Opinion No. 47, issued July 2, 1979, determined that the use of the statutory rate, rather than a lower rate determined on a consolidated basis, is appropriate for ratemaking purposes. That determination is applicable here. We sustain the applicants' position on this issue.

(d) *Interest Cost.*—In its brief on exceptions, staff reiterates its argument that the interest component of the applicants cost-of-service should be modified—an issue that the judge did not address in his decision. Applicants' brief opposing exceptions addressed this issue and noted that staff's position on this issue "is less than clear." We interpret staff's position to be that short-term interest should not be included in the capital structure for purposes of computing the rate of return, but that such interest is available for tax purposes and should be included in computing taxes under the cost-of-service tariff. Short-term borrowing used to finance construction is generally replaced by long-term financing; the cost of such short-term borrowing is capitalized and becomes a part of the cost of the facility constructed. Similarly, the cost of short-term borrowing used to finance operating expenses or materials and supplies is recovered through the working capital allowance. Consequently, it is not appropriate to include short-term interest in capital structures for rate or

⁸⁷ Staff initial brief, p. 182; brief on exceptions, p. 46.

⁸⁸ Great Plains brief on exceptions, p. 58.

⁸⁹ "[T]he Congress, in general, believed that it was appropriate to permit the regulatory agencies, where they conclude it necessary, to divide the benefits of the credit between the customers of the regulated industries and the investors in the regulated industries." (emphasis added). General Explanation of the Revenue Act of 1971, Joint Committee on Internal Revenue Taxation, p. 33.

⁸⁷ Revenue Act of 1971, P.L. 92-178, Dec. 10, 1971, 85 Stat. 497.

⁸⁸ Revenue Act of 1971, § 105(c); see 26 U.S.C. §§ 46(e) and (f).

⁸⁹ Revenue Act of 1971, § 105(e); see 26 U.S.C. § 38 note.

⁹⁰ Staff initial brief, pp. 180-181.

return purposes unless it can be demonstrated that short-term borrowing is relied upon on a regular and continuing basis to finance operations. Such a demonstration has not been made in this proceeding; therefore, we concur with staff that short-term interest should not be included in the rate of return to be employed under the cost-of-service tariff. This interest is nevertheless available for tax purposes and should be used in tax computations.

Staff also argues that any short-term interest not capitalized as a part of construction should be used for tax purposes. Presumably this short-term borrowing would be used to finance operations, but it is possible that it would be used for construction as well. In any event, it would be available for tax purposes and should be used in tax computations.

While staff's concern was addressed to tax computations under the cost-of-service tariff, it is necessary that we also address tax treatment during the construction period. We note that while Great Plains is a partnership and will not pay income taxes as an entity, there may be expenses other than interest, such as taxes and pension costs, which are capitalized as a part of the cost of the project but are utilized as a current tax deduction in the tax returns of the individual partners. Since the sponsoring pipelines' customers will pay the cost of constructing and operating the project, these customers should benefit from all the tax deductions generated by the project. We shall therefore require that for accounting and rate purposes the partnership be treated as a corporation and that comprehensive interperiod tax allocation procedures be followed. This assures that all tax deductions generated during the construction and operating periods are preserved for benefit of the customers and recorded on the books of the partnership.

Staff also objected to the fact that, under the applicants' tariff, interest rates associated with adjustments for over or under collections are computed by applying the end of the month rates, whereas the Commitment Letter provides for the computation of interest rates each Friday. The discrepancy in computing interest rates has not been adequately explained and the result may create a difference detrimental to the ratepayers. Accordingly, we will require that the interest rates be computed on a monthly basis based on the average of Citibank's rates as published each Friday, in accordance with staff's suggestion. That procedure will assure a close relationship between interest costs

and expenses. Since the published rates are easily accessible and the average easily ascertained, this requirement will not burden the rate calculation.

(e) *Cash Working Capital*.—Staff argues that the applicants should submit a lead-lag study to substantiate their request for a cash working capital allowance based on the 45-day formula. Staff asserts that the 45-day formula was based on factors that may not be applicable to the instant project and, therefore, its use here may not be consistent with the working capital needs for this project. While we appreciate the basis for staff's concern, we believe that any lead-lag study prepared prior to a period of actual experience in the operations of this coal gasification plant would contain infirmities similar to the case of the 45-day formula. Therefore, we will permit the applicants to use the 45-day formula for the first 12-months of the plant's operations. Thereafter, we will require applicants to file a lead-lag study based upon actual operations to determine the appropriate basis for computing the working capital allowance. Such study shall be filed within 90 days of the end of the 12-month period and the working capital allowance included in rates shall be subject to adjustment and refund effective upon the filing date pending final Commission determination.

(f) *Depreciation Rate*.—The Gas Purchase Agreement (Exh. G to Exh. No. 3D (Revised)) states that the depreciation and amortization expenses will be "computed by the application of the straight-line depreciation method to the facilities with the rates being determined by the shorter of the useful lives of the applicable facilities or the remaining life of the initial term of this agreement" (pp. 16-17). Staff excepts to the provision as being too indefinite and permitting the determination of depreciation rates to be made without Commission approval. Further, staff argues that, since the depreciation rate is tied to the amortization of the bank loans, the lenders could dictate the depreciation rates for the cost-of-service. In its brief opposing exceptions, Great Plains responds that the uncontroverted record evidence shows an estimated plant life of 25 years, which establishes a 4 percent depreciation rate. Further, applicants assert that any "subsequent modification of the depreciation rate could only be effected in accordance with the standards and procedures set forth in Sections 4, 5, and 9 of the Natural Gas Act (see Tr. 355, 3167)."⁹⁴

⁹⁴ Great Plains' brief on exceptions, p. 21.

We find that the language of the proposed tariff provision is too vague and indefinite. It does not set forth with clarity the intention of applicants as interpreted in their brief opposing exceptions. We will therefore require applicants to modify the language to more clearly reflect their interpretation. Such language should designate the specific depreciation rate to be used in the tariff and shall provide the following methodology to be used in computing the monthly depreciation expense:

"One twelfth (1/12) of the annual depreciation expense computed by the application of a straight-line depreciation rate of 4.0 percent to gross depreciable plant at the time the tariff becomes effective. The depreciation rate so established shall not be changed except in accordance with the standards and procedures set forth in Sections 4, 5 and 9 of the Natural Gas Act."

It should be noted that the 4.0 percent overall depreciation rate assumes zero salvage value—that is, the costs associated with removing the facility from service will equate to the revenues to be derived from disposition of the facilities. Due to the uncertainties related to this RD&D project, it is difficult to anticipate today the circumstances that might exist when the facility is no longer used and useful. For that reason we find it appropriate to assume zero salvage value for depreciation purposes. However, we will continue to monitor not only operation of the facility but any additions and deletions as well as possible influences upon salvage value. A change in the 4.0 percent overall depreciation rate may be required in the future, but any such change will be made in accordance with Sections 4, 5 and 9 of the Natural Gas Act.

(g) *Performance Standard Provision*.—Staff has excepted to the law judge's decision rejecting its minimum performance proposal. The proposal would reduce the return on equity when the plant produces less than the full contract volumes of gas or gas with a heating content lower than 950 Btu per cubic foot. Staff argues that the minimum performance provision is essential to protect the ratepayer, is consistent with Commission precedent and would more equitably share the risks of temporary interruption between applicants and the ultimate consumers. Applicants oppose staff's exception and support the law judge's ruling.

Because this project is a demonstration of a commercial-sized coal gasification plant, it is reasonable to expect that during the period of the plant's operation, design improvements or new operating procedures or

techniques will be suggested. the implementation of these may occasion a temporary restriction of the plant's output.

Mr. Seder testified:⁹⁵

"If the sponsors are to be penalized whenever plant production is reduced [below design output], there is a disincentive against adopting new techniques, procedures, facility alterations, etc. that might improve future production but require a temporary reduction in output. These provisions would encourage deferral of maintenance when one of the chief benefits of the project is to determine the proper levels of maintenance. In short, staff's proposals are wholly incompatible with the concept of a demonstration project.

We agree with the law judge's conclusions that " * * * whatever merit the [staff] suggestion has in the context of a gas supply project [footnote omitted], it has nothing to recommend it where a project is intended to show the nation whether coal gasification is practicable. The return on equity ought not to hinge on the success of operation where the possible need to modify techniques and facilities is an essential element of the project." The exception is denied. The Commission observes, however, that its denial of staff's exception should not be construed as a *carte blanche* approval of imprudent operating procedures. Our action here is meant to apply only to those interruptions necessary to modify techniques and facilities. Oversight over service interruptions will be exercised in our annual review of the applicants' cost.

(h) *Revenues From Disposition of Project Assets.*—The law judge recognized that the sponsors' proposed tariff provides that the cost of gas sold to the Customer Pipeline Companies will be reduced by any net revenues received by Great Plains from the sale of byproducts, from the operation and/or lease of the facilities, and from the sale of any proprietary knowledge arising out of research or development programs relating to the gasification plant. Finding "a need to expand this list", the initial decision would require that revenues from the sale to others of any gas of less than pipeline quality should also be credited against the cost of service. Applicants do not object to such a requirement and this change is adopted.

The law judge also concluded that a condition should be included to assure that the proceeds from a sale or other disposition of the plant, regardless of when such disposition occurs, must

inure to the benefit of the pipelines' ratepayers. We agree with the sponsors' exception that this recommendation is unnecessary so far as it relates to the construction and operating periods, since the Gas Purchase and Funding Agreements that will then be operative provide that such revenues will be credited against costs. Both of those agreements specify that any costs of abandonment will be net of the salvage value of the facility;⁹⁶ that is, whatever proceeds Great Plains realizes as a result of disposing of the facility (or portions thereof) prior to the expiration of its useful life will be used as an offset to the costs of abandonment. Thus, no condition is necessary as to the construction and operating periods.

The law judge also recommended that any proceeds realized "[a]fter the plant has outlived its usefulness . . . shall likewise be used to defray the costs of the project." The sponsors allege that this requirement would be illegal and unsupported by any evidence "[s]o far as it relates to the distant period when the plant has been fully depreciated and is finally removed from service following Commission approval."⁹⁷ We are not persuaded that it would be either illegal or unreasonable to require that any benefits derived from the abandonment of the facility accrue to the ratepayers who are being required to bear the costs of a demonstration project in order to obtain information rather than gas supply. Just as the costs of abandoning a project are legitimate costs of the project so too is it appropriate to consider any proceeds a legitimate part of the project. Both costs and revenues are essential elements of determining the salvage value of abandoned facilities. The sponsors' argument that the project would be fully depreciated points out the need to develop meaningful estimates of salvage value for purposes of evaluating the continuing appropriateness of the 4.0 percent depreciation rate.

(i) *Great Plains' Cost-of-Service Tariff.*—Over what he termed the unexplained "misgivings" of the New Jersey Department of Energy and the Ohio Office of Consumers' Counsel, the law judge approved the use of a cost-of-service tariff for Great Plains.⁹⁸ He noted that this type of tariff was particularly appropriate for use when affiliated entities, such as the sponsoring pipelines here, are involved. Further, the judge noted the continuing oversight the Commission will exercise

over the propriety of the costs that will be reflected in the tariff. That power is set forth in the Gas Purchase Agreements⁹⁹ in the following language:

"Article XIV

Regulatory Review of Costs

1. Seller shall file such reports and supporting information with the FERC as the FERC shall reasonably prescribe to substantiate the charges Seller has billed to Buyer. Copies of such reports and supporting information shall also be provided to Buyer. In addition, Seller shall make available its accounting and supporting records to representatives of the FERC for inspection at reasonable times and locations. If, upon any audit or review of periodic reports, the FERC determines within one year following each report that any costs which Seller has incurred may not have been reasonably and prudently incurred or may not be properly includable in Seller's charges under this Gas Purchase Agreement, and establishes a proceeding for the ultimate determination thereof, the burden shall be upon Seller to establish the propriety of such charges according to the same standards, and subject to the same rights of judicial review, as would be applicable under Section 4 of the Natural Gas Act. In the event any cost charged by Seller to Buyer is held by a final and nonappealable order to be imprudent or unreasonable or not properly includable under this Gas Purchase Agreement, Seller shall reflect such disallowance of costs, plus interest on the amount disallowed, by adjusting further billings in accordance with the procedures set out in Article X, Section 3, of this Gas Purchase Agreement."

In urging adoption of the cost-of-service tariff, Great Plains emphasized the regulatory safeguards built into its proposed tariff, stating¹⁰⁰:

"More fundamentally, Great Plains' tariff contains built-in safeguards which fully assure that consumers will be accorded 'a complete, permanent and effective bond of protection from excessive rates and charges.' *Atlantic Refining Co. v. Public Service Commission of New York*, 360 U.S. 378, 388 (1959) (referred to as the *CATCO* decision). First, as a practical matter, companies operating under a cost-of-service tariff have always been obliged to bear the burden of justifying rate levels by proving that their costs were reasonably and prudently incurred and, where they failed to sustain this burden, to refund overcharges by reducing rates

⁹⁵ Ex. A. to Ex. 3D (Revised), Art. XI, § 2(c), p. 25; Ex. D. to Ex. 3D (Revised), Art. III, § 2(c), p. 12; Ex. E. to Ex. 3D (Revised), Art. IV, § 2(c).

⁹⁶ Brief on exceptions, p. 62.

⁹⁷ Initial decision, pp. 36-37.

⁹⁹ Exts. A, pp. 34-35, and G, pp. 31-32, to Exh. 3D (Revised).

¹⁰⁰ Initial brief, p. 54.

⁹⁵ Tr. p. 3197.

(Tr. 353, 1015-17, 1030-35). More important, Article XIV of the Gas Purchase Agreements specifically provides for a thorough regulatory review of costs. In particular, that provision imposes the burden of establishing the propriety of all charges on Great Plains and requires Great Plains to retrospectively adjust further billings to reflect any costs which, upon FERC review, are found to be imprudent, unreasonable, or not properly includable in cost of service (see Tr. 3366). This tariff provision obviates the burden of proof and refund problems that have been posed in other contexts (see *CATCO, supra*, 360 U.S. at 388-391) and thus ensures that consumers will pay no more than 'the lowest possible reasonable rate consistent with the maintenance of adequate service in the public interest.' *CATCO, supra*, 360 U.S. 388." [footnotes omitted.]

We adopt the judge's evaluation of this issue and will implement the tariff provision by requiring Great Plains to file annual reports to permit our review of the charges reflected in its tariff. Further, to permit easier and more efficient review procedures, we will require Great Plains to use, to the extent applicable, our Uniform System of Accounts for Class A & B pipeline companies. Any requests for deviations from this accounting procedure should be presented to the Chief Accountant for approval.

We note that, pursuant to Article XIV, refunds of any cost found improper are delayed until "a final and nonappealable order" is issued. In the absence of a showing of extraordinary circumstances warranting a stay of a refund order, it is our general policy not to delay the effectuation of a refund until the conclusion of judicial review. Therefore, we will require applicants to modify the Article to require refunds to be made upon Commission order issued at the conclusion of any proceeding involving such costs. Such modification does not deprive applicants of their right to judicial review and to seek court stay of our order. It will, however, eliminate an automatic stay of our order as would occur under the proposed Article and will require applicants to justify any request for a stay either from the Commission or a court. We believe that this modification meets the needs of all interests—applicants, consumers and the public.

In approving a cost-of-service tariff for Great Plains it is necessary that the essential elements be clearly described. The tariff should provide for the periodic computation of a cost-of-service to be allocated among the purchasers based

upon their proportionate share of the costs. The cost-of-service tariff should provide for recovery of actual operation and maintenance expenses as well as taxes other than income. Annual depreciation expense should be determined by applying a 4.0 percent rate to gross depreciable plant. Rate base for rate of return purposes should be computed on the basis of projected average depreciated plant plus an allowance for working capital less any deferred taxes. The equity allowance should be determined using an annual rate of 13.0 percent and debt cost should reflect the cost of long-term debt outstanding during the period. Federal income taxes should employ the effective statutory rate and State income taxes should employ a factor to be applied to the Federal income tax rate.

The tariff proposed by the project sponsors provides for semi-annual computations of estimated costs to be recovered by monthly billings over the future 6-month period. The tariff also provides for adjustments to subsequent 6-month periods to recover or return any difference between actual costs experienced and estimated costs used for billing purposes plus interest. The methodology encompassed in the proposed tariff is acceptable with the exception of the computations of rate base and debt cost. Rate base would be computed using net depreciated plant as of the beginning of the 6-month billing period. This would not be representative of the net plant actually utilized during the period; neither would it be consistent with the treatment of other costs recovered during the period. Therefore, the net depreciated plant used for rate base purposes should be the projected average for the 6-month billing period. Similarly, the long-term debt cost used for rate of return purposes should be the projected average for the 6-month period. This would assure consistent treatment of expenses, depreciation, debt cost, return on equity and taxes.

The proposed tariff must also be modified to reflect a 13.0 percent return on equity. Consistent with our earlier discussion on working capital, the use of a 45 day formula will be permitted for the first 12 months of operation under the tariff; thereafter, the working capital allowance must be adjusted consistent with the Commission's determination after reviewing the filed lead-lag study based upon actual experience. Moreover, the factor to be used for State income tax purposes must be adjusted based on actual experience for the first 12 months of operation.

2. Coal Sales Agreement.—Applicants disagree with the judge's recommendations that the Coal Sales Agreement between ANG and Coteau "shall be modified to detail the quantity and quality of the coal" as proposed by staff and may be further reviewed to determine the reasonableness of Coteau's profit allowance.

Applicants pose the issue of whether the Commission should require isolated provisions in the Coal Sales Agreement to be rewritten in order to conform with what the law judge and staff consider to be more desirable contract terms. That view, however, misses the mark.

It is well-settled that in initial certification proceedings the Commission may scrutinize, and in fact is required to scrutinize, all factors affecting the public convenience and necessity of a particular project.¹⁰¹ Since the cost of coal accounts for nearly one-fourth of the cost of the coal gas,¹⁰² and the cost of the non-jurisdictional coal sales will be passed through to jurisdictional ratepayers, there can be no question that the terms and conditions of the contract significantly affect the public convenience and necessity of the project and, thus, are within the Commission's authority to review.

(a) **Quantity Provisions.**—The initial phase of operation of the coal gasification plant will require approximately 4.5 million tons of lignite. In addition, 2.6 million tons will be required for Basin Electric, which is constructing electric generating facilities on the same site. Since the estimated coal requirement figures are available, there is no reason for excluding quantity provisions from the ANG-Coteau contract. This is particularly true in light of ANG's contractual obligation to Basin Electric for a specified quantity of coal.

A staff witness specifically addressed the necessity for providing a quantity figure in the ANG-Coteau coal contract. The basis for staff's concern with the quantity provision is the potential for problems if Coteau mines more coal than ANG needs for Great Plains and Basin Electric. Although the output of the mine is sold to ANG, Coteau has the right to sell quantities of coal elsewhere.¹⁰³ Under the contract, ANG will pay Coteau on a cost-plus-fixed profit basis. However, the lack of a quantity provision could result in the design of mining operations capable of producing amounts of coal exceeding

¹⁰¹ See, e.g., *FPC v. Transcontinental Gas Pipeline Corporation*, 385 U.S. 1 (1961); *Henry v. FPC, supra*; *Algonquin SNG, Inc.*, 48 FPC 1210 (1972).

¹⁰² Exh. No. 19-D.

¹⁰³ Exh. No. 6.

ANG's requirements. The entire design of Coteau's mining operation, including necessary equipment, e.g., drag lines, is governed by the desired output. For example, Coteau may design mining operations capable of producing 8.1 million tons per year, while Great Plains and Basin Electric will only be able to use 7.1 million tons. Although Basin Electric will pay slightly more than one-third of the cost of the mine, Great Plains, and ultimately the jurisdictional natural gas consumers, could pay a price which reflects the cost of mining operations which have produced a volume of coal well beyond ANG's needs. As a result, Coteau would be free to sell the coal elsewhere, with the costs of the excess mining operations passed on to natural gas consumers. Clearly, those consumers should not be required to pay for any mining operations producing coal beyond Great Plains' needs. A quantity provision in the coal contract would ensure that consumers pay for what they receive and nothing more.

The applicants' argument that there is no basis for concern that the gasification plant will be charged for coal other than that mined for the gasification plant because the sales are subject to audit is without merit. Although the applicants may not presently intend to pay Coteau for coal not mined for the gasification plant, the fact remains that the existing contract permits such a result.

We affirm the law judge's determination and will require the agreement to be amended to include a quantity figure in order to protect the jurisdictional ratepayers who will purchase the coal gas produced at the plant.

(b) *Quality Provisions.*—The staff also addressed the issue of quality provisions in the ANG-Coteau coal contract. A staff witness recommended the contract be amended in the following respects:

(1) to specify the average as-delivered Btu content per pound;

(2) to specify the percent-by-weight content of moisture, ash and sulphur; and

(3) to specify the percent of sodium in the ash.

These quality specifications would then be related to reasonable increments of weight or time, e.g. a certain amount of ash per 100,000 tons, or a certain amount of ash in all the coal delivered each week.¹⁰⁴ ANG either

¹⁰⁴ E.g., ANG is obligated to sell Basin Electric coal having a minimum Btu content of 5,800 per pound. Additionally, Basin Electric has the right to refuse any coal ANG delivers with an ash content in excess of 12.5 percent. (Exhibit No. 103, p. 6). Prior to sale, however, ANG must crush the coal into smaller pieces, which will likely result in more ash

would not be obligated to accept coal from Coteau that failed to meet the quality specifications or would pay proportionately less for any sub-quality coal delivered to its plant.

The quality provision recommended by staff and approved by the law judge is commonly referred to as a calorific adjustment clause.¹⁰⁵ Calorific adjustment clauses are crucial elements in coal contracts because coal is purchased for its heating value, measured in Btu's. Btu's can only come from one source: the coal. Therefore, any heating value in manufactured coal gas is a function of the Btu content of the coal used for feedstock.

Because Great Plains is obligated to produce coal gas having a specified Btu content,¹⁰⁶ it is imperative that Coteau deliver coal of a quality sufficient to meet this obligation. If coal delivered to the gasification plant has a low Btu content, two options will be presented; ANG must either produce less coal gas or lower the quality of the coal gas it does produce.

However, neither option is acceptable because the cost of this inefficiency will be borne by consumers. The calorific adjustment clause embodied in Exhibit No. 183 is a simple and proper method to ensure that ratepayers do not pay for coal that will produce gas having an unacceptable heating value. The coal contract contains nothing to induce or encourage Coteau to exercise minimum mining skill to avoid deteriorating the quality of coal fed to the gasification plant. Any decrease in gasification efficiency will, under the applicants' proposal, result in consumers being penalized.

The quality requirements, together with appropriate penalty and bonus provisions, will provide an incentive for Coteau to mine coal of average core quality sufficient to manufacture high-Btu coal gas. Without such a provision, the opportunity exists for Coteau to deliver coal which, although capable of being gasified,¹⁰⁷ will only produce coal

being delivered than without crushing. Since ash has no Btu content, i.e. heating value (Tr. 3749), it is important that ANG receive coal from Coteau with a Btu content exceeding 5,800 Btu's per pound to enable full performance of contractual obligations ANG has to Basin Electric. (Exhibit No. 103, Art. 2.4). Consequently, staff recommended that the ANG-Coteau contract require Coteau to deliver coal to ANG with a Btu content of at least 6,000 per pound and an ash content not exceeding 12.5 percent.

¹⁰⁵ Staff's witness testified that the applicants' contract was the first of an estimated one hundred he had seen containing no quality provision.

¹⁰⁶ Exh. No. 3C.

¹⁰⁷ The Lurgi gasification process is capable of gasifying coal having a Btu content below 6,000 Btu per pound, the level recommended by Staff witness Gakner in Exhibit No. 183.

gas with a lower heating value or higher cost.

In addition to necessitating production of lower Btu gas, delivery to ANG of coal that is less than 6,000 Btu's per pound raises other potential problems. The gasification project contemplates a somewhat symbiotic relationship between ANG and Basin Electric: the former will provide coal to the latter in exchange for power. The agreement between the parties specifies that Basin Electric can refuse to accept coal from Coteau with an ash content in excess of 12.5 percent. If Coteau did deliver such coal and Basin Electric refused to accept, ANG would gasify it, thereby producing less coal gas per ton of coal or lower quality gas per ton. Even if Basin Electric waived its contractual rights of refusal, its use of coal having an ash content in excess of 12.5 percent would necessarily limit power production. Any limitation on Basin Electric's production potentially impacts the power supply to Great Plains. Quality control provisions between Coteau and ANG will eliminate this potential harm to the efficiency of the gasification process.

A staff witness testified that other problems will be presented if Great Plains gasifies coal with a Btu content below a specified level. Although the plant was designed to gasify a range of coals, the gasifiers will operate most efficiently when burning coal within a certain Btu-content range. If coal delivered to Great Plains is at the low end of the design's quality range, the gasifiers will be pushed to their limits. The entire coal input system must then operate at its highest rate to gasify poor quality coal and to deliver the volumes of coal gas promised.

With this degree of stress on the system, the witness stated the probability of maintenance problems increase. Although the plant was designed to give operations some leeway, or "cushion", the poorer the quality of coal delivered, the greater the stress on the system and the more likely breakdowns become. Even assuming, *arguendo*, maintenance problems do not increase substantially if lower quality coal is used, plant efficiency will decrease, thereby raising the overall cost of the gas and penalizing ratepayers.

Another area likely to be affected by the quality of the coal is the agreement between ANG and Lurgi which guarantees both the gasifier output and the quality of gas. If the quality of the coal decreases, thereby lessening the gas quality, the guarantee may be endangered. This potential problem will be eliminated by including the proposed

coal quality provisions in the ANG-Coteau contract.

In support of their opposition to the recommended quality provisions, the applicants argue that (1) the coal quality does not vary greatly and the Great Plains plant was specifically designed to gasify not only the average value of coal in the field, but also the variations or coal in the field; and (2) an insistence on quality provisions might result in higher coal costs as a result of contract renegotiations and altered mining plans to avoid specific coal deposits.

We are aware of the advantages of flexibility inherent in the Lurgi design. However, we are concerned that, even though the plant is fully capable of gasifying a wide range of coal, the cost which consumers are being asked to pay may be too high. If Coteau delivers coal to ANG with a Btu content below 6,000 per pound, the process would require more coal to produce 950 Btu gas than if the coal contained 6,000 or more Btu per pound. The more coal ANG has to buy to produce quality gas, the more consumers will pay. This is the reason for inclusion of a calorific adjustment clause.

Further, the quality provisions approved are standard, accepted contract elements. Inclusion of a calorific adjustment provision will not force Coteau to search for and mine only the "best" coal, thereby incurring substantial excess costs; it will simply provide an incentive for Coteau to exercise ordinary and prudent mining skill while ensuring that consumers "get what they pay for." Such protective clauses are not, as the applicants' objections suggest, in any way extraordinary, nor are they frontrunners of increased coal costs. In fact, if the core samples tested are as accurate as applicants' witness Mermer testified, no special efforts by Coteau will be required at all. It need only deliver coal of an average Btu quality of 6,000 Btu per pound. The inclusion of the quality provision, we conclude, is required by the public convenience and necessity and is adopted.

(3) *Transportation Certification.*—Great Lakes and Great Plains except to the findings of the initial decision that it is premature to certificate the proposal to transport gas from the outlet of the plant to the interconnection with Michigan Wisconsin's pipeline, for further delivery to the other customers. Great Lakes believes a conditional certificate can and should be issued at this time based upon the adequacy of its proposal. The condition to such approval would require Great Plains to provide the Commission with a statement, at a future date, that either:

(1) justifies the use of the Great Lakes' facilities, or; (2) would amend its proposal so as to utilize an alternative system.

If the proposal before us was concerned with a conventional gas supply project that contemplated timely completion and operation, the treatment sought by Great Lakes might be appropriate and certainly would merit our further consideration. The Great Plains proposal, however, is not a routine supply project but is unique in many respects, including a need for a substantial construction period. While we recognize the efforts put forth by Great Lakes to support the certification of a transportation system for the coal gas, and are fully aware that a transportation system will be necessary once the plant begins operation and coal gas is produced, we do not believe that the present and future public convenience and necessity would be served by the certification of any transportation facilities at this time. First, despite all of the assurances regarding the relative certainty of the technology to be employed in the gasification process, we cannot be unaware that a possibility nevertheless exists that abandonment of the project may occur during the construction period. In that circumstance any expenditures for a transportation system may prove to have been wasteful. Also, even if the project is successful, a system to transport the coal gas is not necessary until operations commence, some years in the future. At that time, other alternatives may be available, for example the Northern Border Pipeline System which is being considered as part of the Alaskan Natural Gas Transportation System and which, if available, may permit reduced construction costs and result in less environmental disturbance. Finally, because this is an RD&D project and much is yet to be learned, the design and sizing of a pipeline system is extremely speculative. Therefore, in order to provide unbiased consideration of such alternative proposals as may be available at the time of completion of the plant, we will affirm the law judge and not authorize Great Lakes' proposal at this time.¹⁰⁸

¹⁰⁸ Investors in the Great Plains project need not be concerned about the security of their investment even if the project were complete but no transportation were available to move the coal gas to market. Though we believe that such an eventuality is very unlikely, the investor is protected because the tariff provisions approved in this Order will allow both debt and equity investors to recover a return on their investment prior to the start-up of operations through a surcharge in the rates to customers of the sponsoring companies. Thus, during any delay in startup because of lack of

The application by Michigan-Wisconsin for authorization to construct and operate the additional facilities which it would need to receive the commingled gas at the point of interconnection with Great Lakes' pipeline near Crystal Falls, Michigan, and to transport the gas likewise will not be authorized at this time. If the transportation proposal eventually goes forward as now contemplated, both Great Lakes' and Michigan Wisconsin's applications will be processed in sufficient time to permit construction of the necessary facilities coincident with the initiation of coal gas production. The same will be true in the event an alternative transportation method is proposed by Great Plains. No prejudice or prejudgment should be considered as attaching to our present denial of the transportation applications.

(4) *Montana-Dakota Utilities Proposal.*—MDU seeks special consideration as a customer of Great Plains in requesting that it be guaranteed 5 percent of the production of the gasification plant, as well as a further provision that it may resell any of such quantities above its needs back to Great Plains. It bases this request for priority treatment on discussions held with representatives of American Natural and officials of the State of North Dakota in which representations allegedly were made that production deliveries in these quantities would be available for use of the State's gas distributors.

We adopt the finding of the law judge on this matter. The request would provide preferential treatment to MDU and, as such, is inconsistent with the public convenience and necessity.

G. *Project Monitoring System*

The law judge in his initial decision recommended against the establishment of a monitoring system to prevent or minimize cost overruns. His discussion, apparently was in response to a staff suggestion for the creation of a project management system to monitor costs and technology.¹⁰⁹ The law judge denied the suggestion on several grounds: (1) cost overruns are inherently difficult to define, (2) a maximum expenditure limit would "invite overblown estimates" by applicants in future cases; and (3) such a limitation could be counterproductive, either increasing ultimate costs by virtue of the delay or aborting a project that is needed by the public.¹¹⁰

transportation facilities. Investors would earn a return on their investment.

¹⁰⁹ Staff Initial Brief, pp. 202-208. DOE also supported some type of project management control.

¹¹⁰ Initial decision, p. 42.

The exact purpose of staff's proposed system is not entirely clear, but seems to have envisioned a review of the engineering and design of the system prior to construction; monitoring during construction by Commission auditors, accountants and engineers; review of design decisions to ensure plant integration; consideration of environmental parameters and operation requirements; dissemination of technical information; and determination of whether costs are prudently incurred and thereby qualify for recovery from the sponsors' customers, either currently (through the tracking mechanism) or by inclusion in Great Plains' rate base.

The project sponsors replied that they "do not disagree in principle with Staff's recommendation that the Commission should create a project management system to interface with the Great Plains management system." However, the sponsors seem to prefer a much more limited or restricted system compared to that proposed by the staff and suggest " * * * that to the extent that ongoing project review is desired by the Commission, a specific Commission Staff task force be designated to receive periodic reports of construction expenditures, project cost projections, and significant changes in plans. This task force can advise the Commission on a continuing basis leaving to the Commission the question of the necessity for formal review."¹¹¹

We consider the nature of an appropriate project monitoring or management system to be a complex issue. The Commission will not here reach a decision concerning either the structure of the system or its complete functions. Some basic guidelines can, however, be set down.

Our reference herein is to a "project monitoring system" and not to a "project management system." The substitution of terminology is not merely a semantic change but reflects a significant difference in concept. This project is intended to demonstrate the commercial feasibility of coal gasification. The owners, managers and operators of the project are the sponsoring companies and they should be as free as reasonable from governmental intervention through the design and construction stages in order to provide the clearest possible answer to the question of the ability of the gas industry in particular and private industry in general to produce coal gas at a price which is economically attractive in comparison to alternative sources. Government control of

management decisions would, at best, impair the demonstration value of the project and, at worst, could serve to increase costs and reduce efficiency by imposing the burden of a second layer of control and management.

As discussed earlier, the Commission has reserved the right to order an abandonment of the project whenever it concludes that continued construction or continued operation is no longer in the public interest. One goal or function of the project monitoring system will be to provide information to the Commission that will allow a timely decision to be made on whether the project should be halted—and also, assuming abandonment, the time at which the project sponsors themselves should have begun to question whether the authorization of further expenditures on the project was prudent.

It is essential in this connection that the system provide the Commission with information on a regular and frequent basis on the status and progress of construction, as well as estimates of the cost to completion based on the most current information and the plant's technical efficiency. Further, the system should notify the Commission of any unexpected technical, environmental, or regulatory problems that could significantly alter the Commission's current views about the feasibility of coal gasification. It is likely that a key decision point will be when the final definitive design is complete, contracts have been awarded for construction, firm prices have been received for major plants components, and actual on-site construction is ready to begin. A cost estimate at that point is likely to be much more certain than the estimate now available. If this estimate is substantially higher than the current estimate, the project could be halted after only incurring costs for design, engineering and planning.

Several of the parties have suggested various measures to control possible cost overruns. For example, the New York Commission proposed a requirement that whenever the costs are projected to be 25 percent above those now proposed, Commission approval of further construction be required. The Michigan Commission has advanced a similar suggestion. Our decision to go forward with a project monitoring system to interface with the Great Plains management through the period of construction and into the period of full operation will serve to alert the Commission of any situation involving large, unexpected cost overruns. The existence of a system of this nature will provide assurance that the

Commission's knowledge of the project's progress is kept reasonably current throughout the construction phase, including any situations giving rise to unanticipated costs. The other suggestions for cost controls will be denied. In the event that matters are brought to our attention which appear to indicate a problem, we will not hesitate to take appropriate action.

A possible function of the Project Monitoring System would be to aid in the dissemination of technical information on coal gasification technology gained from this demonstration plant. This project will only serve this purpose if the experience and knowledge gained from this plant is made available to this Commission, energy policy makers in the Department of Energy and elsewhere in government, and private enterprises, including other natural gas companies that may some day wish to sponsor additional coal gasification facilities. There may be two restraints, however, on the dissemination of information from this project. The first is the proprietary nature of some of the techniques and components used in the project. The second is that it may be desirable for the project sponsors to charge the sponsors of future coal gasification projects for certain of the knowledge and expertise gained from Great Plains. Such revenues could lower the cost of service charged to the consumers of the five sponsoring companies for gas from this plant. The best method for the dissemination of information and knowledge should be considered further and the Project Monitoring System might have a role.

The monitoring system might also assist in the auditing of construction and operating costs. As a condition of approving this project, the Commission requires that the accounting records of the project be kept in accord with the Commission's Uniform System of Accounts and that construction and operating expenditures be subject to audit by the Commission's staff to assure that these expenditures are properly classified, prudently incurred, and otherwise just and reasonable. It may be desirable both from the point of view of reducing regulatory uncertainty for the investors and providing better information to the Commission to carry out its oversight responsibilities if the construction costs were audited on a periodic basis during construction rather than after the completion of construction.

The exact procedure for a project monitoring system will be developed after it is determined whether the applicants wish to accept the proffered

¹¹¹ Great Plains reply brief, p. 40.

certificate and the dimensions of the project become more specific. It could include some combination of periodic reports from the sponsoring companies, on-site inspection by Commission or Department of Energy personnel, auditing of construction and operating expenses, or review of final design and plant specifications. A major consideration is that such a monitoring system should not impose an undue burden and expense or cause delays in construction because key management personnel are diverted to providing the information required by the monitoring system.

IV. Conclusion

For the reasons previously discussed and based on the Commission's review of the record, the initial decision, the exceptions thereto, and replies to the exceptions, we conclude that the law judge's recommended denial of the requested Natural Gas Act Section 7(c) application attendant to the proposed Lurgi coal gasification project should be reversed. We find that, subject to the certificate conditions previously discussed, the proposed commercial-sized demonstration of coal gasification by means of the Lurgi technology is in the public convenience and necessity.

The parties would prefer that the proposed Mercer County, North Dakota project be financed with Federal guarantees or other U.S. Treasury aid, but such a proposal is not before us;¹¹² the Commission must act on this proposal to finance a commercial-size demonstration or pioneer plant by surcharges on the natural gas bills of the ratepayers of the sponsoring pipelines.

The Commission is empowered to and should on appropriate occasions consider the sponsorship of appropriate demonstration programs by individual pipelines or consortia. Such sponsorship is envisioned by the Commission's RD&D policy as enunciated in various FPC and FERC decisions and orders, such as Order Nos. 483 and 586 and the Commission's Regulations, (See Section 154.38(5)).

As to the specific proposal before us, with the appropriate financing and tariff arrangements, a commercial-size demonstration of Lurgi coal gasification would have the benefits and features required to qualify for RD&D treatment in accordance with the policy of the FPC and this Commission. The proposed Mercer County, North Dakota pioneer plant would advance the public interest and the interest of the sponsoring

pipelines' consumers by providing a basis for evaluating technological uncertainties and attendant financial and economic questions with respect to Lurgi technology as well as providing a basis for evaluating various environmental, social, political, and regulatory questions regarding the future role, if any, of coal gasification in the energy economy of the United States. Therefore, the Commission concludes that the project meets the requisite Natural Gas Act, Section 7(c) public convenience and necessity test provided the project embodies appropriate financing and tariff arrangements.

Because the Commission has determined that this project is appropriate for treatment as an RD&D project, we will not require that it utilize the standard financing and tariff arrangements for a conventional pipeline project. If this project were a conventional investment, labor and material cost, debt costs and an allowance on equity funds would be capitalized. Also, expenses and debt costs would be used to reduce other taxable income and the difference between taxes booked and those actually paid would be normalized. In contrast this Commission and its predecessor have generally permitted RD&D projects to recover expenses on a current basis, to amortize large non-recurring costs over a five-year period and to normalize taxes. Moreover, RD&D treatment has generally included tracking of costs.

The Commission emphasizes that its finding that this project qualifies for RD&D treatment does not imply similar treatment for other coal gasification plants or for supplemental gas supply projects. Indeed, the implication is just the opposite. Because this project has been given special treatment in order to provide a basis for resolving various RD&D questions pursuant to Lurgi technology, future Lurgi plants would have a very substantial burden of proof to show RD&D qualification. Moreover, supplemental supply projects must first qualify for RD&D treatment before such terms would be appropriate; this requires, *inter alia*, a demonstration of likely significant replication if the project were to work as envisioned and, also, that the various criteria set forth in the orders embodying the Commission's RD&D policy are met.

We cannot find the applicants' proposed "take-it-or-leave-it" package of tariff and financing terms to be in the public convenience and necessity because the division of risk and cost between the sponsoring pipelines and their ratepayers is inappropriate.

However, the Commission is prepared to offer a Certificate of Public Convenience and Necessity for this project which would provide a surcharge during construction to cover interest on debt and a return on equity at a rate of 13 percent. As discussed previously, this rate of return is more appropriate to low-risk projects such as the one proposed than the 15 percent return on equity proposed by applicants.

The applicants submitted their tariff and financing terms as a single package or as a "chain" consisting of links not to be broken. We have concluded that acceptance of the applicants' package would not be in the public convenience and necessity and have modified it to the minimum extent necessary to justify approval. We are aware that each component of the applicants' proposal and of our set of certificate conditions is related and intertwined with the other components in complex ways. Consequently, change in one feature of the set of tariff and financing arrangements has implications for other features and for the overall nature of the project. For example, changes in features that affect risk have implications for the appropriate rate of return on equity, which in turn has implications for the amount of investment each party will be required to put into the project.

The Commission has been very conscious of these interrelationships and is aware that we must address not only the individual components but also the overall tariff and financing package as a whole. As noted, we cannot accept the applicants proposal as a package. We offer a certificate with a package of conditions that we have determined to be acceptable. We recognize, however, that other packages of appropriately related conditions would also be acceptable for this or other projects. For example, we would have been pleased to see a proposed package that involved more risk exposure on the part of the applicants with perhaps a different debt equity ratio. In that event a higher rate of return could have been considered than is appropriate with the arrangements proposed by the applicants or as modified by this order.

The Commission will permit, in accord with its RD&D policy, rolled-in pricing of the gas from this project and tracking of costs. Further the Commission will authorize termination of the project upon application and a determination that the expected future benefits would not justify the costs and, therefore, termination would be prudent. Also, the Commission on its own motion may require applicants to

¹¹²As discussed, applicants propose to restructure the project, subject to FERC approval, should Congress decide to provide tax-generated support.

cease construction or operation. In either event, the applicants will be permitted to recover all prudently incurred costs and, in determination of the prudence the causes of cost overruns or technological failure will be taken into consideration. The certificate conditions summarized here and discussed more fully in this Order will ensure that the proposed project furthers this Commission's RD&D policy and advances the public interest by providing a basis for assessing the possible future contribution of coal gasification technology to alleviating the general energy problems faced by this country and the specific problems faced by the natural gas pipeline industry and sponsoring pipelines.

The Commission orders:

(A) A certificate of public convenience and necessity is hereby issued to Great Plains Gasification Associates to make sales for resale in interstate commerce to Columbia Gas Transmission Corporation, Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Tennessee Gas Pipeline Company and Transcontinental Gas Pipe Line Corporation of equal volumes of commingled natural gas and coal gas, equivalent on a Btu basis to the output of the Great Plains Coal Gasification Plant less any line losses incurred in the transportation of such gas.

(B) The application by Great Lakes Gas Transportation Company to transport commingled coal gas and natural gas from Thief River Falls, Minnesota to Crystal Fall, Michigan, and to construct and operate facilities to receive and transport such gas is denied without prejudice.

(C) The application by Michigan Wisconsin Pipe Line Company to construct and operate facilities near Crystal Falls, Michigan to receive and transport commingled coal gas and natural gas is denied without prejudice.

(D) The request by Montana-Dakota Utilities Company for a guarantee of five (5) percent of the coal gas produced at the Great Plains Coal Gasification Plant is denied.

(E) Upon the acceptance by Great Plains Gasification Associates of the certificate issued in Ordering Paragraph (A), the Funding Agreements provided in Exhibits D and E to Exhibit 3D (Revised) and the Gas Purchase Agreements provided in Exhibits A and G to Exhibit 3D (Revised) shall be executed, as modified to be consistent with this Opinion. Within sixty (60) days from the date of acceptance of the certificate, Great Plains shall file a *pro forma* gas tariff with the Commission in

accordance with the modifications required by this Opinion. The Customer Pipeline Companies specified in Ordering Paragraph (A) may file tariff provisions with supporting cost-revenue studies to permit the "tracking" in their rates of costs reasonably incurred in the construction and operation of the Great Plains Coal Gasification project.

(F) The certificate and authorizations granted in Ordering Paragraphs (A) and (E) above are subject to the following terms and conditions:

(1) None of the sponsoring companies, *i.e.*, Columbia Coal, ANP, PGC, Tenneco SNG, and Transco Coal, shall withdraw from this project unless specifically permitted by the Commission upon application.

(2) In the event that any legislation is enacted under which financial support might be made available for this type of demonstration project, Great Plains shall seek such support and, if granted, Great Plains shall file with the Commission appropriate financing and tariff modifications for its approval.

(3) Great Plains shall file a request for a specific rate of return on equity that will become effective for each three-year period commencing after the first 12-months of operations of the Project. Each three-year filing shall be tendered within a time frame that will permit the request to become effective (subject to refund, if so ordered) on the first day of the 13th month of operation for the first period and on the first day of each subsequent three-year period thereafter. Each such filing shall be accompanied with supporting documentation and justification.

(4) As part of the first filing required in Ordering Paragraph (F)(3) above, Great Plains shall also file justification for its requested cash working capital allowance using studies based on its actual operations. It also shall file justification for the factor to be employed to recover state income taxes.

(5) Pursuant to Article XIV of the Gas Purchase Agreements (Exhs. A and G to Exh. 3D (Revised)), Great Plains shall file with the Commission an original and 15 copies of reports and supporting information substantiating the charges billed to its purchasers. Said reports shall be filed on or before March 31 of each year and shall contain the data applicable to the previous January 1 to December 31 period. In the event that the Commission determines, within one (1) year following the filing of each report, that any costs which Great Plains has incurred or may not have been reasonably and prudently incurred or may not be properly includable in the charges made by Great Plains to its purchasers, a proceeding will be

initiated for the ultimate determination thereof. In any such proceeding the burden shall be upon Great Plains to establish the propriety of such charges. Otherwise, at the conclusion of the 12-months review period, the costs reported will be deemed prudently incurred.

(6) Great Plains shall maintain its books and records in accordance with the accounting procedures established by this Commission for Class A & B gas pipeline companies. Deviation from such procedure may be permitted by the Chief Accountant upon request and good cause shown by Great Plains. For accounting and rate purposes, Great Plains, a partnership, will be treated as if it were a corporation and comprehensive tax allocation procedures will be required. Comprehensive tax allocation accounting procedures shall mean those procedures which require recording a full provision for all income tax effects of the timing differences between recorded amounts on the books of Great Plains and amounts reported for income tax purposes on the tax returns of the individual partners including (a) interest, taxes and pension cost capitalized per books and expensed currently for tax purposes, (b) all difference between book and tax depreciation and (c) any other timing difference between the recording of other revenues and expenses for book and tax purposes.

(7) Great Plains shall amend the language of Article XIV in both Gas Purchase Agreements to require refunds to be made upon issuance of a final Commission order.

(8) The Coal Sales Agreement between ANG and Coteau Properties Company shall be revised to reflect the quantity and quality of the coal to be provided, consistent with our discussion in this Opinion. Copies of the revised Agreement shall be filed with the Commission for approval.

(G) Written acknowledgment of the acceptance by Great Plains Gasification Associates of the certificate issued in Ordering Paragraph (A), together with its accompanying terms and conditions, shall be provided to the Commission within seventy-five (75) days from the date of issuance of this Opinion. In the absence of such written acceptance, the certificate herein issued shall be void. Any abandonment of this project subsequent to the acceptance of the certificate tendered shall be in accordance with this decision.

(H) The sponsors are hereby required to comply with Chapter 4 of the FEIS (Exh. No. 114), and with the Project Monitoring System.

(I) The initial decision issued in these proceedings on June 6, 1979, is adopted to the extent consistent with this Opinion and Order.

(J) All exceptions to the initial decision not granted are denied.

By the Commission. Commissioner Holden, concurring in part and dissenting in part, filed a separate statement appended hereto.

Kenneth F. Plumb,
Secretary.

Appendix A—Analysis of cost of Service Estimates for the Great Plains Coal Gasification Project

Introduction

A key factor in determining when this nation will need a coal gas industry is the likely cost of high Btu gas from coal compared to alternatives such as imported oil. This appendix estimates the lifetime or "lifecycle" cost of gas produced from Great Plains and compares this estimate with alternative estimates of future oil prices. The estimates of lifecycle costs presented herein are derived from the annual cost of service estimates presented by the project sponsors and examined during the administrative proceeding in this case.

Prices Estimated By Project Sponsors

The project sponsors submitted several estimates of the cost of service per Mcf of gas produced from the Great Plains project. They estimated that the first year cost of service in inflated prices will be \$7.16 per Mcf (Exhibit 15A (REB-26)). This estimate is said to assume a 7.5 percent inflation rate in construction costs from 1978 through 1983, the scheduled first year of operation.

This type of estimate has two limitations. First, under original cost rate base regulation, the rate base and thus the cost of service will decline as depreciation is deducted from the rate base. Thus a first year cost of service overestimates what the project will cost on average over its lifetime. Second, by using inflated prices or current dollar estimates in 1983, it is difficult to make comparisons with today's prices of alternative sources of energy such as imported oil.

A second estimate provided by the sponsors is \$5.66 per Mcf (Exhibit No. 19d (REB-22)). This again is a first year cost of service and thus not representative of the lifetime costs of gas from this project. It is derived from estimates of capital and O&M costs in 1978 prices, i.e., no inflation is assumed. The rate of return on equity used is 15 percent, and the interest rates assumed are about 11 percent. Despite its claim to be a "real" or inflation-free, projection, the \$5.66 per Mcf figure is not really such an estimate. The capital and O&M costs are in 1978 prices, but the rates of return and interest rates used are only valid in a world of rather high rates of inflation. In other words, these rates of return do include a premium for inflation.¹

¹The nominal rate of return required from investments normally includes a premium for inflation reflecting expectations about future price increases. Conversely, it follows that a rate of

Another estimate of the cost of service ranged from \$7.38 per million Btu in 1983,² to \$7.13 in 1987, and to \$10.74 per million in 2007. (Exhibit 121 (REB-27)). This projected plant tailgate cost is designed to show the actual price that will be billed to customers for this gas in the year they buy it and includes the impact of inflation. However, these estimates do not reflect the substantial surcharge paid by consumers during the construction period. Also, to assess the economic merits of coal gas, these estimates must be compared with the future cost of alternatives such as imported oil. The following analysis makes that comparison based on alternative assumptions about future oil prices.

Total and Average Cost of Service

A comparison of this latter estimate (\$10.74) of the annual cost of the gas over the life of the project provided by the sponsors with the energy equivalent price of imported crude oil for the assumed twenty-five year life of the project is presented in Table 1. The crude oil prices have been based on \$20 per barrel OPEC oil in 1979 plus the impact of inflation and price escalation under three assumptions: (1) that imported oil prices will increase at the same rate assumed for U.S. inflation (6.5 percent per year), (2) that imported oil prices will escalate at a rate 1.0 percent more rapidly (approximately 7.5 percent per year), (3) at a rate 1.2 percent more rapidly (approximately 7.7 percent per year), and (4) at a rate 1.5 percent more rapidly than inflation (approximately 8.0 percent per year).³

For purposes of comparison, Table 2 shows the prices of coal gas and imported oil under the same assumptions used in Table 1 except that the effects of inflation have been removed. Prices in Table 1 have been deflated back to mid 1979 prices assuming 6.5 percent inflation.

Table 1.—Expected cost of coal gas and prices of imported oil

Year	(In current dollars per MMBtu) ¹				
	Coal gas price ²	Imported oil prices at real escalation rate of— ³			
		Percent			
		0	1	1.2	1.5
1983....	\$7.38	\$4.44	\$4.62	\$4.66	\$4.71
1984....	7.29	4.73	4.97	5.02	5.09
1985....	7.21	5.03	5.34	5.41	5.50

return of fifteen percent embodies the assumption that inflation is and will be rather high. In order to compare revenues and prices fairly over some extended period of time, it is necessary first to compare them in terms of constant purchasing power, expressed in terms of the purchasing power of a dollar in some fixed year. This is done by dividing the nominal money values for each year by the ratio of the level of prices (as measured by some price index) in that year to the level of prices that prevailed in the base year.

²Equivalent to \$7.16 Mcf.

³The total escalation rates for oil prices actually used in the following tables are slightly higher than those given here (.065, .07565, .07778, and .080975). These rates result from the formula $(1+r)(1+e) - 1$, where r is the inflation rate (.065) and e is the real rate of 0.0, 0.01, 0.012, and 0.015.

Table 1.—Expected cost of coal gas and prices of imported oil—Continued

Year	Coal gas price ²	Imported oil prices at real escalation rate of— ³			
		Percent			
		0	1	1.2	1.5
1986....	7.16	5.36	5.75	5.83	5.95
1987....	7.13	5.71	6.18	6.28	6.43
1988....	7.13	6.08	6.65	6.77	6.95
1989....	7.15	6.48	7.15	7.30	7.52
1990....	7.21	6.90	7.63	7.86	8.12
1991....	7.28	7.35	8.28	8.48	8.78
1992....	7.38	7.82	8.90	9.14	9.49
1993....	7.51 ⁴	8.33	9.58	9.85	10.26
1994....	7.68	8.87	10.30	10.61	11.09
1995....	7.84	9.45	11.08	11.44	11.99
1996....	8.05	10.06	11.92	12.33	12.96
1997....	8.31	10.72	12.82	13.28	14.01
1998....	8.45	11.41	13.79	14.32	15.15
1999....	8.63	12.16	14.83	15.43	16.37
2000....	8.82	12.95	15.96	16.63	17.70
2001....	9.03	13.79	17.16	17.93	19.13
2002....	9.27	14.68	18.48	19.32	20.69
2003....	9.52	15.64	19.88	20.82	22.30
2004....	9.78	16.68	21.38	22.44	24.17
2005....	10.08	17.74	22.98	24.19	26.12
2006....	10.40	18.89	24.71	25.07	28.24
2007....	10.74	20.12	26.58	26.10	30.53

¹Prices include the effect of expected inflation at 0.5 percent per year.

²Based on \$20.00 imported oil with prices increasing to match U.S. inflation plus various added escalation prices as shown. A barrel of oil is assumed to contain 5.9 MMBtu.

³From Exhibit 121.

Table 2.—Expected cost of coal gas and prices for imported oil

Year	(In 1979 dollars per MMBtu)				
	Coal gas price	Imported oil prices at real escalation rate of—			
		Percent			
		0	1	1.2	1.5
1983....	\$5.74	\$3.45	\$3.59	\$3.62	\$3.60
1984....	5.32	3.45	3.63	3.66	3.72
1985....	4.94	3.45	3.66	3.71	3.77
1986....	4.61	3.45	3.70	3.75	3.83
1987....	4.31	3.45	3.74	3.80	3.89
1988....	4.05	3.45	3.77	3.84	3.94
1989....	3.81	3.45	3.81	3.89	4.00
1990....	3.61	3.45	3.85	3.93	4.06
1991....	3.42	3.45	3.89	3.98	4.12
1992....	3.25	3.45	3.93	4.03	4.19
1993....	3.11	3.45	3.97	4.08	4.25
1994....	2.98	3.45	4.01	4.13	4.31
1995....	2.86	3.45	4.05	4.18	4.39
1996....	2.76	3.45	4.09	4.23	4.44
1997....	2.67	3.45	4.13	4.28	4.51
1998....	2.55	3.45	4.17	4.33	4.59
1999....	2.45	3.45	4.21	4.38	4.65
2000....	2.35	3.45	4.25	4.43	4.72
2001....	2.28	3.45	4.29	4.49	4.79
2002....	2.18	3.45	4.34	4.54	4.86
2003....	2.10	3.45	4.38	4.59	4.93
2004....	2.03	3.45	4.42	4.65	5.01
2005....	1.96	3.45	4.47	4.70	5.08
2006....	1.90	3.45	4.51	4.76	5.16
2007....	1.84	3.45	4.56	4.82	5.23

Observe from Table 2 that the unit cost of gas will decline in real terms over time. If the real cost of oil does not increase over time, the cost of this gas will be less than oil 8 years after initial operation (1991). If oil prices increase in real terms, this "cross over" point will occur sooner.

In order to determine the total cost of the fuel to consumers in each year we have multiplied the unit price shown in Table 1 by

45 trillion Btu (the approximate plant output per year) to obtain the total cost of the fuel as it will be charged to consumers. These sums are then compared with the cost of fuel to consumers assuming imported oil were burned. The imported oil prices are computed on the same assumption used in the previous tables. These figures are shown in Table 3.

The gas customers are also required to provide construction period funding in the form of surcharges to be levied during the construction period. The cost to consumers from the construction period funding arrangement were presented in Exhibit 26B and are shown in Table 4.

Table 3.—Costs in Current Dollars of Supplying 45 Trillion Btu/Year For 1983-2007

[In Millions of Dollars] ¹					
Year	Imported oil—at real escalation rate of—				
	Coal gas	Percent			
		0	1	1.2	1.5
1979	.00	.00	.00	.00	.00
1980	.00	.00	.00	.00	.00
1981	.00	.00	.00	.00	.00
1982	.00	.00	.00	.00	.00
1983	\$332.10	\$199.80	\$207.90	\$209.70	\$211.95
1984	328.05	212.85	223.65	225.90	229.05
1985	324.45	226.35	240.30	243.45	247.50
1986	322.20	241.20	258.75	262.35	267.75
1987	320.85	256.95	278.10	282.60	289.35
1988	320.85	273.60	299.25	304.65	312.75
1989	321.75	291.60	321.84	328.50	338.40
1990	324.45	310.50	346.05	353.70	365.40
1991	327.60	330.75	372.60	381.60	395.10
1992	332.10	351.90	400.50	411.30	427.05
1993	337.95	374.85	431.10	443.25	461.70
1994	344.70	399.15	463.50	477.45	499.05
1995	352.80	425.25	498.60	514.80	539.55
1996	362.25	452.70	536.40	554.85	583.20
1997	373.95	482.40	576.90	597.60	630.45
1998	380.25	513.45	620.55	644.40	681.75
1999	388.35	547.20	667.35	694.35	736.65
2000	396.90	582.75	718.20	748.35	795.50
2001	406.35	620.55	772.20	806.85	860.85
2002	417.15	660.60	830.70	869.40	930.60
2003	428.40	703.80	893.70	936.90	1006.20
2004	440.10	749.70	961.20	1009.80	1087.60
2005	453.60	798.30	1034.10	1088.50	1175.40
2006	468.00	850.05	1111.90	1173.10	1270.80
2007	483.30	905.40	1196.10	1264.50	1373.80

¹ Costs and Prices include the effect of expected inflation at 6.5 percent per year.

Table 4.—Construction Period Funding

Year	Thousand dollars
1979	\$33,044
1980	61,840
1981	115,641
1982	144,468

A comparison of the costs of coal gas with alternate energy sources must include these charges during construction. In Table 5 the costs in Tables 3 and 4 are converted to current (1979) dollars, using a 6.5 percent deflation factor. This shows the amount collected for the fuel in terms of constant dollars.

The total cost of coal gas over the 25 years and the average cost of coal gas are also shown in Table 4 and are significantly less than any of the oil cost scenarios because of the low cost-of coal gas in later years. For example, the simple 25 year average cost of

the coal gas is 3.44 per MMBtu. This is equivalent in energy to oil selling at about 20 per barrel which was approximately the price of imported oil in July 1979. However as discussed below, total undiscounted cost or a simple average is not a valid basis for comparison.

Table 5.—Costs in Constant Dollars of Supplying 45 Trillion Btu/Year For 1983-2007 Including Surcharges¹

Year	[In millions of 1979 dollars]				
	Coal gas	Imported oil—At real escalation rate of—			
		Percent			
	0	1	1.2	1.5	
1979	\$33.04	.00	.00	.00	.00
1980	58.07	.00	.00	.00	.00
1981	101.96	.00	.00	.00	.00
1982	119.60	.00	.00	.00	.00
1983	258.15	\$155.25	\$161.55	\$162.90	\$164.70
1984	239.44	155.25	163.35	164.70	167.40
1985	222.36	155.25	164.70	166.95	163.65
1986	207.34	155.25	166.50	168.75	172.35
1987	193.87	155.25	168.30	171.00	175.05
1988	182.04	155.25	169.65	172.80	177.30
1989	171.40	155.25	171.45	175.05	180.00
1990	162.29	155.25	173.25	176.85	182.70
1991	153.87	155.25	175.05	178.10	185.40
1992	146.46	155.25	176.85	181.35	188.55
1993	139.95	155.25	178.65	183.60	191.25
1994	134.03	155.25	180.45	185.85	193.95
1995	128.81	155.25	182.25	188.10	197.10
1996	124.18	155.25	184.05	190.35	199.80
1997	120.37	155.25	185.85	192.60	202.95
1998	114.93	155.25	187.65	194.85	206.10
1999	110.21	155.25	189.45	197.10	209.25
2000	105.76	155.25	191.25	199.35	212.40
2001	101.67	155.25	193.05	202.05	215.55
2002	98.01	155.25	195.30	204.30	218.70
2003	94.51	155.25	197.10	206.55	221.85
2004	91.18	155.25	198.90	209.25	225.45
2005	88.22	155.25	201.15	211.50	228.60
2006	85.47	155.25	202.95	214.20	232.20
2007	82.88	155.25	205.20	216.90	235.35
Total	3870.0	3881.2	4563.9	4716.0	4953.6
Simple average ²	3.44	3.45	4.06	4.19	4.40

¹ Assuming 6.5 percent per year inflation. ² (\$/MMBtu).

Present Value Cost of Service

The constant dollar cost of purchasing the same amount of energy in the form of gas or oil is shown in Table 5. It is not clear from Table 5, which source of energy has a lower lifetime cost. The cost of coal gas is higher than oil in the earlier years of operation but becomes less at some point after 1988 depending upon the assumed rate of growth in oil prices. The way of comparing the lifetime or "lifecycle costs" of alternative sources of energy is to calculate the present value or present worth of the stream of costs over time for each source. This is done by discounting the future costs at an appropriate discount rate. Discounting reflects the time value of money or the fact that a dollar received or paid in the future is worth less than the same dollar today.⁴

⁴ This approach to examining the problem was presented by staff witnesses Hansen and Goldstein. The analyses here differs from that presented by

Table 6 presents the present worth or discounted value of the total cost in each year for both oil and gas at a 5 percent discount rate.⁵ A lower discount rate would favor the coal gas option since the low cost for this gas in the distant future would receive greater weight. A higher discount rate would favor the imported oil option. A 5 percent rate is lower than current rates of interest but a lower value is appropriate since the effects of inflation have been excluded from the costs to be discounted in Table 4. A higher discount rate would be appropriate only if nominal or current dollar costs were used.

Table 6 shows that the present worth of the cost of coal gas is more than the cost of oil if the real price of oil increases at less than 1.2 percent per year. (i.e., less than 1.2 percentage points above the general level of inflation). If the real price of oil is expected to increase at 1.2 percent or more per year, then the present value of the cost of coal gas over the life of the project will be less than the cost of the equivalent amount of oil over the same period.

An alternative but equivalent way of calculating the total present value of the costs is to calculate an annuitized or present value average cost for each source of energy. A simple average as shown in Table 5 is calculated by dividing the total costs of the energy over the 25-year period by the total amount of energy produced. A present value average, however, is calculated by dividing the present value total of the costs by the present value total of the quantity of energy supplied.⁶ A simple average gives equal weight to the low cost of the coal gas in the later years and to the high cost of the gas in earlier years. A present value average gives greater weight to the higher costs in the earlier years reflecting the time value of money. Table 6 shows the present value average cost of coal gas from Great Plains to be \$4.06 per MMBtu.

The present value average is also equal to that constant charge per unit of energy that has the same present value as the non-constant or variable charge per unit shown in Table 2.⁷ On a present value basis, the consumer should be indifferent between a constant price for the coal gas equal to the present value average (\$4.06 per MMBtu) or the non-constant charge each year shown in Table 2 ranging from \$5.74 in 1983 to \$1.84 in 2007.

As can be seen in Table 6, the present value average cost of gas leads to the same results as the total present value of costs. If oil prices increase by more than 1.2 percent above the general rate of inflation, the present value average cost of coal gas will be less than the present value average cost of oil. The present value average cost of coal gas is a superior measure of the lifetime cost of coal gas from this project compared to the

Hansen and Goldstein only in that the cost comparison is made with imported oil rather than "new" gas prices.

⁵ The discount factors used are shown in Table 7.

⁶ The present value total of the energy supplied is shown in Table 8.

⁷ This is only approximately correct since Table 2 does not reflect the surcharge during construction which is included in the present value average.

other prices for coal gas provided by the sponsors.

Table 6.—Present Value of Cost of Supplying 45 Trillion Btu/Year for 1983-2007¹

Year	Imported oil—At real escalation rate of—				
	Coal gas	Percent			
		0	1	1.2	1.5
1979	\$33.04	.00	.00	.00	.00
1980	55.30	.00	.00	.00	.00
1981	92.48	.00	.00	.00	.00
1982	103.31	.00	.00	.00	.00
1983	212.38	\$127.72	\$132.91	\$134.02	\$135.50
1984	187.61	121.64	127.99	129.05	131.16
1985	165.93	115.85	122.90	124.58	126.60
1986	147.35	110.33	118.33	119.93	122.49
1987	131.22	105.08	113.91	115.74	118.48
1988	117.34	100.08	109.36	111.39	114.29
1989	105.23	95.31	105.26	107.47	110.50
1990	94.89	90.77	101.30	103.40	106.82
1991	85.68	86.45	97.47	99.73	103.24
1992	77.67	82.33	93.79	96.17	99.99
1993	70.68	78.41	90.23	92.73	96.59
1994	64.47	74.68	86.80	89.40	93.29
1995	59.01	71.12	83.49	86.17	90.29
1996	54.18	67.74	80.30	83.05	87.17
1997	50.02	64.51	77.22	80.03	84.33
1998	45.48	61.44	74.26	77.11	81.56
1999	41.54	58.51	71.40	74.28	78.86
2000	37.96	55.73	68.65	71.56	76.24
2001	34.76	53.07	65.99	69.07	73.69
2002	31.91	50.54	63.58	66.51	71.20
2003	29.30	48.14	61.11	64.04	68.79
2004	26.92	45.85	58.74	61.79	66.58
2005	24.81	43.66	56.57	59.48	64.29
2006	22.89	41.58	54.36	57.37	62.19
2007	21.14	39.60	52.35	55.33	60.04
Total	2224.5	1890.2	2168.3	2229.4	2324.2
Average ²	4.06	3.45	3.98	4.07	4.24

¹ Based upon a 5% discount rate per year.
² Present value (\$/MMBtu).

Use of Tailgate Gas Price

The analysis of the cost differential between Great Plains coal gas and imported oil has been based on the difference between the gas price at the tailgate of the plant and the FOB price for OPEC oil as announced in their June meeting. Neither of these prices represents the full cost to the consumer, but the difference in trends in these major components of the burner tip costs is instructive.

Consumer payments for gas or oil will be the delivered costs of the fuel to the consumer as it will be used. For the industrial customer the cost of Great Plains gas will probably be about \$1.26 per million Btu higher than the plant tailgate cost to cover the transmission through the new Great Lakes Pipeline and distribution costs.⁸

⁸ The additional \$1.26 allows for:

(1) Cost of Transmission on New Great Lakes facilities—\$6505 (in 1976 Dollars) per Mcf as shown in Exhibit 110 adjusted to 1979 Dollars to allow for the 26.2% increase in the GNP Deflator of the Department of Commerce.....	\$0.82 per Mcf.
(2) Distribution Costs—per AGA Energy Modeling Department.....	.40

1.22 per Mcf or
1.26 per MMBtu.

We recognize that there may be some additional transmission costs on the sponsoring pipelines.

The crude oil is processed by refiners to make the products delivered to consumers. The price of \$20.00 per barrel FOB for imported oil represents the average OPEC export price in July 1979.⁹ The prices vary by country and premiums are paid for higher quality oil. The average landed cost of imported crude oil to U.S. refiners in July 1979 was \$23.09 per barrel, including transportation charges.¹⁰

In addition to the premiums paid and the cost of delivery to the United States, there is a cost of processing the crude oil and a delivery cost for the products. Distillate fuel oil and low sulfur residual fuel oil are the products best suited to serve as alternates to gas, and the difference between the costs of these products at the refineries and the refiners' cost of crude may be considered to represent the processing costs. In 1978 and 1979 distillate fuel at a refinery has been priced at about \$4.10 per barrel more than crude oil and low sulfur residual at \$1.40 more.¹¹ The average of these—\$2.75 per barrel—may be considered the approximate processing cost.

The distribution cost to industrial customers is not reported, but DOE indicates that refiners charge large volume ultimate consumers of fuel oil an average of about \$1.65 per barrel more than they charge other refiners and resellers.¹² The added costs for oil delivered to consumers, therefore, is about \$3.09 for quality premiums and delivery to refineries, \$2.75 for processing and \$1.65 for distribution. This totals \$7.49 per barrel or \$1.29 per million Btu. This is about the same as the added transmission and distribution costs for gas, so the comparison between the tailgate gas cost and the FOB OPEC oil price may be considered as indicative of the real cost differential of coal gas and oil when purchased by the ultimate consumer.

Conclusions

This analysis does not attempt to recalculate or reestimate the basic construction and operating costs and annual cost of service estimates provided by the sponsors. However, the analysis of interpretation of these cost of service estimates provided by the sponsors does not adequately measure the economic merits of coal gas compared to alternatives over the life of the project without some additional analysis. A comparison with alternatives can best be made by calculating the "lifecycle" cost per MMBtu of gas from this project. This lifecycle cost per unit of gas is estimated to be approximately \$4.08 per MMBtu. This is equivalent to oil selling for about \$23.50 per barrel. If oil prices escalate at a rate 1.5 percentage points above the general rate of inflation, the "lifecycle" costs of gas from this

⁹ DOE's *Weekly Petroleum Status Report* shows the effective FOB price for OPEC exports was \$20.37 per barrel in July 1979; non-OPEC exports averaged \$22.78.

¹⁰ DOE *Monthly Energy Review*, October 1979.

¹¹ *Ibid.*

¹² *Ibid.*

project will be less than the "lifecycle" cost of oil over the same period. However, the cost of the gas will be greater than the cost of oil during the earlier years but will decline to a level less than oil in later years. This "cross over" point will occur within nine years after commencement of operations depending on the rate of oil price escalation.

Table 7.—Compounded Discount Rate

Year	Discount At 5% per year
1979	0
1980	95208
1981	90703
1982	86304
1983	82270
1984	78353
1985	74622
1986	71068
1987	67684
1988	64481
1989	61391
1990	58460
1991	55684
1992	53022
1993	50507
1994	48102
1995	45811
1996	43600
1997	41552
1998	39573
1999	37689
2000	35904
2001	34185
2002	32557
2003	31007
2004	29530
2005	28124
2006	26785
2007	25509

Table 8.—Present Value of 45 Trillion Btu at 5% Annual Discount Rate

Year	Present Value (Trillion Btu)
1979	0
1980	0
1981	0
1982	0
1983	37,022
1984	35,259
1985	33,500
1986	31,901
1987	30,450
1988	29,007
1989	27,626
1990	26,311
1991	25,058
1992	23,864
1993	22,728
1994	21,640
1995	20,615
1996	19,633
1997	18,698
1998	17,809
1999	16,960
2000	16,152
2001	15,383
2002	14,651
2003	13,953
2004	13,289
2005	12,650
2006	12,053
2007	11,479
Total	547.87

Appendix B.—Failure of Project at Conclusion of Construction Requiring Repayment of \$1,176,000,000 Over 5 Years

Year:	Debt balance outstanding	Debt repayment	Interest on debt balance	Debt charge	Equity balance outstanding	Return of equity	Return on equity	Combined debt and equity charge	Charge to sales for resale cents per Mcf
1	\$906,000,000	\$181,200,000	\$99,660,000	\$280,860,000	\$270,000,000	\$54,000,000	\$40,500,000	\$375,360,000	8.5
2	724,800,000	181,200,000	78,728,000	260,930,000	216,000,000	54,000,000	32,400,000	347,330,000	7.9
3	543,600,000	181,200,000	59,786,000	241,000,000	162,000,000	54,000,000	24,300,000	319,300,000	7.3
4	362,400,000	181,200,000	39,864,000	221,060,000	108,000,000	54,000,000	16,200,000	291,260,000	6.6
5	181,200,000	181,200,000	19,932,000	201,130,000	54,000,000	54,000,000	8,100,000	263,230,000	6.0

Assumptions:

1. Sales for resale by sponsoring pipeline companies equal to 4,400 Bcf per year.
2. Investment in combined gasification plant and coal mine equals 77 percent debt and 23 percent equity.
3. Unamortized debt at 11 percent interest per annum.
4. Unamortized equity earning 15 percent per annum.
5. Debt and equity repaid in five equal amounts, with outstanding capital presented at the beginning of each year and payments made at end of each year.
6. No tax liability on assumption that write-offs equal liabilities.

Great Plains Gasification Associates, et al.,
Docket Nos. CP78-391, et al.

Holden, Commissioner, concurring in part and dissenting in part:
(Issued November 21, 1979).

It is useful to distinguish at the outset what is in controversy and what is not. There is no controversy here as to the importance of utilizing gas produced from coal as an ingredient of the national energy supply. The problem before the Commission is not to make broad national policy on the subject of synthetic fuels. Whether a given level of investment in synthetic fuels, at this time, is superior to a given level of investment in liquid fuels or in other forms is not what we are here deciding.

The necessity for an increased reliance on coal, in the context of national energy policy, is also not the prime issue in this case; is not within the primary responsibility of the Commission to decide; and, as far as the Commission has latitude to express advisory, even if wellfounded, opinions of energy policy, is not now the subject of disagreement.

Nor is the Commission acting on a project to increase gas supply. Once upon a time, the original applicants thought it would be a gas supply project. But they have given up that ghost. There is no pretense that this is a gas supply project. When originally proposed, the project would have provided 250,000 Mcf per day for Michigan Wisconsin, equal to approximately 10 % of its system supply. As now approved by the Commission, the project will provide gas equal to about 1% of the system supply of each of the five project sponsors.¹³ While public relations ventures appear to describe the project as one to produce gas, that is not the objective as the companies have presented it to the Commission and that is not the objective

¹³ These figures are approximate and based on 1977 data from FPC Form No. 2. The breakdown is as follows: Columbia, 1%; Michigan Wisconsin, 1.3%; Natural, .97%; Tennessee, .84%; Transco, 1.6%. The Public Service Commission of New York is absolutely right in describing these amounts as "minuscule." *Brief . . . Opposing Exceptions*, (page 3).

revealed by the record before the Commission.¹⁴

The only reason this project is here is financing. Only by securing a structure which allows the project costs to be assigned to ratepayers can the sponsors get moving. Otherwise, it is an oddity that, in this season of increased deregulation, companies should ask us to stretch our jurisdiction and include what we would normally not cover. This is not a gas supply project, but a financing package. The Commission would normally have nothing to do with the financing of these coal gasification facilities. The reason is that under normal circumstances, it would have no authority to say to these customers, "build" or "do not build." It still claims no such authority. It is not being asked by the project sponsors to exercise any such authority. In other words, the Commission is not being asked to exercise a regulatory function as such. Instead, it is being asked to undertake the role of facilitating the investment program of the participating companies.

How is this to work?

Essentially, the steps are as follows:

(1) The participating companies have structured a concept of what the plant and associated facilities would be and have estimated the cost of producing coal gas through those facilities. Since that is none of our official business, it would not be before us directly.

(2) The matter comes before us because we have authority to set rates when coal gas is comingled with natural gas. In relation to that authority, we are therefore asked, and the majority have hereby in this order determined to, issue a certificate of public convenience and necessity to Great Plains Gasification Associates to make sales for resale in interstate commerce to the participating companies. The contemplated sales contracts reflect the financial position necessary to construct this project.

(3) The participating companies are to provide equity in the project, under terms

¹⁴ The applicants seek to limit their loss of equity on the specific basis that "none of the sponsors will receive any substantial amount of gas from the initial project." *Brief on Exceptions of Great Plains Gasification Associates and the Customer Pipeline Companies*, (Page 45).

which will allow all of their money to be repaid to them, except such as may be attributable to cost overruns and technological failure.

(4) It will allow them to borrow money in the private finance market, with the absolute assurance that the private finance market requires; that under all conditions, the debt will be repaid.

(5) If the commercial demonstration project turns out to be successful, so that the sponsors learn how to make high-Btu gas that they can sell at a profit, then they will be free to proceed to do so.

(6) All of this is held together by the fact that the customers of the five participating pipelines will be obliged, on the basis of rate decisions made by the Commission, to provide the security that the project sponsors need.

The Administrative Law Judge has ruled against the sponsors. He has done so on the basis that the benefits of the project will be national, not specific to the gas consumers. Therefore, he reasons, the costs of the project should be assumed by the taxpayers rather than by a designated group of ratepayers. It is not necessary to adopt, as sharply as the Judge does, this distinction between "taxpayers" and "ratepayers." It might well be possible to approve of what is sought.¹⁵ But the Commission majority has gone beyond the extent that I can find reasonable.

There is some merit in the judge's view, at least in that a policy predicated principally upon national energy considerations might well take into account that the gas market accounts for only about 25 percent of national energy consumption. There are, of course, gas elements in sectors which are not reported as gas consumption, but the matter is not a simple one conceptually. In any event, it is not indispensable to undertake that kind of analysis.

Even if we were to assume that the charges could properly be laid to gas consumers, we would still need to make a judgment that the specific benefits that identifiable gas consumers would derive, would have some reasonable relationship to those customers' financial contribution. To base rates upon some more diffuse benefit, of the type that economists would call "public goods", tends

¹⁵ See footnote 6 at page 7.

to erode the conceptual distinction between rate-making and taxation. Such an erosion should not come about, like the British Empire, in a fit of absent-mindedness.

Even on the theory that there is some valid basis on which an order approving the concept of the Great Plains application could be approved, which I would not necessarily reject, the Commission majority has gone beyond the extent that I can find reasonable. The points at issue fall into three main groups: (1) the proper relationship of the regulatory agency to the legislative power from which it derives its authority; particularly when the regulatory agency is called upon to engage in sophisticated interpretation that expand its authority beyond a scope normally contemplated and for the purpose of regulating matters not regulated; (2) the absence of the limitation of the concept of "demonstration" for the purpose of arriving at public convenience and necessity determinations, with attendant future problems for Commission decisionmaking; and (3) certain specific features of the financial and tariff conclusions which the Commission reaches.

1. The fundamental disputed issue is one of regulatory policy—this Commission's proper relationship to the rest of the Government.

The Commission does not have the freedom, as if it were one of Plato's guardians, merely to do whatever it chooses. Instead, its decisions must be governed by some concept of lawful authority. If the Commission believes that something is desirable, but lacks the lawful authority to approve it; then the Commission must deny. That is axiomatic. But there is the question of policy.

This is a fundamental issue. The issue of how the Nation is to handle a synthetic fuels industry is currently before Congress. That issue involves fundamental questions as to public priorities, and has of recent months and weeks been the subject of intense political debate. A central issue in that debate has been how and on what scale the synthetic fuels industry is to be financed.

DOE has urged that we should not await the Congressional outcome.

DOE continues to strongly oppose any delay in this project to await Congressional initiatives. . . .

Throughout this proceeding, alternative forms of financing have been proposed. The latest arguments have advanced the pending H.R. 3930 which contains provisions for loan guarantees and other funding mechanisms for new synthetic fuel plants as a reason for delaying this project. (Ohio B.O.E., 6.) Last summer the President proposed the establishment of an Energy Security Corporation to produce two and one half million barrels a day or equivalent of synthetic fuels and unconventional gas. (Address to the Nation, July 15, 1979.) The Administration strongly believes that new methods of financing coal gasification and other synthetic fuel projects are essential if the nation is to decrease its dependence on foreign energy supplies. DOE will continue to pursue those options for all appropriate projects including this project. It is also DOE's position, however, that we cannot

afford to delay this project until these options are finalized. As pointed out in the DOE Brief on Exceptions, there is no assurance of what would be passed by Congress, when it would be passed, or what conditions would be attached. Possibly critical delays could be encountered either in the time taken for the legislation to pass or in the time necessary to establish procedures for such assistance once the legislation is passed. The uncertainties associated with this process, make further pursuit of these options in this proceeding fruitless, and this approach to the case should be rejected by the Commission. Waiting for someone else to take the initiative may mean that critical energy options are lost. For this reason, DOE believes that the dangers inherent in waiting, far outweigh the speculative benefits that may become available later.¹⁶

The position DOE articulates fundamentally misconstrues the regulatory process. As an independent regulatory agency this Commission derives its authority and power from the Congress, whose delegate it is. It is not "waiting for someone else," in any proper sense, for an arm of Congress to view its possible course in relation to those from whom it derives its powers. Such mature deliberation is sound, as is a proper regard for the assignments of authority that the legislative body may have made. The constitutional regime does not permit us to say "Congress hasn't done it. We're going to do it."

The point is well grasped by General Motors,¹⁷ who has argued, I think wisely, that:

There is an even more basic reason why the Commission should not approve the Great Plains project at this point in time. *If a synthetic fuels program is ultimately approved by Congress, and the Energy Security Corporation (or some similar entity) is established that Corporation will have the responsibility for establishing national synthetic fuels priorities and setting the criteria under which individual synthetic fuels projects will go forward. The Corporation may or may not conclude that the Great Plains project, as presently structured, is the best way to accomplish its goals. [footnote omitted] However, that should be a decision for the Corporation, which will have overall responsibility for assuring that a synthetic fuels industry is developed in the country. The Commission's approval of the Great Plains project now might well prove to be inconsistent with the program ultimately developed by Congress and the Energy Security Corporation.* [emphasis added]

Whether the Commission is specifically persuaded by the DOE argument is not answerable definitively. But the Commission has adopted a course which, in this respect, is identical to the course that DOE proposed. The functional result, if not that intended, is to substitute Commission discretion for legislative discretion by adding a separate and additional mode of financing beyond any that Congress may have contemplated.

¹⁶Brief Opposing Exceptions of the Department of Energy, pp. 2-3.

¹⁷Brief Opposing Exceptions of General Motors Corporation, pp. 4-5.

It is possible, of course, that the thrust of the legislation is fundamentally different from the order's approach. This is however, a subtlety. It does not change the fact that sponsors have the option to proceed under the legislation, or to seek commercial demonstration status. While I certainly agree that the phrase "and future public convenience and necessity" is elastic, it is not good policy—nor, I think, good law—to construe the term so as to provide an end run around significant questions concerning national energy policy and the means by which that policy is to be carried out, an issue now being directly confronted by the Congress.

2. Even assuming that the Commission is not acting *ultra vires*, by making a Section 7 public convenience and necessity determination, with respect to a project which is not even arguably a gas supply project, there are still grave issues evoked by the rationale adopted by the majority.¹⁸ The Commission cannot approve the application, under Section 7 unless the Commission can determine that the facilities contemplated in the application would serve the present and future public convenience and necessity. The basic concept of the Natural Gas Act is the adequate provision of gas supply and the preclusion of unnecessary or wasteful investment. If the Commission were to conclude that gas supply would result from a project but that investment would be excessive or wasteful, then the Commission would be obliged to deny a certificate of public convenience and necessity. If, on the other hand, the Commission were to conclude that, under the usual standards, gas supply were excessively problematical, the Commission would also be obliged to deny such a certificate.

As to coal gas, Commission jurisdiction does not apply until the gas is commingled with natural gas for sale or transportation in interstate commerce. The Commission majority bridges the gap by an interpretation of Order 566 as sufficient to provide a basis for a public convenience and necessity finding.

While I have considerable reservation that Order 566 can provide a full substitute for the gas supply requirements of Section 7(c), I do not have to resolve that problem entirely. Even assuming the majority view, the Order as adopted by the majority fails fundamentally for the lack of definition of

¹⁸It would be possible, absent the policy considerations, to conceive an alternative basis for an order. Although the application is not so styled, it could, I believe, be treated as a request for advance approval of rate treatment for an RD&D project as contemplated in Order No. 566 (§ 35.22 (a) & (b) of the Commission's regulations). Incidental to that would be the application for § 7(c) certification of those facilities connected with the project which would be jurisdictional. The test, then is whether we could approve this application under the terms of Order No. 566, and if so, on what conditions. Having made the Order No. 566 determination, would the public convenience and necessity finding as to the certificate then be based on the approval of RD&D project? If so, such an order might be preferable, especially if clear constraints were imposed on what is to be demonstrated, but I do not believe the present order effectively imposes such constraints

what constitutes a valid demonstration project for purposes of Order 566. The concept of demonstration clearly applies, as a scientific proposition and a proposition for technology based upon science, to those circumstances where objective data can be developed, recorded, analyzed, understood and interpreted by persons of appropriate training and skill, regardless of their different value judgments. This means that the criteria of demonstration for such purposes must be relatively well determined and the knowledge that is developed must be broadly replicable. Thus, it could be reasonable, depending upon circumstances, to argue that the operation of the plant with the combination of the Lurgi process and the methanation process of raising coal gas Btu from 350 to more than 950 Btu/mcf, would fall within this scope.

The Staff Brief Opposing Exceptions raises a significant issue. Staff argues that even under the expanded definition of RD&D, in Order No. 566 the expenditure must be found to be in the public interest and the project must be novel, innovative, or unique.¹⁹ In this regard, the Commission has already concluded "the technology of coal gasification with methanation is no longer R&D because it is no longer experimental, novel or innovative." The Commission has previously found "[t]he Lurgi process is currently the only coal gasification process with proven commercial experience. The methanation process . . . is alleged to be technically and commercially feasible and has been used in smaller units worldwide on an experimental basis."²⁰

Thus, while a technological demonstration could be highly plausible,²¹ the Commission may already have concluded that in an order subsequent to Order No. 566. Arguably, environmental matters would fall within the scope to the extent that it involves actual testing of effects in the physical environment.

However, the Commission introduces fatal flaws including certain additional categories of potential demonstration benefits: (1) information about the regulatory and governmental approval processes on the Federal, state, and local levels (p. 30); (2) environmental matters understood to mean the legal and administrative process connected with environmental impact statements, and so forth (p. 31); and (3) socioeconomic impacts of coal gasification in the rural areas in which future coal gasification plants are likely to be built and the public acceptance of these projects.

The distinction between the technological considerations and the rest of the considerations is highlighted in the order at

page 32 which emphasizes, in contrast to technical feasibility, the majority's belief that:

* * * [A] broader focus for demonstrations is permissible if there are non-technological uncertainties that also need resolution. In today's complex world, the major uncertainties surrounding large energy projects of this type often concern ultimate cost, environmental impacts, institutional problems, the ability to finance, and the governmental regulatory processes. (p. 32)

The order goes on further to state that "any excess cost of coal gas to customers relative to alternative forms of energy can be viewed as the cost of providing the demonstration benefits of this project." (p. 32) This must mean, apparently, the demonstration benefits that were just cited in the quoted paragraph and in the enumerations just above.

I have several objections to this concept of demonstration.

(1) Some of the considerations raised as matter for demonstration are merely matters for legal or other administrative and policy decisions. There is no way, in principle, to demonstrate in a scientifically valid manner that the approval of a plant in one place will be in accord with approval or disapproval at another place. It is possible to challenge a regulatory agency, by political or judicial means, and to win or lose. But where is the scientific demonstration?

(2) The weakness of the demonstration concept is even expressed with respect to the concept of the demonstration of commercial feasibility. If a product can be introduced into the market, and customers do not have the option to refuse it, and if the price can be regulated, then whatever the unit price may be, it is the unit price which is commercially feasible. This will be the case with their system of rolled-in pricing so long as there is sufficient quantity of old natural gas with which the coal gas can be rolled in for purposes of ultimate sale. Under those circumstances, it is virtually a charade to describe the project as one producing demonstration of commercial feasibility. (It is like demonstrating the feasibility of a school cafeteria if students cannot avoid eating, cannot go outside, cannot bring their own lunches, and cannot bargain as to price.)

(3) In addition, some of the matters indicated are matters for the disciplines of political science, sociology, anthropology, and maybe social psychology. These disciplines have their merits, but clearly do not provide the same focus for systematic demonstration of objectively transferrable knowledge as would the elements based directly upon the natural sciences. Socio-economic impact demonstration thus raises a different question.

There certainly are socio-economic impacts.²² Both Government and industry have for many years studied the impacts of military bases, large factories, atomic research facilities, highways and other such establishments upon small town and rural communities.

²² As this Commission knows for itself, socio-economic impacts are likely to be alleged an important aspect of any large construction project, e.g., the gas conditioning facility for the Alaska Natural Gas Transportation System.

The question is what significance is to be demonstrated in the Great Plains case that is not already known. Clearly, as a matter of policy, adjustments for socio-economic impacts are to be made. *But what is the demonstration?*

For the preceding reasons, then, the expanded demonstration concept becomes a basis for public convenience and necessity determination, with no rigorous (or even clearly indicated) criteria for determining what is to be demonstrated, or when a demonstration has succeeded or failed.²³ The consequence is that the Commission's reliance upon Order No. 566, on the rationale of demonstration expressed in the majority order, may open the door to an endless variety of alternative applications which the Commission will have no option but to consider, and which will then be under extraordinary political pressure to approve. Applicants will not always bring in such projects, but they will bring them in whenever they wish to move forward and whenever institutional circumstances do not require them to go elsewhere.

3. As to the financial and tariff issues, assuming that the project has adequate basis for approval as it stands, there are also some aspects of the project in which I concur and others which I might have treated differently.

(a) The concept of ratepayer guarantees has come to have considerable significance, in the contemporary world of utility financing, particularly with respect to debt financing where it is the project revenues alone that give assurance of repayment. The parties have here chosen to seek a utility financing format. It is not clear to me, however, upon what basis the Commission can adopt the extent of consumer guarantees provided here without jeopardizing its discretion not to do so in other major projects under its consideration.

(b) I agree in the Commission's sustaining the Law Judge with respect to accelerated recovery in a five-year period, assuming abandonment or failure of completion.

(c) I would not, however, have adopted the approach that the Commission did adopt in approving full recovery of equity except on the basis of cost overrun or technological guarantees, subject only to a prudency test. The order does not provide proper risk apportionment between equity investors and consumers. These project sponsors are themselves the equity investors, they who stand to benefit ultimately, in a specific financial sense, should the project prove successful. We know too much about the hazards of litigation, and the way in which regulatory decision-making is inhibited by the fear of such hazards, to be sanguine that the consumer protection features of this order will ever be effective. Vague and indefinite criteria for challenging recovery are not adequate.

The fundamental value of tracking is it provides in the collection process, but tracking is easily disturbed, there is

²³ I find somewhat persuasive the Staff argument that the showing of conformity with the planning criteria under Order No. 566 has not been made. Staff Brief Opposing Exceptions, p. 7.

¹⁹ See, *Northern Natural Gas Company*, Opinion No. 14 (May 10, 1978, mimeo at pp. 6-7, citing *Michigan-Wisconsin Pipeline Company*, 51 FPC 2408, 2411 (1974), and *Northern Natural Gas Company*, 51 FPC 49, 54 (1974).

²⁰ *Ibid* pp. 24-27. Cf. *Transwestern Coal Gasification Co.* (WESCO). Opinion No. 728 (April 21, 1975) mimeo at p. 5.

²¹ Even if technological demonstration were plausible, it would be necessary to resolve the issue, raised both by General Motors and the Public Service Commission of New York, that a plant one-half the size proposed would be adequate. I do not find the brief dismissal of this issue in the order at pp. 33-34 to be sufficient.

particular need, in such a project as this, for close attention in the manner in which costs are passed from sponsors and their suppliers to the customers. The PGA mechanism adopted by the majority seems to me less adequate than the proposals advanced by Staff. I would have given more consideration to overruling the Administrative Law Judge and adopting the tracking positions argued by Commission staff at the hearing. But this is a prudential judgment, subject to much more evaluation.

As to rolled-in pricing, I concur.

The approval of the surcharge is essentially the adoption of construction work in progress. The radicalism of the departure from previous Commission practice is neither sufficiently analyzed nor sufficiently justified. The implicit rule is that construction work in progress or some equivalent thereto will be allowed on RD&D projects, but not on gas supply projects. If Order No. 555 does not apply to RD&D projects, as the majority decision seems to indicate, then it is obvious that various parties will see financial advantage in the widened demonstration concept the Commission has adopted. It must follow, in any event, that even were I to concur in the acceptance of the surcharge, I should consistently, with my view of the recovery of equity, also prefer a surcharge limited to the recovery of debt costs. I cannot conclude, incidentally, that the project monitoring system which is defined only in the shadowiest outlines can carry the burdens that the decision appears to place upon it, especially the order may indicate some doubt as to whether the Commission should cede this responsibility to another agency.

I do not find the rate of return of 13 percent unreasonable although I would not find it unreasonable to establish a return as high as 14 percent, subject to other constraints in the package.

As to the periodic review of rate of return, on equity, I concur as a matter of policy; and as to treatment of the investment tax credit, I concur on the understanding that it is legally requisite. On the assumption of legal requisiteness, there is no need to examine the policy consideration.

The prior Commission decision having been that Columbia Gulf (RM75-105) decision would determine whether the statutory or consolidated rates would be applicable, there is no need for further judgement here. It is not necessary to consider whether the decision in Opinion No. 47 should otherwise be regarded as controlling since the Commission has previously agreed that it would be controlling.

As to interest costs, cost working capital, and depreciation rate, I concur; and as to the performance standards, I would have adopted the Staff position. As to revenues from disposition of projected assets, I would have sustained the Administrative Law Judge entirely and concur to the extent that the order does so.

I do not think that cost-of-service tariffs are particularly appropriate for use with affiliated entities and would, therefore, have felt no obligation to sustain the Administrative Law Judge on this point. Indeed, the very uniqueness of the Great Plains Project may make a cost-of-service

tariff undesirable, especially since other review provisions could be incorporated with the mechanisms that the Commission has thus far included.

As to quantity and quality with respect to the coal contract, I concur.

It is somewhat strange to avoid making one of the key jurisdictional decisions that the Commission is undoubtedly qualified to make, namely approval of the transportation certificate, while making decisions that may be debatable. But it seems reasonable under circumstances for the Commission to do what it has done given the basis upon which it has further acted.

It is not unreasonable for people in the specific geographical area where the project is to be located to desire some special acts as to the facility, unless the basic law should, in some way, impose an inhibition. This might be more pertinent to "socio-economic impact" than any "demonstration" under Order No. 566. I would, thus, have set the Montana-Dakota proposal for expedited proceeding before a specially designated representative of the Commission to examine such questions of fact and of law as may be relevant. I do not find it satisfactory merely to say that MDU request would provide preferential treatment. It is not apparent to me whether the MDU request is excluded under the Natural Gas Act, but that unreasonable and undue discrimination would be precluded. It might be possible, for example, to regard a 5 percent guarantee that MDU seeks as a part of the overall terms and conditions negotiated by the state of North Dakota for its assent to the project.

In summation, I would make the following overall observations: The concept of coal gasification deserves to be developed and there is considerable merit to the project idea that is now before the Commission. I would be prepared, therefore, to endorse and adopt a properly crafted order which would facilitate such a purpose. In that respect, I could be regarded as concurring with the underlying purpose, as well as in noted details of the order.

I am obliged to dissent on the major features of the order as drafted, for the reasons that I believe it verges upon the very borders of the law, and goes beyond the bounds of good policy in several respects.

(1) It unnecessarily substitutes the Commission's judgment for legislative judgment.

(2) It seeks Section 7 authority for something which I question can be done under Section 7, may unreasonably extend Order No. 566, and adopts a concept of "demonstration" which hereafter invites efforts virtually to erode any defined structure for Order No. 566.

(3) As to financing, I would have treated recovery of equity less protectively, in view of the fact that the pipelines generated this project and stand to benefit, in dollars and cents, if it succeeds. Only the ratepayers lose if it fails. I also have considerable reservation that the Order does not, in fact, undermine Order No. 555, and that the tracking and cost-

of-service tariff features may be uncontrollable.

Matthew Holden, Jr.,
Commissioner.

[FR Doc. 79-37580 Filed 12-7-79; 8:45 am]

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[Docket Nos. ER80-1 etc.]

**Indiana & Michigan Electric Co. et al.;
Order Accepting for Filing and
Suspending Proposed Fuel
Conservation Energy Service
Schedules, Granting Waivers of the
Regulations, Consolidating
Proceedings and Terminating Related
Proceedings**

November 30, 1979.

Indiana & Michigan Electric Company, Central Illinois Public Service Company, Docket No. ER80-1, Ohio Power Company, Dayton Power & Light Company, Docket No. ER80-6, Indiana & Michigan Electric Company, et al., Docket Nos. ER78-229, et al., Ohio Power Company, et al., Docket Nos. ER79-456 and ER79-458.

On October 1, 1979, Indiana & Michigan Electric Company (I&M) submitted for filing in Docket No. ER80-1 a proposed service schedule for fuel conservation energy to supersede a schedule in the interconnection agreement, dated June 1, 1968, between I&M and Central Illinois Public Service Company (CIPSCO).¹ The proposed Schedule H, "Conservation Energy," provides for the transfer of energy between the parties during an emergency caused by energy shortage. Schedule H also provides the flexibility to permit transfers of energy to and from systems interconnected with the two companies. I&M requests that the Commission waive the notice requirements of § 35.11 of its regulations and permit the proposed Schedule H to become effective immediately.

Notice of the I&M filing was issued on October 10, 1979. No comments, protests or petitions to intervene were filed.

On October 5, 1979, Ohio Power Company (Ohio Power) submitted for filing in Docket No. ER80-6 a proposed conservation energy rate schedule to supersede a schedule in the facilities and operating agreement, dated May 1, 1967, between Ohio Power and Dayton Power & Light Company (Dayton).² This proposed rate schedule would serve the same purposes as those described above regarding the I&M schedule. Ohio Power

¹ See paragraphs (1) and (2) of Attachment A for the schedule designations.

² See Paragraphs (3) and (4) of Attachment A for the schedule designations.

also requests waiver of § 35.11 of the regulations.

Notice of this filing was issued on October 12, 1979, with comments, protests or petitions to intervene due on or before November 12, 1979. On November 2, 1979, Dayton filed a petition to intervene supporting the conservation energy rate schedule.

The two proposed service schedules provide for the delivery of conservation energy for periods of one or more weeks for the purpose of meeting an energy shortage which results from fuel unavailability, governmental actions or widespread disasters making it necessary for the deficient system to conserve energy resources over an extended period of time. The parties determine the capacity available each hour, the period of supply, the estimated cost, and the source of supply if the supplying party is in turn obtaining it from another system. Both proposed service schedules are to remain in effect until September 15, 1980, unless extended by mutual consent. The proposed rates for conservation energy are 110% of out-of-pocket replacement cost, plus 5 mills/kWh or, for third party transactions, the cost to the supplying party plus the out-of-pocket cost of transmission losses, plus 1.7 mills/kWh.³

Each submission results from a series of actions in Docket Nos. ER79-456 and ER79-458. On June 25, 1979, Ohio Power and I&M submitted for filing notices of termination of their "coal-by-wire" service schedules, then in effect with Dayton and CIPSCO, respectively. The Commission suspended the proposed terminations for five months to become effective January 25, 1980, and ordered that a hearing be held to determine the justness and reasonableness of the proposed notices of termination and the filing utilities' plans for submitting new fuel conservation service schedules in the future.⁴ On September 6, 1979, a prehearing conference was held at which time the parties agreed to tender the instant submittals.

The proposed fuel conservation energy rate schedules of I&M and Ohio Power have been submitted during the periods in which the proposed terminations of coal-by-wire rate schedules were suspended in Docket Nos. ER79-456 and ER79-458. Moreover, the new schedules are proposed to become effective during the suspension

³The transmission charge is set at 1.3 mills/kWh when Dayton is the wheeling party.

⁴Order Accepting Termination of Rate Schedules for Filing, Suspending Termination, Consolidating Dockets and Establishing Procedures. *Ohio Power Company, et al.*, Docket Nos. ER79-456 and ER79-458, issued August 24, 1979.

periods of the proposed terminations. Section 35.17 of our regulations prohibits such filings without permission of the Commission. However, it is our belief that utilities such as I&M and Ohio Power should have on file fuel conservation schedules for use in energy emergencies, and these utilities now intend that the coal-by-wire schedules be superseded by the instant filings, rather than simply terminated. We shall therefore waive the provisions of § 35.17, accept the instant rate schedules for filing and suspend them for one day, as described below. I&M and Ohio Power have moved to dismiss Docket Nos. ER79-456 and ER79-458. In light of our action on the proposed fuel conservation rate schedules, we agree that no further proceedings are necessary on the proposed terminations of coal-by-wire schedules. Accordingly, we shall permit I&M and Ohio Power to withdraw their respective notices of termination, pursuant to § 35.17(a) of our regulations, and terminate Docket Nos. ER79-556 and ER79-558.

The proposed fuel conservation energy service rate schedules of I&M and Ohio Power have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall waive the notice requirements of § 35.11 of the regulations, accept the proposed schedules for filing and suspend each for one day, to become effective as of October 1979, subject to refund after a decision in these proceedings. Dayton's participation in Docket No. ER80-6 may be in the public interest and, accordingly, we shall grant its petition to intervene.

In a recent order, we consolidated proceedings in a number of dockets, all regarding conservation energy rates, for the purpose of establishing comprehensive interchange arrangements under which crisis-related transactions should take place. Since the proposed rate schedules are similar to those presently under investigation in Docket Nos. ER78-229, *et al.*, we shall consolidate the instant dockets with those ordered consolidated in our order issued May 14, 1979.⁵

The Commission orders: (A) The requirements for notice contained in Section 35.11 of the Commission's Regulations under the Federal Power Act are hereby waived.

(B) The prohibitions against withdrawals of, and changes in,

⁵Order Consolidating Proceedings and Providing for Prehearing Conference. *Indiana & Michigan Electric Company, et al.*, Docket Nos. ER78-229, *et al.*, issued May 14, 1979.

suspended rate schedules contained in § 35.17 of the Commission's regulations under the Federal Power Act are hereby waived.

(C) The proposed superseding fuel conservation energy service schedules to I&M's Rate Schedule FERC No. 67 and CIPSCO's Service Schedule H are hereby accepted for filing and suspended for one day, to become effective October 2, 1979, subject to refund.

(D) The proposed superseding conservation energy service schedules to Ohio's Rate Schedule FERC No. 36 and Dayton's Service Schedule I are accepted for filing and suspended for one day, to become effective October 6, 1979, subject to refund.

(E) Docket Nos. ER80-1 and ER80-6, are hereby consolidated with the existing proceedings in Docket Nos. ER78-229, *et al.*

(F) Dayton is hereby permitted to intervene in Docket No. ER80-6 subject to the rules and regulations of the Commission; *Provided, however,* That the participation of the intervenor shall be limited to matters set forth in its petition to intervene; *And provided, further,* That the admission of this intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) I&M and Ohio Power are hereby permitted to withdraw their respective notices of termination in Docket Nos. ER79-556 and ER79-558.

(H) Docket Nos. ER79-556 and ER79-558 are hereby terminated.

(I) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37733 Filed 12-7-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-37]

Inter-City Minnesota Pipelines Ltd., Inc.; Order Granting Interim Adjustment, Waiver of Filing Requirements, and Extension of Time

November 30, 1979.

On November 1, 1979, Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City), tendered tariff sheets for filing pursuant to §§ 281.201 through 281.215 of the Commission's regulations and Commission Order No. 29, issued May 2, 1979, in Docket No. RM79-15, as modified and amended. These tariff sheets were intended to provide for

revisions in the pipeline's curtailment plan¹ regarding deliveries of natural gas for high-priority and essential agricultural uses.

Simultaneously with the filing of tariff sheets, Inter-City requested by motion a 60-day extension of time in which to file an index of requirements and report of the Data Verification Committee (DVC) as required by Order No. 29 and § 281.204(a), *supra*.

The filing was noticed on November 6, 1979, with a due date for receipt of interventions of November 19, 1979. To date, no protests, petitions to intervene or notices of intervention have been received in this matter.

On November 19, 1979, Inter-City filed a request to withdraw the tariff sheets as filed and to refile them together with the index of requirements and report of the DVC on or before February 1, 1980.

In support of this expanded motion for extension of time, Inter-City notes that it has an interim curtailment plan in effect for high-priority and essential agricultural users pursuant to Section 401 of the Natural Gas Policy Act of 1978, in Docket No. TC79-18 filed March 16, 1979. Inter-City also notes that this interim plan will fully protect the high priority uses from curtailment should it be continued during the requested extension of time. Inter-City additionally states that it does not expect interruptions of reductions in its supply during the period.

In light of the above, the Commission will treat these filings by Inter-City as a request for an adjustment pursuant to Section 502(c) of the NGPA.

For the foregoing reasons, *The Commissions finds:*

It is appropriate in the circumstances that the Commission on its own motion grant Inter-City an adjustment pursuant to Section 502(c) of the NGPA from present compliance with the requirements of Order No. 29, as amended.

The Commission orders:

Inter-City is hereby granted an adjustment pursuant to Section 502(c) of the NGPA in that it is hereby permitted to file on or before February 1, 1980, in accordance with the requirements of Order No. 29, as amended.

By the Commission, Commissioner Holden, concurring, filed a separate statement which is filed as part of the original document.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-37734 Filed 12-7-79; 8:45 am]
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[Docket No. RP80-7]

Kentucky West Virginia Gas Co.; Order Accepting for Filing and Suspending Proposed Rate Increase, Subject to Conditions, Granting Intervention, Denying Waiver, Initiating Hearing and Establishing Procedures

November 30, 1979.

On October 29, 1979, Kentucky West Virginia Gas Company (Kentucky West) filed revised tariff sheets¹ reflecting an increase in jurisdictional revenues of \$5,238,749 under rate schedules PLS-1 and GSS-1. Kentucky West requests waiver of the notice requirements in order to permit these tariff sheets to become effective November 1, 1979. The test period cost of service in support of the proposed rates is based on actual costs for the 12-month period ending June 30, 1979, as adjusted for known and measurable changes through March 31, 1980. Kentucky West contends that this filing meets the requirements of both a filing under 18 CFR 154.38(d)(4)(vi)(a) and a change in rates under 18 CFR 154.63. Waiver of Section 154.22 of the Commission's regulations is requested in order to allow the proposed rate increase reflected in Eleventh Revised Sheet No. 27 to be effective November 1, 1979. In the event waiver is denied, Kentucky West filed Substitute Tenth Revised Sheet No. 27 which corrects Tenth Revised Sheet No. 27 to comply with a Commission order issued September 12, 1979, in Docket No. RP76-93. Kentucky West states that in the event waiver is denied, Substitute Tenth Revised Sheet No. 27 be permitted to become effective until superseded by Eleventh Revised Sheet No. 27.

Kentucky West proposes an overall rate of return of 10.90 percent, with a return on common equity of 13.50 percent. The equity ratio is 50.2 percent of the total capitalization and Kentucky West states that it is based on the consolidated capital structure of Equitable Gas Company and its subsidiaries in accordance with the Commission's determination in Docket No. RP76-93. Increased costs in materials and supplies, wages, and administrative and general expenses are also claimed by Kentucky West.

Public notice of this filing was issued on October 31, 1979 providing for the filing of protests and petitions to intervene by November 19, 1979. On November 12, 1979, the City of Paintsville, Kentucky filed a protest and petition to intervene in this docket.

¹First Revised Sheet Nos. 5 and 9, Second Revised Sheet No. 24, Eleventh Revised Sheet No. 27, and Substitute Tenth Revised Sheet No. 27 to FERC Gas Tariff, First Revised Volume No. 1.

Paintsville requests that the Commission suspend the proposed increase for 5 months. The city has demonstrated an interest in this proceeding which warrants its participation. Accordingly, it shall be permitted to intervene.

The Commission finds that the present filing does not comply with 18 CFR 154.38(d)(4)(vi)(a), for Kentucky West has adjusted its base period costs for known and measurable changes occurring during the 9 months following the base period. This section does not allow post base period adjustments. It does however provide for annualization of costs incurred during the 12 month base period. Accordingly, the Commission shall accept the filing as a Section 4(e) rate increase application filed pursuant to 18 CFR 154.63.

Based on a review of Kentucky West's filing, the Commission finds that the proposed rate increase and tariff modifications have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Kentucky West's tariff sheets for filing, suspend their effectiveness for 5 months until May 1, 1980, subject to refund and the conditions stated below, and set the matter for hearing.

To continue to use its Purchased Gas Adjustment clause (PGA) Kentucky West must comply with the requirements of 18 CFR 154.38(d)(4)(vi)(a) and restate its base tariff rates to include the current cost of purchased gas, supported by a cost and revenue study meeting the requirements of that section and justifying the restated rates. Kentucky West shall file such a restatement to establish its base tariff rate, which will be effective on November 1, 1979, subject to refund. Kentucky West may use the actual costs shown for the base period in this docket i.e.; the 12 months ended June 30, 1979, as annualized in accordance with § 154.38(d)(4)(vi)(a) of the Commission's regulations, to support the restated base tariff rates.

Kentucky West's filing includes certain costs associated with uncertificated facilities not in service. Inclusion of these facilities is inconsistent with § 154.63(e)(2)(ii) of the Commission's regulations. The Commission will grant waiver of § 154.63(e)(2)(ii) conditional upon Kentucky West's filing revised tariff sheets to eliminate costs associated with facilities not in service on or before March 30, 1980. Kentucky West shall also reflect in the revised tariff sheets the actual advance payments balance in Account 166 as of March 30, 1980, and the effective GRI Funding Unit on that

¹Effective as of July 5, 1974, in Docket No. CP71-142.

date, provided, however, that the inclusion of a higher advance payments balance shall not be permitted to increase the level of original suspended rates. Waiver of § 154.63(e)(2)(ii) is granted upon the further condition that Kentucky-West shall not be permitted to make offsetting adjustment other than those pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

In addition, we shall accept Substitute Tenth Revised Sheet No. 27 to become effective subject to refund as of November 1, 1979, pending final determination in this docket or until superseded by Eleventh Revised Sheet No. 27, conditioned upon Kentucky West filing revised tariff sheets restating its presently effective base tariff rates, as prescribed by § 154.38(d)(4)(vi) of the regulations, and subject to the conditions set forth below.

The Commission Orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 8 and 15 thereof, and the Commission's regulations, a public hearing shall be held concerning the lawfulness of the rates proposed by Kentucky West.

(B) Pending hearing and decision, and subject to the conditions of the ordering paragraphs below and those described in the body of this order, Kentucky West's First Revised Sheet Nos. 5 and 9, Second Revised Sheet No. 24, and Eleventh Revised Sheet No. 27 are accepted for filing and suspended for five months until May 1, 1980, at which time they may become effective, subject to refund, in the manner prescribed by the Natural Gas Act and the Commission's regulations promulgated thereunder.

(C) Substitute Tenth Revised Sheet No. 27 is accepted for filing and permitted to become effective November 1, 1979, subject to refund, pending final determination in this docket or until superseded by Eleventh Revised Sheet No. 27, conditioned upon Kentucky West filing revised tariff sheets restating its presently effective base tariff rates, as prescribed by § 154.38(d)(4)(vi) of the Regulations, and subject to the conditions set forth below.

(D) Kentucky West shall be permitted to withdraw Tenth Revised Sheet No. 27.

(E) Waiver of § 154.63(e)(2)(ii) is granted upon the condition that Kentucky West file revised tariff sheets to reflect: (1) The elimination of those costs associated with facilities not in service on or before March 30, 1980; (2) the current cost of purchased gas reflected in Kentucky West's most recent PGA filing prior to the effective

date of the proposed rates; (3) the actual balance of advance payments in Account 166 as of March 30, 1980, provided that the inclusion of a higher actual balance of advanced payment shall not be permitted to increase the overall level of the original suspended rates; and (4) the effect GRI Funding Unit on the effective date of the increased rates. This waiver is granted upon the further condition that Kentucky West shall not be permitted to make offsetting adjustments to those suspended rates except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(F) Kentucky West's request for waiver of § 154.22 is denied.

(G) Kentucky West shall file within 15 days of the issuance of this order a restatement of its base tariff rates to include the current cost of purchased gas. The base tariff rates will be effective November 1, 1979, subject to refund. Kentucky West shall also file a supporting cost and revenue study as required by 18 CFR 154.38(d)(4)(vi)(a). Kentucky West may use the actual costs shown for the base period in this docket i.e.; the 12 months ended June 30, 1979, as annualized in accordance with § 154.38(d)(4)(vi)(a) of the Commission's regulations to support the such restated base tariff rates.

(H) Staff shall serve its top sheets on or before March 3, 1980.

(I) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)) shall convene a settlement conference in this proceeding to be held within 10 days after the service of Staff's top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule on all motions (except motions to sever, consolidate or dismiss) as provided for in the rules of practice and procedure.

(J) The City of Paintsville, Kentucky shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however,* That the participations of the intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order entered in this proceeding.

(K) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37735 Filed 12-7-79; 2:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-36]

**Panhandle Eastern Pipe Line Co.;
Order on Request for Declaratory
Order, Accepting for Filing and
Permitting Tariff Sheets To Become
Effective and Granting Interventions**

November 30, 1979.

On November 1, 1979, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following tariff sheets to its FERC Gas Tariff:

FERC Gas Tariff, Original Volume No. 1
Sixth Revised Interim Original Sheet No.
42-A

Fourth Revised Interim Original Sheet No.
42-E

FERC Gas Tariff, Original Volume No. 1-A
Original Sheet Nos. 1 through 38

Panhandle requests that the above-noted sheets be accepted for filing and that they become effective on December 1, 1979.

Panhandle has filed the revised tariff sheets to its Original Volume No. 1 of its FERC Gas Tariff to incorporate changes to provisions in its existing curtailment plan to protect deliveries to high priority and essential agricultural users as required pursuant to §§ 281.201 through 281.215 of the Commission's regulations (18 CFR 281.201-215).

Panhandle filed Original Sheet Nos. 1 through 38 to its Original Volume No. 1-A of its FERC Gas Tariff in order to expand existing Priority No. 1 by including high priority users and to establish a new priority of service reflecting essential agricultural users as envisaged under Section 401 of the Natural Gas Policy Act of 1978 (NGPA).

Panhandle's filings were duly noticed by publication in the Federal Register on November 14, 1979 (44 FR 65659). Only one filing indicating opposition to Panhandle's proposed revised tariffs sheets has been received pursuant to the aforementioned notice. This was in the nature of a request for a declaratory order filed by Central Illinois Light Company (CILCO) pursuant to § 1.7(c) of the Commission's rules of practice and procedure in which it contends that the techniques employed by Panhandle for attributing the increased essential agricultural requirements of Illinois Power Company (Illinois Power) and

other distribution companies with more than one supplier are incorrect.

CILCO in its request for a declaratory order raises the same two complaints relative to Panhandle's filings that were set forth in the comments that it submitted to the DVC, i.e., (1) the inconsistent application by Panhandle's customers of the Commission's regulations requiring attribution of essential agricultural requirements among pipeline suppliers and (2) insufficient documentation provided to permit CILCO to determine that the index of entitlements filed by Panhandle were calculated in compliance with the Commission's regulations. The DVC report indicates that the committee reviewed CILCO's complaints and concluded that the attribution had been accomplished in conformity with the Commission's regulations.

We shall first address CILCO's complaint that relates to attribution under § 281.209 of the Commission's regulations. CILCO contends that the regulations on attribution, especially § 281.209(e), provide that the basis for attribution to the various suppliers of a distribution company shall be the proportionate contribution of the various suppliers to the distribution company's total requirements in the base period used for the supplier's curtailment plan. It contends that such an interpretation can result in overallocation of requirements. CILCO's concern is that Panhandle could be allocated a disproportionate share of the agricultural requirement of Panhandle's partial requirements customers. The possibility that the operation of the attribution provision could result in an overstatement of such requirements of partial requirements customers has been raised previously in connection with Order No. 29.

The intent of the provision is that only 100 percent of the agricultural requirements of a partial requirements customer be attributed among its various sources of supply. As originally drafted, Order No. 29 (§ 281.209(e)): *Provided*, That a distribution company must:

calculate its attributable indirect essential agricultural requirements to a particular direct supplier by multiplying its indirect essential agricultural requirements by the annual quantity of entitlements from such direct supplier and dividing the product by the total volume of natural gas received from all sources during the base period of the direct supplier's currently effective curtailment plan.¹

Because the interstate pipelines do not have a uniform base period, this formula would result in some cases in the problem complained of by CILCO, i.e., an overstatement of agricultural requirements for certain distributors. A number of persons focused on this problem in their petitions for rehearing of Order No. 29. We believe the problem has been corrected by the amendments to the attribution provision that we made in Order No. 29-C.² That provision now reads:

(e) *Local distribution company.* A local distribution company shall calculate its attributable indirect essential agricultural requirements among its direct suppliers in the same manner as it attributed its supplies to its direct suppliers for purposes of establishing entitlements in the currently effective curtailment plans of such direct suppliers.

The intent of the regulation remains unchanged: a partial requirements customer is to attribute only 100 percent of its essential agricultural requirements among its several sources of supply.³ The requirement that essential agricultural requirements may be attributed in the same manner as supplies are attributed for purposes of establishing entitlements in the currently effective curtailment plans of interstate pipelines is fully consistent with Section 401 of the NGPA, which mandates a preference for high priority and essential agricultural uses, to the maximum extent practicable and without throwing existing curtailment plans into disarray.

It appears from the DVC report that the essential agricultural uses of Illinois Power were attributed to Panhandle upon the same basis that the over-all needs of that distributor were attributed to Panhandle for establishing its entitlements under that company's effective curtailment plan.⁴ Panhandle did not include the total increased essential agricultural requirements of Illinois Power in its revised tariff sheets, but only those increased requirements that were attributed to the area served by Panhandle during the base period.

² See Order No. 29-C issued on October 22, 1979, in Docket No. RM79-15 entitled "Order Amending Regulation, Granting in Part and Denying in Part Petition For Rehearing and Motions for Clarification, Denying Motion For Oral Argument, and Denying Motion to Waive Regulations and Accept Late Filed Petitions."

³ If presented with facts or factual allegations that the revised attribution language still leads to material overstatement of the agricultural requirements of partial requirements customers in a specific case, we would consider what adjustments to the attribution provision may be required.

⁴ CILCO acknowledges that the DVC employed this standard, but contends that a different method should have been followed. On the basis of the information before us, we disagree.

This is consistent with the situation that existed when the base period on that system was formulated. We believe our amendment to Order No. 29 renders CILCO's request for a declaratory order moot, and the additional discussion herein should provide assistance to pipelines and distributors alike in applying the attribution provisions.

CILCO also complains that insufficient documentation existed to properly verify the index of entitlements reflected in Panhandle's filing herein as contemplated under § 281.213. CILCO's complaint appears to be summed up in the protest that it filed with the DVC which was included as Appendix B to the DVC report:

* * * No on-site checks were made of any of the requests for Essential Agricultural Uses, and the only attempts beyond the requirement for notarization of requests to verify the legitimacy of such requests were questions asked at the DVC meetings. While CILCO recognizes the difficulty of verifying in a relatively short period of time the large amount of data presented by essential agricultural users, we submit that the inability of the DVC to provide a list of assumptions used in attributing essential agricultural gas among pipeline suppliers and the absence of any on-site spot checks of the data submitted by essential agricultural users falls far short of the verification required by § 281.213 of the regulations.

The DVC report indicated that the data submitted requesting an increase was reviewed for, among other things, the following:

(1) Changes in classification and increases which were submitted showing current requirements above the actual use indicated during the entitlement period were checked to make sure that they were attested and accompanied by a letter indicating the reason for the increase.

(2) Figures which were submitted for changes in volumes being moved to high priority use and the changes requested for essential agricultural uses to priority 1a were checked to assure arithmetical accuracy.

(3) Changes attempting to change the priority of a user which had been placed in a particular category during the original entitlement period that did not conform to the definition of a high priority user or essential agricultural users were noted and those requesting such a change were advised that such a change could not be made under Order No. 29.

We have reviewed the report of the DVC and are satisfied that the index of entitlements filed by Panhandle has been prepared in conformance with our regulations. On-site inspection was not included with the duties of the DVC. Requests for changes in priority

¹ Final Regulation for the Implementation of Section 401 of the Natural Gas Policy Act, Docket No. RM79-15; Issued May 2, 1979 (16 CFR 281.201 et seq.).

categories were submitted under oath and reviewed by the full DVC. In the absence of specific charges of error, Order No. 29 does not require more.

After having fully considered the arguments presented by CILCO, the Commission is of the opinion that sufficient basis does not exist to require that it refuse to accept the filing made by Panhandle pursuant to its Order No. 29. The Commission is therefore disposed to accept the tariff sheets submitted by Panhandle and make them effective as of December 1, 1979.

The Commission finds:

(1) It is necessary and proper in carrying out the provisions of Section 401 of the NGPA and the Commission's implementing regulations thereunder that Panhandle's proposed revised tariff sheets filed in this proceeding be accepted for filing and made effective as of December 1, 1979.

(2) The index of entitlements filed by Panhandle has been prepared in conformance with §§ 281.201 through 281.215 of the Commission's regulations.

(3) CILCO's request for a declaratory order has been mooted by the issuance of Order No. 29-C.

(4) The participation of those petitioners that have filed timely petitions to intervene in the above-styled proceeding may be in the public interest.

The Commission orders:

(A) Panhandle's proposed tariff sheets referenced herein are accepted for filing and shall be permitted to become effective without suspension on December 1, 1979.

(B) CILCO, Illinois Power and General Motors Corporation are permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; *And, provided, further,* That the admission of said interveners shall not be construed by the Commission that they have been aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37736 Filed 12-7-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. RA80-1]

Ron's Shell Service, Inc.; Filing of Petition for Review

December 3, 1979.

Take notice that Ron's Shell Service, Inc., on October 31, 1979, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before December 19, 1979, file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave. NW., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 100, 825 North Capitol St., NE., Washington, D.C. 20426.
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37737 Filed 12-7-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. TC80-13]

Transwestern Pipeline Co.; Order Approving Settlement

November 30, 1979.

Transwestern Pipeline Company (Transwestern) has filed an offer of settlement that seeks to implement Section 401(a) of the Natural Gas Policy Act of 1978 (NGPA) for its system. We approve that settlement as a suitable alternative to compliance with Order No. 29 for implementing Section 401(a) on Transwestern's system at this time.¹

In brief, Section 401(a) of the NGPA requires that high priority and essential agricultural users be afforded a preference in the curtailment plans of

¹ For a summary of Section 401(a) and the administrative actions taken to implement it, including Order No. 29, see *Northwest Pipeline Corporation*, Docket No. TC79-137, "Order Approving Settlement," issued October 18, 1979.

interstate pipelines. Order No. 29² requires that these preferences be included in interstate pipeline curtailment plans, that end-use data be collected and reviewed by a data verification committee and that an index of entitlements setting forth the volumes attributable to high priority and essential agricultural uses be included within the pipeline's tariff provisions.

At the time of promulgation of Order No. 29, the Commission expressed its willingness to consider settlements at variance with the rule:

In past curtailment proceedings the parties have often arrived at a settlement of all issues without resort to adjudicatory proceedings before the Commission . . . (N)othing in the rule precludes any interstate pipeline and its customers from proposing, as a settlement, a curtailment plan that differs from that set out in our rule. Such a settlement will be evaluated by the Commission in light of its responsibility to meet the statutory goal of protecting to the maximum extent practicable, high priority users and essential agricultural uses. (Preamble to Final Regulation, pp. 10-11)

In approving a settlement of Section 401 matters that departed from Order No. 29 for the system of Northwest Pipeline Corporation, we emphasized that rigid adherence to Order No. 29 will not be required where a suitable alternative is proposed. There we said:

The Commission wishes to emphasize its flexibility under Section 401 and its willingness to exercise its flexible authority thereunder, in the form of an adjustment proceeding or in the context of a settlement. To this end, the Commission has openly encouraged the entry into settlements which meet the requirements of Section 401 even though the settlement may deviate from Order No. 29.³

We also called special attention to the Joint Explanatory Statement of the Committee on Conference for the NGPA, which expresses a clear desire to avoid disruption of existing curtailment plans upon implementation of Section 401. With this background, we turn to the settlement proposed by Transwestern.

On October 1, 1979, Transwestern filed an offer of settlement in accordance with § 1.18(e) of the Commission's Rules of practice and procedures (18 CFR 1.18(e)).⁴

² "Final Regulations for the Implementation of Section 401 of the Natural Gas Policy Act," Docket No. RM79-15, issued May 2, 1979, 18 CFR 281.201 et seq., as amended.

³ *Northwest Pipeline Corporation*, Docket No. TC79-137, "Order Approving Settlement," issued October 18, 1979.

⁴ Transwestern states that copies of its filing were served on all parties to its original curtailment case, Docket No. RP73-101. Notice of the offer of settlement was issued by the Commission on October 5, 1979 and published in the Federal Register on October 15, 1979 (44 FR 59283).

Transwestern states that during the process of collecting the information required by Order No. 29, it and its customers reached a consensus that the issues raised by Order No. 29 could be settled without modification of the curtailment procedures currently utilized by Transwestern.⁵

The Stipulation and Agreement provides that Transwestern would not be required to file the draft tariff sheets and index of entitlements contemplated by Order No. 29 and that Transwestern would continue to provide a mechanism in its tariff for granting relief from curtailment for high priority and essential agricultural users, in substantially the same form as utilized to implement the Commission's Interim Curtailment Rule. The Stipulation and Agreement further provides that, in the future, if Transwestern or any of its customers feel that changes in Transwestern's curtailment plan are required in order to comply with Section 401(a) of the NGPA, then Transwestern will promptly notify its customers and the Commission, and any party may request the convening of a conference for the purpose of determining what changes may be required. Citing Section 502(c) of the NGPA, Transwestern requests an adjustment and waiver of the requirements of Order No. 29 to the extent necessary to implement the proposed settlement.

Comments on the proposed settlement were filed by Southern California Gas Company and Pacific Lighting Service Company, the Process Gas Consumers Group (PGC), the Public Utilities Commission of the State of California (CPUC), Cities Service Gas Company (Cities),⁶ Transwestern and the Commission Staff. In general, the comments supported or did not oppose the proposed settlement. CPUC noted that under the proposed settlement, Transwestern would give notice of a request for a conference to its customers and the Commission. CPUC urged that it also be given such notice. In its reply comments, Transwestern stated that it will serve such notice on all parties to its original curtailment case, thereby including CPUC.

PGC requested that the proposed settlement be "clarified" with respect to

⁵In accordance with the Commission's Interim Curtailment Rule, issued in Docket RM79-13 on March 6, 1979, Transwestern amended its tariff by adding Section 11.6, which provides a mechanism for making adjustments upon request in order to meet the needs of high priority and essential agricultural users. (Docket No. TC79-29)

⁶Cities moved for an extension of time to file its comments, because it did not receive a copy of the Stipulation and Agreement until after the date comments were due. Under the circumstances, the motion will be granted.

the applicability of rules issued in Docket No. RM79-40 pertaining to alternative fuel determination for essential agricultural users. It is PGC's position that such rules should be applicable to Transwestern's settlement. None of the commenters took exception PGC's position. The Commission Staff supported PGC's request; Transwestern stated that granting PGC's request "would not be inconsistent with * * * the proposed settlement." Both the Staff and Transwestern cited language in Order No. 55⁷ (adopted after PGC filed its comments) to the effect that the alternative fuel rule would apply to curtailment plans placed into effect following a settlement or Order No. 29 matters PGC's request for clarification is granted, and Transwestern should revise its tariff to indicate that the alternative rule adopted by the Commission under Section 401(b) of the NGPA will be applied to requests for relief under Section 11.6.

We find that the proposed settlement as revised and clarified in the two respects discussed above, provides the requisite measure of protection for high priority and essential agricultural uses mandated by the NGPA. The proposal presents a suitable alternative to the requirements of Order No. 29 for meeting those statutory objectives. Accordingly, we grant the requested adjustment to Order No. 29 and approve the settlement.

The Commission finds and orders: (1) The October 1, 1979 Stipulation and Agreement proposed by Transwestern, as revised and clarified herein, constitutes a fair and reasonable means of implementing Section 401(a) of the Natural Gas Policy Act and is consistent with the objectives of Commission Order Nos. 29, 29-A, 29-B and 29-C.

(2) Transwestern is hereby granted an adjustment in accordance with Section 502(c) of the NGPA, excepting it from the application of Commission Order Nos. 29, 29-A, 29-B and 29-C to the extent that those orders require Transwestern to file tariff sheets and an index of entitlements with respect to high priority and essential agricultural uses.

(3) The October 1, 1979 Stipulation and Agreement, as revised and clarified herein, is hereby approved.⁸ Transwestern shall file tariff sheets, including language with respect to the Commission's alternative fuel rule, implementing the Stipulation and

⁷"Interim Rule—Determination of Alternative Fuels for Essential Agricultural Users," Docket No. RM79-40, issued October 20, 1979.

⁸Our action here makes unnecessary any further proceedings in Docket No. SA80-2, and that proceeding will be terminated.

Agreement within 10 days of issuance of this order. The Commission finds it appropriate to waive its regulations to the extent necessary to permit the tariff sheets to become effective as of December 1, 1979.

(4) Good cause exists for granting Cities' motion for an extension of time, and that motion is hereby granted.

(5) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle or issue in this proceeding.

(6) Southern California Gas Company, Pacific Lighting Service Company, the Process Gas Consumers Group and Cities Service Gas Company are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; provided, that their participation shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; and further provided, that the admission of these intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered into this proceeding.

By the Commission, Commissioner Holden, concurring filed a separate statement which is filed as part of the original document.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-37738 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-644]

Mid-Continent Area Power Pool; Order Accepting for Filing and Suspending Proposed Amendment to Pooling Agreement, Granting Intervention and Establishing Hearing Procedures

November 30, 1979.

On October 3, 1979, the Management Committee of the Mid-Continent Area Power Pool (MAPP) tendered for filing an amendment to the MAPP Agreement.¹ This amendment, if approved, would change the method of allocating votes among MAPP's members.

The proposed amendment would change the voting rights specified in the MAPP Agreement to assign each participant on the Management Committee one vote for each MW of demand. Under the current method, each party entitled to vote on the Management Committee receives the sum of (1) one vote for each block of 25 megawatts of system demand up to 300

¹The MAPP Management Committee first filed on September 7, 1979, but amended the submission on October 3, 1979.

megawatts, (2) one vote for each block of 50 megawatts of demand from 301-600 megawatts, and (3) one vote for each block of 100 megawatts of demand over 600 megawatts. Additionally, this amendment will give each participant a vote on all other pool committees in direct proportion to its annual system demand instead of the current system which gives each participant a single vote on all pool committees other than the Management Committee.

In support of the proposed voting changes, the Committee states that, according to estimates, there are 99 small systems with a combined 1977 system demand of approximately 500 MW which would now be eligible for participant status in MAPP as a result of the change in the membership provision. There are currently 25 participant members of MAPP with a combined 1977 system demand of 17, 853 MW. The Committee states that if the small systems were to join MAPP as participants, they would constitute a majority of the voting membership on the pool's committees while representing only 3% of the pool load. It is the Committee's position that those systems representing only a small percentage of the pool load would be in a position to cast a disproportionately large share of the votes. Further, the Committee argues that these smaller systems could bring the pool's operation to a halt if they don't regularly attend committee meetings, since they now require 70% of the representatives be present for a quorum. The Committee argues that the proposed voting method will conform to the NEPOOL Agreement approved by the Commission in *New England Power Pool*, Opinion No. 775 (September 10, 1976), *affirmed sub nom., Municipalities of Groton, et al. v. FERC*, 587 F. 2d 1296 (D.C. Cir. 1978).

A petition to intervene and protest was filed on October 4, 1979, by the Alexandria Board of Public Works (Alexandria). Alexandria requested that a conference be held. Also, on October 4, 1979, the South Dakota Public Utilities Commission (South Dakota) informed the Commission of its intervention in this docket, requesting suspension of the proposed amendment and a hearing thereon.

Both Alexandria and South Dakota have stated that the impact of the voting change cannot be fully assessed at this time. However, they assert that the proposed amendment could detrimentally affect smaller systems and probably nullify the wider participation previously ordered by the Commission.²

² *Mid-Continent Area Power Pool Agreement*, Opinion No. 806, Docket No. E-7734, issued June 15,

South Dakota states that the MAPP Agreement presently provides that the voting be allocated in a manner that emphasizes participation by each system, rather than the size of the system, and that the new voting method would drastically change this emphasis. The new voting procedure would cause a shift in the power balance within the Pool in favor of the larger systems. Both South Dakota and Alexandria discount the Committee's use of NEPOOL as an example for comparing voting procedures because NEPOOL members are not as disproportionately sized as MAPP members. Alexandria argues that the Committee's concern over committee quorums is unwarranted because it is unlikely for a system having sufficient interest to join the pool not to attend Committee meetings.

The proposed amendment to the MAPP Agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We shall accept the proposed amendment for filing and suspend it for one day when it will become effective subject to the outcome of this proceeding.³ Alexandria's participation in this proceeding may be in the public interest, and we shall grant its petition to intervene.

The Commission Orders: (A) The Mid-Continent Area Power Pool Management Committee's proposed amendment to its governing agreement is hereby accepted for filing and suspended for one day, to become effective December 4, 1979, subject to the outcome of this proceeding.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning the justness and reasonableness of the amendment proposed in this docket. Furthermore, if the proposed amendment is changed as a result of the hearing ordered in this

1977, *rehearing denied*, Opinion 606A, issued August 12, 1977, *affirmed sub nom. Central Iowa Power Cooperative v. FERC*, Nos. 77-1914, 77-1916, 77-1924 (D.C. Cir. July 9, 1978).

³ The Committee has also asserted that unless the Commission accepts for filing this amendment and a related compliance filing in Docket No. E-7734, both "shall be deemed withdrawn." We have accepted both amendments for filing, but this acceptance resulted from an independent assessment of each filing and not from the Committee's attempt to present the two as a non-severable package.

proceeding, only prospective relief shall be allowed.

(C) The Alexandria Board of Public Works shall be permitted to intervene in this proceeding pursuant to section 1.8 (c) of the Commission's Regulations, subject to the Rules and Regulations of the Commission; *Provided, however* that participation by the intervenor shall be limited to matters set forth in its petition to intervene; and *Provided, further* that the admission of the intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(D) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose, shall convene a prehearing conference in these proceedings, to be held within 45 days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. That conference shall be for the purpose of establishing a procedural schedule for these proceedings. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.
Kenneth F. Plumb,
Secretary.

FR Doc. 79-37821 Filed 12-7-79; 8:45 am
BILLING CODE 6450-01-M

[Docket No. RP79-71]

**Natural Gas Pipeline Co. of America;
Order Permitting Withdrawal of Rate
Increase Filing and Terminating
Proceeding**

November 30, 1979.

On May 31, 1979, Natural Gas Pipeline Company of America (Natural) filed for a rate change in the above-referenced docket. Natural stated that the proposed change in rates represented a revenue decrease of \$24.1 million from the rates then in effect subject to refund in Docket No. RP78-78, but a \$44 million revenue increase over the proposed settlement rates in Docket No. RP78-78. By order issued June 29, 1979, the Commission accepted Natural's filing and suspended its effectiveness until December 1, 1979, except for certain tariff sheets which were suspended until January 1, 1980.

By letter order dated October 4, 1979, the Commission approved the settlement agreement in Docket No. RP78-78. Article XVI of that agreement provides as follows:

4. Natural filed a general rate change on May 31, 1979 which is identified as Docket No. RP79-71. Within 10 days of the date the Commission enters a final and nonapplicable order approving this Agreement as provided in Article XXVI, Natural shall withdraw Docket No. RP79-71. In the event the date of the Commission's order becomes final and nonappealable is after November 30, 1979, Natural reserves the right to allow Docket No. RP79-71 to remain in effect.

No applications for rehearing of our October 4 letter order were filed within 30 days, thus rendering it final and nonappealable. Accordingly, Natural filed the instant application for permission to withdraw its filing in this docket on November 7, 1979. Good cause having been shown, Natural will be permitted to withdraw its May 31, 1979 filing in Docket No. RP79-71. In view of the fact that issuance of this order will precede the effective date of the rates proposed herein, no refunds will be required and the proceeding may be terminated.

The Commission orders: (A) Natural's application for permission to withdraw the rates it proposed on May 31, 1979 in Docket No. RP79-71 is hereby granted, and the proceeding is terminated.

(B) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission,
Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37822 Filed 12-7-79; 8:45 am]
BILLING CODE 6450-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 27, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Kentucky Department of Mines and Minerals,
Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05543/ERC-270
2. 16-019-00000
3. 108
4. Kentucky Ohio Gas Company
5. Ennis Gillum #1 Serial #114
6. Ashland
7. Boyd, KY
8. 4.2 million cubic feet
9. November 7, 1979
10. Columbia Gas Transmission Corp

Utah Division of Oil, Gas and Mining

1. Control number (F.E.R.C./State)
 2. API well number
 3. Section of NGPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or block No.
 8. Estimated annual volume
 9. Date received at FERC
 10. Purchaser(s)
1. 80-05622/K-107-6
 2. 43-043-30088-0000
 3. 103 000 000
 4. American Quasar Petroleum Co
 5. URPP 3-8
 6. 1500 FNL and 200 FWL (NW NW)
 7. Summit, UT
 8. 160.0 million cubic feet
 9. November 8, 1979
 10. Mountain Fuel Supply, Co

U.S. Geological Survey—Albuquerque,
N.Mex.

1. Control number (F.E.R.C./State)
 2. API well number
 3. Section of NGPA
 4. Operator
 5. Well name
 6. Field or OCS area name
 7. County, State or block No.
 8. Estimated annual volume
 9. Date received at FERC
 10. Purchaser(s)
1. 80-05657/COA-3808-79
 2. 05-113-06027-0000-0
 3. 103 000 000
 4. Union Oil Company of Calif
 5. Andys Mesa Unit No. 11-E34
 6. Andys Mesa
 7. San Miguel Co
 8. 73.0 million cubic feet
 9. November 8, 1979
 10. Trans-COLORADO Pipeline Co

1. 80-05720/COA-3750-79
2. 05-067-06150-0000-0
3. 103 000 000
4. Lynco Oil Corporation
5. Argenta No. 5
6. Ignacio Blanco Mesa Verde
7. La Plata, CO
8. 68.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corp.

1. 80-05738/COA-3611-79
2. 05-067-00000-0000-0
3. 108 000 000
4. American Petroleum Energy Co In
5. No. 1 Ute 34-10
6. Ignacio-Blanco
7. La Plata, CO
8. .0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corp

1. 80-05763/COA-3562-79
2. 05-067-05003-0000-0
3. 108 000 000
4. Texaco Inc
5. SO Ute Tribe of Indians No. 3
6. Ignacio-Blanco
7. La Plata, CO
8. 16.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co.

1. 80-05764/COA-3561-79
2. 05-067-05004-0000-0
3. 108 000 000
4. Texaco Inc
5. SO Ute Tribe of Indians No. 4
6. Ignacio-Blanco
7. La Plata, CO
8. 6.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05765/COA-3560-79
2. 05-067-05307-0000-0
3. 108 000 000
4. Texaco Inc
5. SO Ute Tribe of Indians No. 1
6. Ignacio-Blanco
7. La Plata, CO
8. 16.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05766/COA-3559-79
2. 05-067-05563-0000-0
3. 108 000 000
4. Texaco Inc
5. SO Ute Tribe of Indians No. 5
6. Ignacio-Blanco
7. La Plata, CO
8. 8.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05623/NM-3567-79
2. 30-025-25989-0000-0
3. 103 000 000
4. Getty Oil Company
5. Myers Langlie-Mattix Unit No 135
6. Langlie Mattix
7. Lea NM
8. 4.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co

1. 80-05624/NM-3625-79
2. 30-039-09734-0000-0
3. 108 000 000
4. Joseph B Gould
5. Federal G No 1
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 24.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co

1. 80-05625/NM-3626-79
2. 30-039-09729-0000-0
3. 108 000 000
4. Joseph B Gould
5. Fred Phillips No 4

6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 13.9 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05626/NM-3627-79
2. 30-039-20083-0000-0
3. 108 000 000
4. Joseph B Gould
5. Apache No 1
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 102.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Co
1. 80-05627/NM-3628-79
2. 30-039-05694-0000-0
3. 108 000 000
4. Joseph B. Gould
5. Fred Phillips No 1
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 105.0 million cubic feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05628/NM-3629-79
2. 30-039-20265-0000-0
3. 108 000 000
4. Joseph B Gould
5. Apache No 2
6. Ballard Pictured Cliffs
7. Rio Arriba NM
8. 35.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05629A/NM-3633-79-A
2. 30-045-22705-0000-1
3. 103 000 000
4. Marathon Oil Company
5. Ohio C Government No 5 [PC]
6. Kutz Canyon—Pictured Cliffs
7. San Juan NM
8. 144.9 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05629B/NM-3633-79-B
2. 30-045-22705-0000-2
3. 103 000 000
4. Marathon Oil Company
5. Ohio C Government No 5 [FR]
6. Kutz Canyon—Fruitland
7. San Juan NM
8. 16.1 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05630A/NM-3634-79A
2. 30-039-21819-0000-1
3. 103 000 000
4. Marathon Oil Company
5. Jicarilla Apache No 20 (Chacra)
6. Jicarilla-Chacra Formation
7. Rio Arriba NM
8. 6.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05630B/NM-3634-79B
2. 30-039-21819-0000-2
3. 103 000 000
4. Marathon Oil Company
5. Jicarilla Apache No 20 [PC]
6. Jicarilla—Pictured Cliffs
7. Rio Arriba NM
8. 58.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05631A/NM-3637-79A
2. 30-039-21502-0000-1
3. 103 000 000
4. Marathon Oil Company
5. Jicarilla Apache No 19 (PC)
6. Jicarilla—Pictured Cliffs
7. Rio Arriba NM
8. 43.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05631B/NM-3637-79-B
2. 30-039-21502-0000-2
3. 103 000 000
4. Marathon Oil Company
5. Jicarilla Apache No 19 (Chacra)
6. Jicarilla—Chacra
7. Rio Arriba NM
8. 4.8 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05632/NM-3639-79
2. 30-045-23000-0000-0
3. 103 000 000
4. Marathon Oil Company
5. Ohio F Government No 1-A
6. Blanco Mesaverde
7. San Juan NM
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05633/NM-3640-79
2. 30-045-22999-0000-0
3. 103 000 000
4. Marathon Oil Company
5. Ohio E Government No.1-A
6. Blanco Mesaverde
7. San Juan NM
8. 260.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05634/NM-3641-79
2. 30-045-22998-0000-0
3. 103 000 000
4. Marathon Oil Company
5. Ohio D Government No 1-A
6. Blanco Mesaverde
7. San Juan NM
8. 369.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05635/NM-3645-79
2. 30-015-22395-0000-0
3. 103 000 000
4. Petroleum Corporation of Delaware
5. Superior-Federal Unit I No 4
6. E Burton Flat (Morrow)
7. Eddy NM
8. 91.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05636/NM-3658-79
2. 30-039-21536-0000-0
3. 103 000 000
4. Petroleum Corporation of Texas
5. Federal No 1 Well No 2 SF-081347
6. Chacon-Dakota Associated Pool
7. Rio Arriba NM
8. 250.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05637/NM-3661-79
2. 30-045-05914-0000-0
3. 108 000 000
4. Alamo Petroleum Company
5. Hanson Federal No 1
6. Basin Dakota
7. San Juan NM
8. 14.0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Company
1. 80-05638/NM-3662-79
2. 30-045-10702-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Government-Starr No 1-13
6. Basin Dakota
7. San Juan NM
8. 6.0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Co
1. 80-05639/NM-3663-79
2. 30-045-10301-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Payne No 3
6. Basin Dakota
7. San Juan NM
8. 12.8 million cubic feet
9. November 9, 1979
10. Southern Union Gas Company
1. 80-05641/NM-3668-79
2. 30-025-25566-0000-0
3. 103 000 000
4. Carl Engwall
5. Fletcher Federal NM 0897
6. Lynch Yates—SR
7. Lea NM
8. 120.0 million cubic feet
9. November 9, 1979
10. Phillips Petroleum
1. 80-05642/NM-3667-79
2. 30-005-60402-0000-0
3. 102 000 000
4. E L Latham Jr & R G Barton Jr
5. Amoco Federal No 1
6. Sams Ranch Grayburg
7. Chaves NM
8. 50.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co
1. 80-05646/NM-3630-79
2. 30-045-21196-0000-0
3. 108 000 000
4. Wynn Oil Company Inc
5. Largo Federal Number 4
6. Chacra
7. San Juan NM
8. 7.0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05647/NM-3631-79
2. 30-045-21198-0000-0
3. 108 000 000
4. Wynn Oil Company Inc
5. Largo Federal No 6
6. Chacra
7. San Juan NM
8. 15.0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05649/NM-3632-79
2. 30-045-21197-0000-0
3. 108 000 000
4. Wynn Oil Company Inc
5. Largo Federal No 5
6. Chacra
7. San Juan NM
8. 11.0 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation

1. 80-05650/NM-3819-79
2. 30-045-05774-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom No 5
6. Ballard Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05651/NM-3818-79
2. 30-045-05869-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom No 4
6. Ballard Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05652/NM-3817-79
2. 30-045-05834-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom No. 3
6. Ballard Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05653/NM-3818-79
2. 30-045-05825-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom No 2
6. Ballard Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05654/NM-3815-79
2. 30-045-05656-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom #1
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05655/NM-3814-79
2. 30-045-05702-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom #9
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05656/NM-3810-79
2. 30-045-10725-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Government-Reid #1
6. Blanco Mesaverde
7. San Juan NM
8. 7.3 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gas Company
1. 80-05658/NM-1081-79
2. 30-045-07718-0000-0
3. 108 000 000
4. Northwest Production Corporation
5. San Juan 29-9'1
6. Blanco-Pictured Cliffs Gas
7. San Juan NM
8. 18.3 Million Cubic Feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05659/NM-3813-79-2
2. 30-039-21987-0000-0
3. 102 000 000
4. Palmer Oil & Gas Company
5. Apache Jva #6
6. Undesignated Chacra
7. Rio Arriba, NM
8. 150.0 Million Cubic Feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05660/NM-3813-79-3
2. 30-039-21987-0000-0
3. 103 000 000
4. Palmer Oil & Gas Company
5. Apache Jva #6
6. Undesignated Chacra
7. Rio Arriba, NM
8. 150.0 Million Cubic Feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05661/NM-3828-79
2. 30-045-60273-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Summit B-5
6. Fulcher Kutz Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gathering Company
1. 80-05662/NM-3827-79
2. 30-045-21732-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Garland 1-R
6. Fulcher Kutz Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gathering Company
1. 80-05663/NM-3826-79
2. 30-045-07474-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Lachman #2
6. Fulcher Kutz Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gathering Company
1. 80-05664/NM-3825-79
2. 30-045-08979-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Sanchez #2
6. Aztec Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gathering Company
1. 80-05665/NM-3822-79
2. 30-045-05689-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom #8
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05666/NM-3821-79
2. 30-045-05833-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom #7
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05667/NM-3820-79
2. 30-045-05773-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Newsom #6
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05668/NM-3845-79
2. 30-039-21565-0000-0
3. 103 000 000
4. Northwest Pipeline Corporation
5. S/J 29-6 #20A
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 195.0 Million Cubic Feet
9. November 8, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-05669/NM-3844-79
2. 30-039-21396-0000-0
3. 103 000 000
4. Northwest Pipeline Corporation
5. Rosa Unit #61
6. Basin Dakota
7. Rio Arriba, NM
8. 102.0 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05670/NM-3843-79
2. 30-039-21395-0000-0
3. 103 000 000
4. Northwest Pipeline Corporation
5. Rosa Unit #61
6. Basin Dakota
7. Rio Arriba, NM
8. 66.0 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05671/NM-3842-79
2. 30-039-21807-0000-0
3. 103 000 000
4. Northwest Pipeline Corporation
5. S/J 31-6 Unit #30
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 163.0 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-05672/NM-3841-79
2. 30-039-21561-0000-0
3. 103 000 000
4. Northwest Pipeline Corporation
5. S/J 29-6 Unit #18A
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 266.0 Million Cubic Feet
9. November 9, 1979
10. Northwest Pipeline Corporation El Paso Natural Gas Company
1. 80-05673/NM-3800-79
2. 30-025-21566-0000-0

3. 108 000 000
4. Burleson & Huff
5. Dale Federal #1
6. Jalmat Yates
7. Lea, NM
8. 7.1 Million Cubic Feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05674/NM-3799-79
2. 30-039-05721-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla L-1
6. South Blanco Picture Cliffs
7. Rio Arriba, NM
8. .8 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05675/NM-3784-79
2. 30-039-06301-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla D-4
6. Tapacito Pictured Cliffs
7. Rio Arriba County, NM
8. 17.9 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05676/NM-3783-79
2. 30-039-06276-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla D-2
6. Tapacito Pictured Cliffs
7. Rio Arriba County, NM
8. 12.4 Million Cubic Feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05677/NM-3802-79
2. 30-045-10519-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Phillips #1-23
6. Basin Dakota
7. San Juan, NM
8. 16.4 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gas Company
1. 80-05678/NM-3803-79
2. 30-045-10856-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Governmen-Gross #1
6. Basin Dakota
7. San Juan, NM
8. 11.0 Million Cubic Feet
9. November 8, 1979
10. Southern Union Gas Company
1. 80-05679/NM-3804-79
2. 30-039-21551-0000-0
3. 103 000 000
4. Palmer Oil & Gas Company
5. Apache Jva #4
6. Blanco-Mesaverde
7. Rio Arriba, NM
8. 140.0 Million Cubic Feet
9. November 8, 1979
10. Northwest Pipeline Corporation
1. 80-05680/NM-3805-79
2. 30-025-11809-0000-0
3. 108 000 000
4. Santa Fe Energy Company
5. Carlson B-27-2
6. Langlie
7. Lea, NM
8. 5.4 Million Cubic Feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05681/NM-3850-79
2. 30-039-21831-0000-0
3. 103 000 000
4. Transocean Oil Inc
5. #2 Federal 28714
6. Chacon Dakota Field
7. Rio Arriba, NM
8. .0 Million Cubic Feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05682/NM-3776-79
2. 30-039-06096-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. McCroden #A-1
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 3.0 Million Cubic Feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05683/NM-3775-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Petroleum Corporation of Texas
5. Mobil Rudman Well No 2 I-149 Ind-11
6. Basin Dakota Field
7. San Juan County, NM
8. .0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05684/NM-3773-79
2. 30-039-06260-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Jicarilla Apache #3
6. Jicarilla
7. Rio Arriba, NM
8. 7.0 Million Cubic Feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05685/NM-3771-79
2. 30-039-20940-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Jicarilla Apache #17
6. Jicarilla
7. Rio Arriba, NM
8. 17.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05686/NM-3770-79
2. 30-045-07222-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Ohio C Government #1
6. Kutz Canyon
7. San Juan, NM
8. 11.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05687/NM-3766-79
2. 30-039-06336-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Jicarilla Apache #7
6. Jicarilla
7. Rio Arriba, NM
8. 13.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05688/NM-3807-79
2. 30-025-11467-0000-0
3. 108 000 000
4. Santa Fe Energy Company
5. Wells B-6-1 Serial #052936
6. Langlie
7. Lea, NM
8. 1.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05689/NM-3801-79
2. 30-045-10470-0000-0
3. 108 000 000
4. Consolidated Oil & Gas Inc
5. Government-Senter #1-24
6. Basin Dakota
7. San Juan, NM
8. 15.3 million cubic feet
9. November 9, 1979
10. Southern Union Gas Company
1. 80-05690/NM-3752-79
2. 30-015-21718-0000-0
3. 102 000 000
4. Harvey E Yates Company
5. Pennzoil Federal #1
- 6.
7. Eddy, NM
8. 100.0 million cubic feet
9. November 9, 1979
10. Transwestern Pipeline Company
1. 80-05691/NM-3751-79
2. 30-025-25985-0000-0
3. 103 000 000
4. Union Texae Petroleum
5. Crosby Deep No 4
6. Crosby (Fusselman) Pool
7. Lea, NM
8. 549.0 millton cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05692/NM-3781-79
2. 30-039-06223-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla #B-3
6. South Blanco Pictured Cliffs
7. Rio Arriba County, NM
8. 4.0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05693/NM-3779-79
2. 30-039-06127-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. McCroden 3
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 9.0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05694/NM-3778-79
2. 30-039-06126-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. McCroden #1
6. Tapacito Pictured cliffs
7. Rio Arriba, NM
8. 4.0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05695/NM-3777-79
2. 30-039-06146-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. McCroden #B-1
6. Tapacito Pictured Cliffs

7. Rio Arriba County, NM
8. 7.0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05696/NM-3690-79
2. 30-015-22359-0000-0
3. 103 000 000
4. Amoco Production Company
5. Baumgartner Federal Com No 1
6. Und Burton Flat Morrow
7. Eddy, NM
8. 75.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05697/NM-3723-79
2. 30-041-10543-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 22 #4
6. Chaveroo-San Andres
7. Roosevelt, NM
8. 2.8 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05698/NM-3720-79
2. 30-041-10523-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 26 #5
6. Chaveroo San Andres
7. Roosevelt, NM
8. 1.8 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05699/NM-3722-79
2. 30-041-10529-0000-0
3. 108 000 000
4. Tenneco West Inc
5. Federal 23 #3
6. Chaveroo San Andres
7. Roosevelt, NM
8. 3.7 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05700/NM-3721-79
2. 30-045-11772-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Mansfield No 3
6. Blanco Picture Cliff
7. San Juan, NM
8. 6.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05701/NM-3689-79
2. 30-025-25866-0000-0
3. 103 000 000
4. Amoco Production Company
5. Gillully Federal Gas Com No 15
6. Eumont Queen
7. Lea, NM
8. 35.0 million cubic feet
9. November 8, 1979
10. Northern Natural Gas
1. 80-05702/NM-3688-79
2. 30-025-25937-0000-0
3. 103 000 000
4. Amoco Production Company
5. Gillully B Federal No 20
6. Cass Penn
7. Lea, NM
8. 51.0 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05703/NM-3687-79
2. 30-025-25744-0000-0
3. 103 000 000
4. Amoco Production Company
5. Myers /A/ Federal No 7
6. Langlie Mattix Queen
7. Lea, NM
8. 9.0 million cubic feet
9. November 8, 1979
10. Northern Natural
1. 80-05704/NM-3686-79
2. 30-025-25700-0000-0
3. 103 000 000
4. Amoco Production Company
5. Myers /B/ Federal No 26
6. Langlie Mattix
7. Lea, NM
8. 156.0 million cubic feet
9. November 8, 1979
10. El Paso Natural
1. 80-05705/NM-3685-79
2. 30-025-25745-0000-0
3. 103 000 000
4. Amoco Production Company
5. Myers B Federal No 28
6. Langlie Mattix Queen
7. Lea, NM
8. 212.0 million cubic feet
9. November 8, 1979
10. Northern Natural Gas
1. 80-05706/NM-3684-79
2. 30-025-25746-0000-0
3. 103 000 000
4. Amoco Production Company
5. Myers /B/ Federal No 29
6. Langlie Mattix Queen
7. Lea, NM
8. 231.0 million cubic feet
9. November 8, 1979
10. Northern Natural Gas Company
1. 80-05707/NM-3683-79
2. 30-025-25765-0000-0
3. 103 000 000
4. Amoco Production Company
5. Myers /B/ Federal No 30
6. Jalmat Yates—Seven Rivers
7. Lea, NM
8. 137.0 million cubic feet
9. November 8, 1979
10. Northern Natural
1. 80-05708/NM-3682-79
2. 30-025-25766-0000-0
3. 103 000 000
4. Amoco Production Company
5. Myers /B/ Federal No 31
6. Jalmat Yates—Seven Rivers
7. Lea, NM
8. 117.0 million cubic feet
9. November 8, 1979
10. Northern Natural
1. 80-05709/NM-3681-79
2. 30-015-22236-0000-0
3. 103 000 000
4. Amoco Production Company
5. Empire South Deep Unit No 15
6. Und Empire South Morrow
7. Eddy, NM
8. 398.0 million cubic feet
9. November 8, 1979
10. El Paso Natural
1. 80-05710/NM-3680-79
2. 30-015-22241-0000-0
3. 103 000 000
4. Amoco Production Company
5. Empire South Deep Unit No 16
6. Empire Morrow South
7. Eddy, NM
8. 997.0 million cubic feet
9. November 8, 1979
10. El Paso Natural
1. 80-05711/NM-3679-79
2. 30-025-25747-0000-0
3. 103 000 000
4. Amoco Production Company
5. South Mattix Unit #30
6. Fowler Upper Yes
7. Lea, NM
8. 68.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05712/NM-3747-79
2. 30-015-10397-0000-0
3. 108 000 000
4. Llano Incorporated
5. Sweeney Federal No 1
6. Lusk Strawn
7. Eddy, NM
8. 2.0 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05713/NM-3746-79
2. 30-025-25738-0000-0
3. 103 000 000
4. Martindale Petroleum Corp
5. Closson B #21
6. Jalmat
7. Lea, NM
8. 27.2 million cubic feet
9. November 8, 1979
10. Ashland Oil Inc
1. 80-05714/NM-3745-79
2. 30-025-26041-0000-0
3. 103 000 000
4. Martindale Petroleum Corporation
5. Closson B #22
6. Jalmat
7. Lea, NM
8. .0 million cubic feet
9. November 8, 1979
10. Ashland Oil Inc
1. 80-05715/NM-3744-79
2. 30-025-26042-0000-0
3. 103 000 000
4. Martindale Petroleum Corporation
5. Closson B #23
6. Jalmat
7. Lea, NM
8. 111.6 million cubic feet
9. November 8, 1979
10. Ashland Oil Inc.
1. 80-05716/NM-3743-79
2. 30-025-26144-0000-0
3. 103 000 000
4. Martindale Petroleum Corporation
5. Closson B #25
6. Jalmat
7. Lea, NM
8. 112.5 million cubic feet
9. November 8, 1979
10. Ashland Oil Inc.
1. 80-05717/NM-3749-79
2. 30-025-00889-0000-0
3. 108 000 000
4. Llano Incorporated
5. Price Federal 5 No. 2
6. Lusk Strawn
7. Lea, NM
8. .5 million cubic feet
9. November 8, 1979
10. Continental Oil Company
1. 80-05718/NM-3748-79

2. 30-015-10848-0000-0
3. 108 000 000
4. Llano Incorporated
5. Tenneco Federal No. 1
6. Lusk Strawn
7. Eddy NM
8. 5.0 million cubic feet
9. November 8, 1979
10. Continental Oil Company
1. 80-05719/NM-3750-79-1
2. 30-015-21456-0000-0
3. 108 000 000
4. Great Western Drilling Co.
5. Hay Hollow Unit #1
6. Hay Hollow Strawn Gas
7. Eddy NM
8. 19.7 million cubic feet
9. November 8, 1979
10. El Paso Natural Oil Company
1. 80-05721/NM-3782-79
2. 30-039-00623-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla D-1
6. Tapacito Pictured Cliffs
7. Rio Arriba County NM
8. 2.2 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05722/NM-3725-79
2. 30-041-10511-0000-0
3. 108 000 000
4. Tenneco West Inc.
5. Federal 24 #7
6. Chaveroo San Andres
7. Roosevelt NM
8. 7.3 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05723/NM-3741-79
2. 30-039-00000-0000-0
3. 108 000 000
4. James E. Rogers
5. Schmitz No. 1
6. Tapacitos Pictured Cliffs
7. Rio Arriba NM
8. 5.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05724/NM-3739-79
2. 30-041-10544-0000-0
3. 108 000 000
4. Tenneco West Inc.
5. Federal 22 #5
6. Chaveroo San Andres
7. Roosevelt NM
8. 3.0 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05725/NM-3737-79
2. 30-041-10539-0000-0
3. 108 000 000
4. Tenneco West Inc.
5. Federal 23 #13
6. Chaveroo San Andres
7. Roosevelt NM
8. 3.9 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05726/NM-3736-79
2. 30-041-10526-0000-0
3. 108 000 000
4. Tenneco West Inc.
5. Federal 26 #8
6. Chaveroo San Andres
7. Roosevelt NM
8. 2.5 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05727/NM-3734-79
2. 30-041-10528-0000-0
3. 108 000 000
4. Tenneco West Inc.
5. Federal 23 #2
6. Chaveroo San Andres
7. Roosevelt NM
8. 3.5 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05728/NM-3728-79
2. 30-041-10521-0000-0
3. 108 000 000
4. Tenneco West Inc.
5. Federal 26 #3
6. Chaveroo San Andres
7. Roosevelt NM
8. 1.5 million cubic feet
9. November 8, 1979
10. Cities Service Oil Company
1. 80-05729/NM-3621-79
2. 30-025-02378-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. Langlie Mattix Queen Unit #37
6. Langlie Mattix 7-Rivers Queen
7. Lea NM
8. .4 million cubic feet
9. November 8, 1979
10. El Paso Natural Oil Company
1. 80-05730/NM-3618-79
2. 30-025-23185-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. Humphrey Queen Unit #112
6. Langlie Mattix 7-Rivers Queen
7. Lea NM
8. .2 million cubic feet
9. November 8, 1979
10. El Paso Natural Oil Company
1. 80-05733/NM-3677-79
2. 30-025-25912-0000-0
3. 103 000 000
4. Amoco Production Company
5. Nellis Fed/A/Gas Com #1
6. Und West Tonto Penn-Morrow
7. Lea NM
8. 287.0 million cubic feet
9. November 8, 1979
10. Gas Company of New Mexico
1. 80-05734/NM-3673-79-3
2. 30-025-25604-0000-0
3. 103 000 000
4. The Superior Oil Company
5. Government L Com #1
6. Bell Lake South
7. Lea NM
8. 1000.0 million cubic feet
9. November 8, 1979
10.
1. 80-05735/NM-3768-79
2. 30-039-06309-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Jicarilla Apache #4
6. Jicarilla
7. Rio Arriba NM
8. 17.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05736/NM-1158-79
2. 30-045-05743-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Huerfano Unit NP #23
6. Huerfano-Pictured Cliffs Gas
7. San Juan NM
8. 20.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-03737/NM-2141-79
2. 30-039-06999-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit #19
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba NM
8. 20.8 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05739/NM-3614-79
2. 30-025-01633-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. E. K. Queen Unit #1-4
6. E. K. Yates 7-Rivers Queen
7. Lea NM
8. .1 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05740/NM-3613-79
2. 30-025-01601-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. E. K. Queen Unit #1-1
6. E. K. Yates 7-Rivers Queen
7. Lea NM
8. .1 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05741/NM-3615-79
2. 30-025-01615-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. E. K. Queen Unit #1-8
6. E. K. Yates 7-Rivers Queen
7. Lea NM
8. .1 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05742/NM-3616-79
2. 30-025-01609-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. E. K. Queen Unit #6-13
6. E. K. Yates 7-Rivers Queen
7. Lea NM
8. .1 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05743/NM-3617-79
2. 30-025-01634-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. E. K. Queen Unit #1-9
6. E. K. Yates 7-Rivers Queen
7. Lea NM
8. .2 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05744/NM-3619-79
2. 30-025-11433-0000-0
3. 108 000 000
4. Mobil Oil Corporation
5. Humphrey Queen Unit #18
6. Langlie Matix 7-Rivers Queen

7. Lea NM
8. .1 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05745/NM-3644-79
2. 30-025-04340-0000-0
3. 108 000 000
4. Warrior Inc.
5. Federal D Account B #6
6. Eumont Yates Seven Rivers Queen
7. Lea NM
8. 4.0 million cubic feet
9. November 8, 1979
10. Phillips Petroleum Company
1. 80-05746/NM-3836-79
2. 30-045-20801-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Zachry #12
6. Aztec Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05747/NM-3835-79
2. 30-045-07564-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Zachry #11
6. Aztec Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05748/NM-3834-79
2. 30-045-07628-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Zachry #9
6. Aztec Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05749/NM-3833-79
2. 30-045-07726-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Zachry #8
6. Aztec Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05750/NM-3831-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Zachry #8
6. Aztec Pictured Cliffs
7. San Juan NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05751/NM-3830-79
2. 30-045-07566-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Zachry #8
6. Aztec Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05752/NM-3754-79
2. 30-005-60379-0000-0
3. 102 000 000
4. C E Larue and B N Muncy Jr
5. Nola Federal #1
6. Sams Ranch Grayburg
7. Chaves NM
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05753/NM-3767-79
2. 30-039-21256-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Jicarilla Apache #18
6. Jicarilla
7. Rio Arriba NM
8. 21.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05754/NM-3766-79
2. 30-039-06339-0000-0
3. 108 000 000
4. Marathon Oil Company
5. Jicarilla Apache #5
6. Jicarilla
7. Rio Arriba NM
8. 10.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05755/NM-3761-79
2. 30-045-22548-0000-0
3. 108 000 000
4. Odessa Natural Corporation
5. Gulf Little Fed No. 1-25
6. Basin Dakota
7. San Juan NM
8. 5.8 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05756/NM-3760-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Odessa Natural Corporation
5. Little Federal No. 6
6. Conner Fruitland
7. San Juan NM
8. 4.7 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05757/NM-3759-79
2. 30-025-11710-0000-0
3. 108 000 000
4. Odessa Natural Corporation
5. Carlson Federal A No. 1
6. Justis
7. Lea NM
8. 11.9 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05758/NM-3758-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Odessa Natural Corporation
5. Little Federal No. 4
6. Conner Fruitland
7. San Juan NM
8. 1.7 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05759/NM-3829-79
2. 30-045-07725-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Summit #4
6. Fulcher Kutz Pictured Cliffs
7. San Juan County NM
8. .0 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Company
1. 80-05760/NM-3566-79
2. 30-025-25990-0000-0
3. 103 000 000
4. Getty Oil Company
5. Myers Langlie-Mattix Unit #188
6. Langlie Mattix
7. Lea NM
8. 8.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co.
1. 80-05761/NM-3564-79
2. 30-025-25191-0000-0
3. 103 000 000
4. Getty Oil Company
5. Hughes Federal No. 4
6. Langlie Mattix 7-Rivers Queen
7. Lea NM
8. 1.0 million cubic feet
9. November 9, 1979
10. Getty Oil Company Natural Gas Plant
1. 80-05762/NM-3563-79
2. 30-025-25534-0000-0
3. 103 000 000
4. Grace Petroleum Corporation
5. New Mexico E-Federal Comm
6. South Salt Lake Morrow
7. Lea NM
8. 912.0 million cubic feet
9. November 9, 1979
10. Natural Gas Pipeline Co of America
1. 80-05767/NM-3556-79
2. 30-045-20383-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Giomi Com A No. 1
6. Blanco Picture Cliff
7. San Juan NM
8. 10.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05768/NM-3555-79
2. 30-045-11791-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Riddle A No. 3
6. Blanco Picture Cliff
7. San Juan NM
8. 12.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05769/NM-3554-79
2. 30-045-11640-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Florance No. 85
6. Blanco Picture Cliff
7. San Juan NM
8. 17.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05770/NM-3553-79
2. 30-045-11658-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Florance D No. 2
6. Blanco Picture Cliff
7. San Juan NM
8. 18.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05771/NM-3551-79

2. 30-045-11641-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Florance No. 72
6. Blanco Picture Cliff
7. San Juan NM
8. 18.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05772/NM-3550-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Florance B No. 1
6. Blanco Picture Cliff
7. San Juan NM
8. 12.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05773/NM-3557-79
2. 30-045-07808-0000-0
3. 108 000 000
4. Tenneco Oil Company
5. Jones No. 3
6. Blanco Picture Cliff
7. San Juan NM
8. 4.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05774/NM-3565-79
2. 30-025-25986-0000-0
3. 108 000 000
4. Getty Oil Company
5. Myers Langlie-Mattix Unit #23
6. Langlie Mattix
7. Lea NM
8. 14.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Co.
1. 80-05775/NM-3880-79
2. 30-039-20702-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Canyon Largo Unit #199
6. Ballard Pictured Cliffs Gas
7. Rio Arriba NM
8. 20.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05776/NM-3879-79
2. 30-045-11930-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Huerfano Unit #156
6. Basin Dakota Gas
7. San Juan NM
8. 18.3 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp Southern Union Gathering Co
1. 80-05777/NM-4002-79
2. 30-025-26156-0000-0
3. 103 000 000
4. Flag-Redfern Oil Company
5. Lynn B-25 Federal #5 (NM-21644)
6. Langlie Mattix
7. Lea NM
8. 75.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05778/NM-4003-79
2. 30-025-26143-0000-0
3. 103 000 000
4. Martindale Petroleum Corporation
5. Closson B #24
6. Jalmat Yates Seven Rivers
7. Lea NM
8. 233.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05779/NM-3884-79
2. 30-045-21138-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Sunray H #5
6. Blanco Pictured Cliffs Gas
7. San Juan NM
8. 19.0 million cubic feet
9. November 8, 1979
10. El Paso Natural Gas Company
1. 80-05780/NM-3885-79
2. 30-045-21288-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Storey B #7
6. Aztec Pictured Cliffs Gas
7. San Juan NM
8. 20.8 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05781/NM-3886-79
2. 30-045-22883-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Horton #2
6. Blanco Pictured Cliffs Gas
7. San Juan NM
8. 19.7 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05782/NM-3887-79
2. 30-039-05206-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Lindrieth Unit #53
6. South Blanco Pictured Cliffs Gas
7. Rio Arriba NM
8. 18.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05783/NM-3889-79
2. 30-045-06331-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Lodewick #3
6. Fulcher Kutz Pictured Cliffs Gas
7. San Juan, NM
8. 20.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05784/NM-3891-79
2. 30-045-20626-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Huerfano Unit #206
6. Basin Dakota Gas
7. San Juan, NM
8. 19.3 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corp., Southern Union Gathering Co.
1. 80-05785/NM-3897-79
2. 30-015-70217-0000-0
3. 102 000 000
4. Mesa Petroleum Co
5. Williamson Federal Com #1
6. Undesignated Atoka
7. Eddy, NM
8. 204.0 million cubic feet
9. November 9, 1979
10. Northern Natural Gas Co
1. 80-05786/NM-3894-79
2. 30-039-06649-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. Rincon Unit #3
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 20.8 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-03787/NM-3904-79
2. 30-039-21183-0000-0
3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 14
6. South Blanco—Pictured Cliffs
7. Rio Arriba, NM
8. 16.6 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05788/NM-3903-79
2. 30-039-21764-0000-0
3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 12
6. South Blanco—Pictured Cliffs
7. Rio Arriba, NM
8. 17.6 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05785/NM-3902-79
2. 30-039-21763-0000-0
3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 11
6. South Blanco—Pictured Cliffs
7. Rio Arriba, NM
8. 7.9 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05790/NM-3901-79
2. 30-039-20456-0000-0
3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 10
6. South Blanco—Pictured Cliffs
7. Rio Arriba, NM
8. 9.8 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05791/NM-3899-79
2. 30-025-11674-0000-0
3. 108 000 000
4. Mesa Oil Company
5. A B Coates B No. 1
6. Jalmat Yates—Seven Rivers
7. Lea, NM
8. 15.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05792/NM-3893-79-1
2. 30-015-21424-0000-0
3. 103 000 000
4. Inexco Oil Company
5. Majoros Federal No. 2Y
6. Morro (undesignated)
7. Eddy, NM
8. 182.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05793/NM-3905-79
2. 30-039-21185-0000-0

3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 15
6. South Blanco-Pictured Cliffs
7. Rio Arriba, NM
8. 5.2 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05794/NM-3909-79
2. 30-041-10099-0000-0
3. 108 000 000
4. Layton Enterprises Inc
5. Kirkpatrick Federal No. 1
6. Bluit San Andres
7. Roosevelt, NM
8. 1.8 million cubic feet
9. November 9, 1979
10. Cities Service Company
1. 80-05795/NM-3906-79
2. 30-039-21892-0000-0
3. 108 000 000
4. Cotton Petroleum Corporation
5. Apache No. 16
6. South Blanco—Pictured Cliffs
7. Rio Arriba, NM
8. 4.4 million cubic feet
9. November 9, 1979
10. Northwest Pipeline Corporation
1. 80-05798/NM-3911-79
2. 30-045-08392-0000-0
3. 108 000 000
4. Helen Loraine Harvey
5. Jones No. 1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 13.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05797/NM-3876-79
2. 30-039-20724-0000-0
3. 108 000 000
4. El Paso Natural Gas Company
5. S J 27-4 Unit No. 71
6. Basin Dakota Gas
7. Rio Arriba, NM
8. 21.5 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05798/NM-3898-79-2
2. 30-039-21850-0000-0
3. 103 000 000
4. J G Merrion & R L Bayless
5. North Lindreth Com No. 1A
6. Blanco Mesa Verde
7. Rio Arriba, NM
8. 70.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05799/NM-3939-79
2. 30-045-22574-0000-0
3. 108 000 000
4. Getty Oil Company
5. Mexico-Federal B No. 1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 18.4 million cubic feet
9. November 9, 1979
10. Southern Union Gathering Co
1. 80-05800/NM-3994-79
2. 30-039-21518-0000-0
3. 103 000 000
4. Supron Energy Corporation
5. Jicarilla F 4
6. South Blanco-Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05801/NM-3995-79
2. 30-039-21540-0000-0
3. 103 000 000
4. Supron Energy Corporation
5. Jicarilla K 20
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. .0 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05802/NM-3957-79
2. 30-015-22561-0000-0
3. 102 000 000
4. Mesa Petroleum Co
5. Runyan Federal Com No. 1
6. Wildcat
7. Eddy, NM
8. 134.0 million cubic feet
9. November 9, 1979
10. Natural Gas Pipeline Co of America
1. 80-05803/NM-3975-79
2. 30-045-05995-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Davis No. 2
6. Ballard Pictured Cliffs
7. San Juan County, NM
8. 8.9 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05804/NM-3976-79
2. 30-039-05702-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla No. 1
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 8.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05805/NM-3977-79
2. 30-039-20433-0000-0
3. 108 000 000
4. Supron Energy Corporation
5. Jicarilla K-17
6. Basin Dakota
7. Rio Arriba County, NM
8. 6.6 million cubic feet
9. November 9, 1979
10. Gas Company of New Mexico
1. 80-05806/NM-2697-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 9
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. .2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05807/NM-2695-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack #2
6. Kutz Pictured Cliffs
7. San Juan, NM
- 1.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-5808/NM-2698-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack No. 7
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05810/NM-2700-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Bolack 2-D
6. Basin Dakota
7. San Juan, NM
8. 20.4 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05811/NM-2701-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Bolack 4-D
6. Basin Dakota
7. San Juan, NM
8. 10.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05812/NM-2703-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 14
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 17.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05813/NM-2705-79
2. 30-045-00000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Alice Bolack No. 2
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. .2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05814/NM-2707-79
2. 30-045-0000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 5
6. West Kutz Pictured Cliffs
7. San Juan, NM
8. 6.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05815/NM-2708-79
2. 30-045-0000-0000-0
3. 108 000 000
4. Husky Oil Company
5. Schwerdtfeger No. 10
6. West Kutz Pictured Cliffs

7. San Juan, NM
8. 2.2 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company
1. 80-05643/UA-3670-79
2. 43-037-30460-0000-
3. 103
4. The Superior Oil Company
5. McElmo Creek Unit T-10
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-05644/UA-3671-79-2
2. 430037-30405-0000-0
3. 102 000 000
4. The Superior Oil Company
5. Navajo Tribal 34-42
6. Rockwell Springs
7. San Juan, UT
8. 200.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05645/UA-3671-79-3
2. 43-037-30405-0000-0
3. 103 000 000
4. The Superior Oil Company
5. Navajo Tribal 34-42
6. Rockwell Springs
7. San Juan, UT
8. 200.0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05648/UA-3672-79
2. 43-037-30459-0000-0
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit T-14
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-057-31/UA-3669-79-A
2. 43-037-30457-0000-1
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit S-8
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05732/UA-3669-79-B
2. 43-037-30457-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit S-8
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

1. 80-05732/UA-3669-79-B
2. 43-037-30457-0000-2
3. 103 000 000
4. The Superior Oil Company
5. McElmo Creek Unit S-8
6. Greater Aneth
7. San Juan, UT
8. .0 million cubic feet
9. November 9, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 175.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-37829 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed With the Office of Hearings and Appeals

Week of July 13 through July 20, 1979.

Notice is hereby given that during the week of July 13 through July 20, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix below to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before December 31, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before January 9, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

December 3, 1979.

Melvin Goldstein,
Director, Office of Hearings and Appeals.

Harvey J. Bean, Erie, Pa., DRO-0274, motor gasoline

On July 13, 1979, Harvey J. Bean, 471 West Arlington, Erie, Pennsylvania, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Northeast Enforcement District issued to him on July 2, 1979. In the IROIC the Enforcement District found that on July 2, 1979 Harvey Bean sold motor gasoline at prices that were in violation of the DOE pricing regulations. The IROIC therefore ordered Bean to sell regular leaded gasoline at 91.3 cents per gallon and regular unleaded gasoline at 95.3 cents per gallon.

Belcher of New England, Inc., Revere, Mass., DRO-0275, motor gasoline

On July 16, 1979, Belcher of New England, Inc. (Belcher), 222 Lee Burbank Highway, Revere, Massachusetts 02151 filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Office of Enforcement, Northeast District, issued on July 6, 1979. In the IROIC, the Office of Enforcement found that Belcher had violated its supplier/purchaser obligations as defined in Section 211 of the DOE regulations by refusing to supply motor gasoline to its customer, Acomi, Inc. The IROIC requires Belcher to supply motor gasoline to Acomi, Inc. and to begin deliveries within twenty-four hours after receipt of the IROIC.

Mark Crockett d.b.a. Prestige Marketing, Inc., Kansas City Mo., DRO-0278, motor gasoline

On July 17, 1979, Mark Crockett, d/b/a/ Prestige Marketing, Inc., 5507 Northeast 51st Street, Kansas City, Missouri, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Central Enforcement District Office of Enforcement issued to the firm only July 6, 1979. In the IROIC, the Enforcement district found that there was a strong probability that Crockett had modified his normal business practices and as a result Crockett had violated 10 CFR 210.62. The Enforcement Office also stated that the public and effectiveness of the DOE's enforcement program will incur irreparable harm if Crockett were not required to immediately desist from the alleged violation. The IROIC accordingly directed Crockett to stop employing any form of discriminatory practices in sales of motor gasoline and to conform his business practices to those followed during the base period.

Elmwood Car Wash, Inc., Jefferson, La., DRO-0277, motor gasoline

On July 13, 1979 Elmwood Car Wash, Inc., 1005 South Clearview Parkway, Jefferson, Louisiana, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Southwest District issued to him on July 5, 1979. In the IROIC the Enforcement District found that on June 15, 1979 Elmwood Car Wash was engaged in discriminatory conduct and had modified its normal business practices in an unlawful manner by imposing a tie-in sale which requires customers to purchase a car wash in order to buy gasoline. Accordingly, the IROIC ordered Elmwood to discontinue this tie-in arrangement.

Englewood Getty Service, Inc., Englewood, N.J. DRO-0283 motor gasoline

On July 18, 1979, Englewood Getty Service, Inc., 134 Route 4 East, Englewood, New Jersey 07631, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the New Jersey Office of the Department of Energy issued to the firm on July 5, 1979. In the interim Remedial Order, the New Jersey Office found that Englewood Getty committed pricing violations in connection with resales of motor gasoline. According to the Interim Remedial Order, Englewood Getty's violations resulted in overcharges of \$5,000.

George's Shell, Inc., Elizabeth, N.J., DRO-0290, motor gasoline

On July 19, 1979, George Alexiades, d/b/a George's Shell, Inc., 375 Morris Avenue, Elizabeth, New Jersey 07208, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 5, 1979. In the IROIC, the New Jersey DOE found that on June 25, 1979, George's Shell, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date, and that George's Shell, Inc. had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered George's Shell, Inc. to reduce its prices to the established lawful level and to maintain required records or to justify within five days the lawfulness of its June 25, 1979 selling prices.

Golden Eagle Oil Co., Inc., Los Angeles, Calif., DRO-0286, fuel oil

On July 19, 1979, Golden Eagle Oil Co., 707 Wilshire Boulevard, Los Angeles, California 90017, filed a Notice of Objection to a Proposed Remedial Order which the DOE National Office of Enforcement issued to the firm on June 20, 1979. In the Proposed Remedial Order the National Office found that during November 1974 through January 1975, Golden Eagle improperly received and sold entitlements with respect to residual fuel oil which it imported. According to the Proposed Remedial Order the Golden Eagle's violation resulted in \$395,770 of overcharges.

Hawkie's Service Station Corp., Malden, Mass., DRO-0281, Gasoline Retailer

On July 17, 1979, Hawkie's Service Station Corporation (Hawkie's), 333-445 Eastern Avenue, Malden, Massachusetts 02148, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Northeast District Office of Enforcement of the Economic Regulatory Administration (ERA) issued to Hawkie's on July 6, 1979. In the IROIC, the ERA found that there was a strong probability that Hawkie's had modified its normal business practices and as a result Hawkie's had violated 10 CFR 210.62. The ERA also stated that the public and effectiveness of the DOE's enforcement program will incur irreparable harm if Hawkie's were not required to immediately desist from the alleged violation. The IROIC

accordingly directed Hawkie's to stop employing any form of discriminatory practices in sales of motor gasoline and to conform its business practices to those followed during the base period.

Perez's Amoco, Inc., Elizabeth, N.J., DRO-0289, Motor Gasoline

On July 19, 1979, Alfredo Perez, Jr. d/b/a Perez's Amoco, Inc., 380 Morris Avenue, Elizabeth, New Jersey 07208, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the New Jersey Department of Energy issued to the firm on July 19, 1979. In the IROIC, the New Jersey DOE found that on June 25, 1979, Perez's Amoco, Inc. violated 10 CFR 212.93 by charging prices for certain grades of motor gasoline which exceeded its maximum lawful selling prices on that date and that Perez's Amoco, Inc. had violated 10 CFR 210.92 and 212.93 by failing to maintain records to support the lawfulness of its selling prices for sales of gasoline on that date. In the IROIC, the New Jersey DOE ordered Perez's Amoco, Inc. to reduce its prices to the established lawful level and to maintain required records or to justify within five days the lawfulness of its June 25, 1979 selling prices.

K. R. "Ken" Rearick-d/b/a. Clearview Gulf Service Center, Metairie, La., DRO-0273, Gasoline Retailer

On July 16, 1979, K. R. "Ken" Rearick (Rearick), d/b/a. Clearview Gulf Service Center, 3120 Clearview Parkway, Metairie, Louisiana 7002, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Southwest District Office of Enforcement of the Economic Regulatory Administration (ERA) issued to Rearick on July 2, 1979. In the IROIC, the ERA found that there was a strong probability that Rearick had modified his normal business practices and as a result Rearick had violated 10 CFR 210.62. The ERA also stated that the public and effectiveness of the DOE's enforcement program will incur irreparable harm if Rearick were not required to immediately desist from the alleged violation. The IROIC accordingly directed Rearick to stop employing any form of discriminatory practices in sales of motor gasoline and to conform his business practices to those followed during the base period.

Red Carpet Car Wash, Inc., Corpus Christi, Tex., DRO-0279 Motor Gasoline

On July 17, 1979, Mr. Fred E. Long, d/b/a Red Carpet Car Wash, Inc., 1902 The Six-Hundred Building, Corpus Christi, Texas 78401, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) that the Department of Energy Southwest District Office of Enforcement issued to him on June 29, 1979. The IROIC found that during June 1979, Red Carpet modified its normal business practices in an unlawful manner by requiring customers without a specified credit card to purchase a car wash as a condition to purchasing motor gasoline at a Red Carpet facility in Corpus Christi, Texas.

Rock Creek Gulf, Washington, D.C., DRO-0272 Motor Gasoline

On July 13, 1979, Rock Creek Gulf, 1827 Adams Mill Road, N.W., Washington, D.C., filed a Notice of Objection to an Interim Remedial Order for immediate Compliance which the Office of Enforcement issued to the firm on July 3, 1979. In the IROIC the Office of Enforcement found that the prices that Rock Creek Gulf was charging at the time of issuance of the IROIC were five to nine cents above the firm's maximum lawful prices.

Saveway Stations, Inc./Auto Flite Company, Inc., Las Vegas, Nev., DRO-0288, Motor Gasoline & Diesel Products

On July 19, 1979, Saveway Stations, Inc. and Auto Flite Company, Inc. 2424 South Highland Avenue, Las Vegas, Nevada 89102, filed a Notice of Objection to a Proposed Remedial Order issued to them on July 2, 1979, by the Western District Office of Enforcement. The Proposed Remedial Order found that from November 1, 1973 through May 31, 1975, Saveway and Auto Flite committed pricing violations of \$999,791 in connection with the resale of motor gasoline and diesel fuel in the State of Nevada.

Shell Oil Company, Houston, Tex., DRO-0284, Motor Gasoline

On July 18, 1979, Shell Oil Company, P.O. Box 2463, Houston, Texas 70001, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the DOE Southwest District Office of Special Counsel issued to Shell Oil Company on July 9, 1979. In the Interim Remedial Order for Immediate Compliance, the Office of Special Counsel ordered Shell Oil Company to resupply D and D Shell, 1317 Fulton Street, San Francisco, California, with its May and June base period volumes, reduced only by Shell's allocation fraction, at May and June prices. Shell also is ordered to satisfy its obligation to D and D Shell in the future.

Tenaflly Getty Service, Inc., Tenaflly, N.J., DRO-0282, Motor Gasoline

On July 18, 1979, Tenaflly Getty Service, Inc., 25 Central Avenue, Tenaflly, New Jersey 07670, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the New Jersey Office of the Department of Energy issued to the firm on July 5, 1979. In the Interim Remedial Order, the New Jersey Office found that Tenaflly Getty committed pricing violations in connection with resales of motor gasoline. According to the Interim Remedial Order, Tenaflly Getty's violations resulted in overcharges of \$5,000.

Robert A. Williams, d.b.a. Heights Shell, Minneapolis, Minn., DRO-0291, Motor Gasoline

On July 16, 1979, Robert A. Williams d/b/a Heights Shell, 3701 Central Avenue, N.E., Minneapolis, Minnesota 55421, filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance (IROIC) which the Central Enforcement District of the Economic Regulatory Administration of the Department of Energy issued to the firm on July 6, 1979. In

the IROIC, the Enforcement District found that on July 6, 1979, Heights Shell (1) charged prices in excess of its maximum lawful selling prices for certain grades of motor gasoline in violation of 10 CFR 212.93; (2) failed to post maximum lawful selling prices on the face of each pump in violation of 10 CFR 212.129; and (3) failed to maintain books and records to support the lawfulness of the prices it charged in sales of motor gasoline in violation of 10 CFR 210.92 and 212.93. The IROIC directed Heights Shell to come into compliance immediately with applicable legal requirements or to come forth within five days with documentation to establish the lawfulness of each price charged on the date of the audit.

[FR Doc. 79-37722 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

Office of the Special Counsel for Compliance

Consent Order With Chevron U.S.A., Inc.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

SUMMARY: Pursuant to 10 CFR 205.199], the Office of Special Counsel (OSC) of the Department of Energy hereby gives notice that it has entered into a Consent Order with Chevron, U.S.A., Inc. (Chevron). The Consent Order addresses Chevron's compliance with the transportation component of the landed cost regulations, Subpart E of 10 CFR Part 212 as raised in a Notice of Probable Violation (NOPV) issued to Chevron on January 31, 1978. In the Consent Order, Chevron agrees to remedy the violations alleged by reducing its costs by approximately \$12,074,000.

As required by 10 CFR 205.199], OSC will receive comments concerning the Consent Order for a period of at least 30 days following publication of this notice. Although the Consent Order has been signed and accepted by the parties, OSC may, after consideration of the comments received, withdraw its acceptance to the Consent Order, attempt to negotiate a modification of the Consent Order, or make the Consent Order final as proposed.

DATES: Comments received on or before January 4, 1980 will be considered.

FOR FURTHER INFORMATION CONTACT: Comments, and questions, should be directed to: Herbert G. Schreiber, Jr., Chief Counsel, Pacific District, Office of Special Counsel, Department of Energy, 525 Market Street, Suite 2560, San Francisco, CA 94105, 415-556-8828.

Copies of the Consent Order may be received by written request to the same

address. Copies will also be available at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave., S.W., Room GA-152, Washington D.C. 20585.

SUPPLEMENTARY INFORMATION:

Background

Chevron is a refiner subject to the Mandatory Petroleum Price and Allocation Regulations. OSC conducted an audit of Chevron's compliance with the regulations governing the computation of landed costs, 10 CFR Part 212, Subpart E, as well as related and predecessor provisions, applicable to Chevron's importation of Indonesian crude oil. The audit examined the period August 1973 through December 1975.

As a result of the audit, OSC identified what it believed to be a violation of the landed cost regulation in that Chevron improperly computed the transportation costs associated with the landed cost of the Indonesian crude oil. Chevron used the actual transportation charges rather than using the London Tanker Broker Panel Average Freight Rate Assessment (AFRA) method, its customary accounting procedure, which it was required to use, as more fully described in the (NOPV) issued January 31, 1978. Based on the foregoing, OSC alleged that the transportation costs computed in this manner exceeded the applicable AFRA costs Chevron could have claimed by approximately \$12,074,000.

The Consent Order

Chevron and OSC have agreed to resolve the issues raised in the Notice through this Consent Order rather than through adversary proceedings. The significant terms of the Consent Order are that:

1. Chevron agrees to adjust its landed cost in each month of measurement where transportation costs were computed pursuant to actual costs rather than the AFRA method. Chevron shall recalculate its increased product costs, by product category, in accordance with instructions applicable to Forms FEO-96 and FEA P110-M-1.

2. Based upon the above recalculation, Chevron agrees to determine whether it has over-recovered increased product costs with respect to any product category during any months of measurement. In the event that consecutive months of over-recovery exist, Chevron shall submit within 30 days of the effective date of this Consent Order to OSC for its approval a plan for instituting refunds, including interest.

3. The Consent Order does not constitute an admission by Chevron or a

finding by OSC that violations of the regulations occurred. Chevron waives any rights to contest or appeal the terms of the Order.

4. The provisions of 10 CFR § 205.199], including the publication of this notice, are applicable to the Consent Order.

Submission of Written Comments

Interested persons are invited to comment on this Consent Order by submitting such comments in writing to the address noted above. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Chevron Consent Order." All comments received by 5:00 p.m. PDT on January 4, 1980, will be considered by OSC in evaluating the Consent Order. Modifications of the Consent Order which, in the opinion of OSC significantly change the terms or impact of the Consent Order will be published for comment.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C., November 29, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-37801 Filed 12-7-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1372-2; OTS-51006A]

Amendment to Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA), Office of Toxic Substances.

ACTION: Amendment to Premanufacture Notice.

SUMMARY: In Premanufacture Notice (PMN) No. 5AHQ-1079-0035 submitted to the EPA, Schenectady Chemicals, Inc., claimed that the specific use and the estimated production volume of its chemical substance 2-tert-butyl-4-sec-butylphenol were confidential information. The Company has since withdrawn its claims of confidentiality. This notice announces that the new chemical substance will be used as a chemical intermediate (site limited). The company has estimated that 1,000 to 10,000 pounds will be manufactured in 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of

Pesticides and Toxic Substances, EPA, 401 M Street SW., Washington, D.C. 20460 (202/426-3936). All portions of this notice, summaries of correspondence between the company and EPA, and other written material relating to the notice are available in the public record and may be viewed in Room 447, East Tower, at the above address. The public reading area is open from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: On October 17, 1979 (44 FR 59954), the EPA announced receipt of a PMN (No. 5AHQ-1079-0035(S)) submitted under provisions of section 5 of the Toxic Substances Control Act (TSCA). Schenectady Chemicals, Inc., 9th & Congress Streets, Schenectady, NY 12301, claimed as confidential information the specific use of its new chemical substance, 2-tert-butyl-4-sec-butylphenol, and the amount to be produced.

Subsequently, the company withdrew its claims of confidentiality. In addition, the PMN No. 5AHQ-1079-0035(S) has been corrected to read 5AHQ-1079-0035. Therefore, the Agency is amending PMN No. 5AHQ-1079-0035 to include the use of the new chemical substance as a chemical intermediate (site limited) and the total estimated production volume for 1980 of 1,000 to 10,000 pounds.

Dated: December 3, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 79-37753 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1372-5]

Approval of Wisconsin's NPDES Program To Regulate Federal Facilities

AGENCY Environmental Protection Agency.

ACTION: Notice of approval of the State of Wisconsin's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) with respect to Federal facilities.

SUMMARY: On November 26, 1979, the Environmental Protection Agency (EPA) approved the State of Wisconsin's request to include regulation of Federal facilities under their State water pollution permit program. Previously the State had been approved to participate in the National Pollutant Discharge Elimination System (NPDES).

FOR FURTHER INFORMATION CONTACT: Joel Blumstein, Permits Division (EN-

336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate Federally owned or operated facilities under their water pollution control programs. Prior to the amendment, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the National Pollutant Discharge Elimination System (NPDES), were precluded from regulating Federal facilities. Therefore, the Environmental Protection Agency (EPA) in approving State programs under section 402(b) reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved States. Today's Federal Register notice is to announce the approval of the State of Wisconsin's request to assume NPDES authority over Federal facilities.

Also included in this notice is a list of approved NPDES States indicating which have been granted Federal facilities and pretreatment authority.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Alabama	10-19-79	10-19-79	10-19-79
California	05-14-73	05-05-78	
Colorado	03-27-75		
Connecticut	09-26-73		
Delaware	04-01-74		
Georgia	06-28-74		
Hawaii	11-28-74	06-01-79	
Illinois	10-23-77	09-20-79	
Indiana	01-01-75	12-09-78	
Iowa	08-10-78	08-10-78	
Kansas	06-28-74		
Maryland	09-05-74		
Michigan	10-17-73	12-09-78	
Minnesota	06-30-74	12-09-78	07-16-79
Mississippi	05-01-74		
Missouri	10-30-74	06-26-79	
Montana	06-10-74		
Nebraska	06-12-74	11-02-79	
Nevada	09-19-75	08-31-78	
New York	10-28-75		
North Carolina	10-19-75		
North Dakota	06-13-75		
Ohio	03-11-74		
Oregon	09-26-73	03-02-79	
Pennsylvania	06-30-78	06-30-78	
South Carolina	06-10-75		
Tennessee	12-28-77		
Vermont	03-11-74		
Virgin Islands	06-30-76		
Virginia	03-31-75		
Washington	11-14-73		
Wisconsin	02-04-74	11-26-79	
Wyoming	01-30-75		

¹On January 26, 1979, the United States Court of Appeals for the Seventh Circuit invalidated the Agency's approval of the Illinois NPDES program in *Citizens for a Better Environment v. Environmental Protection Agency* (No. 78-1042; Petition for rehearing denied May 16, 1979). However, on May 30, 1979, the Court stayed the enforcement of its order until

February 23, 1980, in order to provide EPA an opportunity to revise its regulations governing public participation in enforcement. In the interim, the State of Illinois is operating an approved program.

For further information on the *Citizens for a Better Environment* case and the Agency's response thereto, see the public participation in enforcement regulations that were recently proposed in the FEDERAL REGISTER (44 FR 49275, August 22, 1979).

²On August 15, 1979, EPA approved a modification to Washington's NPDES program to allow the State Energy Facility Site Evaluation Council to issue and enforce permits.

Dated: November 26, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 79-37751 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1372-3; PP 8G2079/T223]

Pesticide Programs; Extension of a Temporary Tolerance

The Environmental Protection Agency (EPA) in response to a pesticide petition (PP 8G2079) submitted to the Agency by EM Laboratories, Inc., 500 Executive Blvd., Elmsford, NY 10523, established a temporary tolerance for residues of the plant growth regulator that is a mixture of methyl 2-chloro-9-hydroxyfluorene-9-carboxylate, methyl 9-hydroxy-fluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers at 0.1 part per million (ppm). This temporary tolerance is scheduled to expire March 19, 1980.

EM Laboratories, Inc., requested a one-year extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit, 21137-EUP-3, that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary tolerance would protect the public health. Therefore, the temporary tolerance has been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. EM Laboratories, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production,

distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires March 19, 1981. Residues not in excess of 0.1 ppm remaining in or on cucumbers after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St. SW., Washington, DC 20460 (202/755-2196).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (2 U.S.C. 346a(j))

Dated: December 3, 1979.

Douglas D. Camp, Jr.

Director, Registration Division.

[FR Doc. 79-37752 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1372-4; OTS-51010]

Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notices.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the Federal Register. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Persons who wish to file written comments on a PMN should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, to the Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

The PMN's and other documents in the public record are available for

public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT:

Mr. Kirk Maconaughey, Premanufacture Review Division (TS-794), Office of Pesticides and Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-2601.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979 (44 FR-28559). (Notice of availability of the Initial Inventory was published in the Federal Register on May 15, 1979 (44 FR 28558).) The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms (44 FR 2242, January 10, 1979). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see the section entitled "Notice in the Federal Register" on p. 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a non-confidential description of the potential exposures from use, and a generic name for the

chemical. EPA will publish the generic name, and the generic use and potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

EPA normally has 90 days to review a PMN once the Agency receives it (section 5(a)(1)). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

(Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604))

Dated: December 3, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-1179-0073 and 5AHQ-1179-0074.

Close of Review Period: February 21, 1980.
Manufacturer's Identity: Pioneer Plastics, Pionite Road, Auburn, Maine 04210.

New Chemical Substance: The chemical identity of PMN No. 5AHQ-1179-0073 is 1,3-benzenedicarboxylic acid, polymer with E 2-butenedioic acid, 1,2-propanediol, and 1,3-butadiene. The chemical identity of the substance for PMN No. 5AHQ-1179-0074 is 1,3-benzenedicarboxylic acid, polymer with E 2-butenedioic acid, 1,2-propanediol, and 1,3-butadiene acrylonitrile. Information provided by the company concerning *Uses* and *Data Submitted* for each PMN is identical and is as follows:

Uses: The substances are intended to be used in fiber reinforced plastic compositions which will be formed into such articles as appliance and automotive parts. The

company anticipates that the first year production for each substance will be approximately 200,000 pounds with an expected increase to 1,000,000 pounds within two years.

Data Submitted: The substances are defined as polyester resins. The company estimates that up to ten people will be directly exposed for an eight-hour period to the raw materials and finished resin. An additional twenty people who work at the same location may be exposed for short periods of time. Distillate byproducts of the substances are common to the polyester resin industry. The substances will be disposed of by incineration while their distillate byproducts will be disposed in a biological treatment plant. The company indicated that no test data are available and that the health and environmental effects are not known or reasonably ascertainable.

[FR Doc. 79-37754 Filed 12-7-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing

Adopted: November 23, 1979;

Released: November 28, 1979.

By the Chief, Broadcast Facilities Division: Notice is hereby given pursuant to §§ 73.3572(c) and 73.3573(d) of the Commission's Rules, that on January 4, 1980, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 73.3591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on January 3, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on January 3, 1980.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 73.3584(a) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT-790424II—New: Honaker, Virginia, Russell County Board of Supervisors, Req: Channel 51, 692-698 MHz, 100 watts, Primary: WJHL-TV, Johnson City, Tennessee

BPTT-790430IN—New: Blue Mountain, Rangely & Dinosaur, Colorado, Rio Blanco County TV Association, Inc., Req: Channel 59, 740-746 MHz, 100 watts, Primary: KRMA-TV, Denver, Colorado

BPTT-790509IC—New: Carpenterville, Oregon, Sierra Cascade Communications, Inc., Req: Channel 60, 746-752 MHz, 1 watt, Primary: KTVL-TV, Medford, Oregon

BPTT-790521IH—New: Starbuck & All Pope County, Minnesota, Starbuck Area Development Corporation, Req: Channel 64, 770-776 MHz, 100 watts, Primary: WCCO-TV, Minneapolis, Minnesota

BPTT-790522IC—New: Cottonwood, Clarkdale & Cornville, Arizona, Meredith Corporation, Req: Channel 40, 626-632 MHz, 100 watts, Primary: KPHO-TV, Phoenix, Arizona

BPTT-790522ID—New: Flagstaff, Arizona, Meredith Corporation, Req: Channel 57, 728-734 MHz, 100 watts, Primary: KPHO-TV, Phoenix, Arizona

BPTT-790524IJ—New: Honaker, Virginia, Russell County Board of Supervisors, Req: Channel 53, 704-710 MHz, 100 watts, Primary: WCYB-TV, Bristol, Virginia

BPTT-790524IK—New: Castelwood, Virginia, Russell County Board of Supervisors, Req: Channel 59, 740-746 MHz, 100 watts, Primary: WJHL-TV, Johnson City, Tennessee

BPTT-790524IL—New: Castelwood, Virginia, Russell County Board of Supervisors, Req: Channel 64, 770-776 MHz, 100 watts, Primary: WCYB-TV, Bristol, Virginia

BPTT-790524IM—New: Dickensonville, Virginia, Russell County Board of Supervisors, Req: Channel 65, 776-782 MHz, 100 watts, Primary: WJHL-TV, Johnson City, Tennessee

BPTT-790605II—New: Port Henry & Crown Point, New York, Northeast New York Educational Television Association, Req: Channel 60, 746-752 MHz, 100 watts, Primary: WCFE-TV, Plattsburgh, New York

BPTT-790605IJ—New: Westport, New York, Northeast New York Educational Television Association, Req: Channel 67, 788-794 MHz, 10 watts, Primary: WCFE-TV, Plattsburgh, New York

BPTT-790612IJ—New: River Falls, Wisconsin, State of Wisconsin-Educational Communications Board, Req: Channel 55, 716-722 MHz, 100 watts, Primary: WHWC-TV, Menomonie, Wisconsin

BPTT-790612IK—New: Township of Washington Island & Upper Door County, Wisconsin, State of Wisconsin-Educational Communications Board, Req: Channel 55, 716-722 MHz, 100 watts, Primary: WPNE-TV, Green Bay, Wisconsin

BPTT-790723IB—New: Cloverdale & Hebo, Oregon, State of Oregon Acting By and Through the State Board of Higher Education, Req: Channel 55, 716-722 MHz, 10 watts, Primary: KOAC-TV, Corvallis, Oregon

BPTT-790723IC—New: Grays River & Lebam, Washington and Astoria, Oregon, State of Oregon Acting By and Through the State Board of Higher Education, Req: Channel 59, 740-746 MHz, 100 watts, Primary: KOAP-TV, Portland, Oregon

BPTT-790723ID—New: Seaside & Cannon Beach, Oregon, State of Oregon Acting By

and Through the State Board of Higher Education, Req: Channel 62, 758-764 MHz, 100 watts, Primary: KOAP-TV, Portland, Oregon

BPTT-790725IB—New: Ticonderoga, New York, Northeast New York Educational Television Association, Req: Channel 67, 788-794 MHz, 10 watts, Primary: WCFE-TV, Plattsburgh, New York

BPTT-790727IE—New: Crystal Falls Township, Michigan, Crystal Falls Township, Req: Channel 49, 690-696 MHz, 100 watts, Primary: WLUK-TV, Green Bay, Wisconsin

BPTT-790808IF—New: Casper, Glenrock, Midwest & Rural Areas, Wyoming, Hi Ho Broadcasting Corporation of Wyoming, Req: Channel 20, 506-512 MHz, 1000 watts, Primary: KWRB-TV, Riverton, Wyoming

BPTT-790814IA—New: Waimea (Kamuela), Hawaii, Hawaii Public Broadcasting Authority, Req: Channel 63, 764-770 MHz, 100 watts, Primary: KMED-TV, Wailuku, Hawaii

BPTT-790820IC—New: San Sebastián, Puerto Rico, Ponce Television Corporation, Req: Channel 38, 614-620 MHz, 1000 watts, Primary: WRK-TV, Ponce, Puerto Rico

BPTT-790904IA—New: Booneville & Philco, California, Anderson Valley Television, Inc., Req: Channel 67, 788-794 MHz, 20 watts, Primary: KBHK-TV, San Francisco, California

BPTT-790904IB—New: Santa Barbara, Ventura & Oxnard, California, KEY Television, Inc., Req: Channel 57, 728-734 MHz, 100 watts, Primary: KEYT-TV, Santa Barbara, California

BPTT-790904IC—New: Cody, Powell & Rural Area, Wyoming, Park County, Req: Channel 47, 666-674 MHz, 100 watts, Primary: KWRB-TV, Thermopolis, (Riverton) Wyoming

BPTT-790910IA—K61AX: Wellton & Mohawk Valley, Arizona, Wellton-Mohawk Irrigation Drainage District, Req: Add San Luis, Gadsden & Somerton, Arizona to present principal community

BPTT-790910IB—K67Bl: Wellton & Mohawk Valley, Arizona, Wellton-Mohawk Irrigation Drainage District, Req: Add San Luis, Gadsden & Somerton, Arizona to present principal community

BPTT-790925IA—New: Joplin, Montana, Garryowen Corporation, Req: Channel 48, 674-680 MHz, 1000 watts, Primary: KRTV-TV, Great Falls, Montana

BPTT-791001IA—K69AW: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 44, 650-656 MHz

BPTT-791001IB—K71CG: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 46, 662-668 MHz

BPTT-791001IC—K75CP: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 48, 674-680 MHz

BPTT-791001ID—K77CI: Willmar, Minnesota, UHF-TV, Inc., Req: Change frequency to Channel 50, 686-692 MHz

BPTT-791001IE—K55AD: Appleton, Minnesota, Rural Western UHF TV Corporation, Req: Change frequency to Channel 54, 710-716 MHz

BPTT-791001IF—K65AB: Appleton, Minnesota, Rural Western UHF TV Corporation, Req: Change frequency to Channel 52, 698-704 MHz

BMPTT-791026IA—W59AH: Allentown & Bolivar Relay, New York, Board of Cooperative Educational Services of Allegany County, Req: Add Andover Relay, New York to present principal community

VHF TV Translator Applications

BPPTV-790411IA—K04DK: Cave Junction, Selma & Deer Creek Area, Oregon, Oregon Broadcasting Company, Req: Change frequency to Channel 7, 174-180 MHz., increase output power to 5 watts

BPPTV-790427IB—New: Togiak, Alaska, City of Togiak, Req: Channel 3, 60-66 MHz, 10 watts, Primary: KYUK-TV, Bethel, KUAC-TV, Fairbanks, KAKM-TV, KENI-TV, KTVA-TV, KIMO-TV, Anchorage, Alaska

BPPTV-790430IL—New: Banty Point Rural Area, Colorado, Rio Blanco County TV Association, Req: Channel 4, 66-72 MHz, 1 watt, Primary: KTVX-TV, Salt Lake City, Utah

BPPTV-790430IM—New: Staley & Goeder Rural Area, Colorado, Rio Blanco County TV Association, Req: Channel 9, 186-192 MHz, 1 watt, Primary: KREX-TV, Grand Junction, Colorado

BPPTV-790430IO—K02DX: Staley & Goeder Colorado, Rio Blanco County TV Association, Req: Change frequency to Channel 13, 210-216 MHz

BPPTV-790430IP—K04DT: Staley & Goeder, Rio Blanco County TV Association, Req: Change frequency to Channel 11, 198-204 MHz

BPPTV-790514IB—New: Hydaburg, Alaska, City of Hydaburg, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-790608IF—New: Unalakleet, Alaska, City of Unalakleet, Alaska, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-790608IG—New: Koliganek, Alaska, Koliganek Village Council, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, & KTVA-TV, Anchorage, Alaska

BPPTV-790702IK—New: Huslia, Alaska, Huslia Village Council, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM-TV, KIMO-TV, KENI-TV, and KTVA-TV, Anchorage, Alaska, KTOO-TV, Juneau, Alaska

BPPTV-790713IA—New: Anvik, Alaska, City of Anvik, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, and KENI-TV, Anchorage, Alaska

BPPTV-790806ID—New: Sitka, Alaska, Sheldon Jackson College, Req: Channel 4, 66-72 MHz, 10 watts, Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, and KENI-TV, Anchorage, Alaska

BPPTV-790820IA—New: Stony River, Alaska, Stony River Traditional Council, Req: Channel 2, 54-60 MHz, 10 watts, Primary: KYUK-TV, Bethel, KUAC-TV, Fairbanks,

KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, and KENI-TV, Anchorage, Alaska

BPPTV-790912IA—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 3, 60-66 MHz, 1 watt, Primary: KTVX-TV, Salt Lake City, Utah

BPPTV-790912IB—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 5, 76-82 MHz, 1 watt, Primary: KUTV-TV, Salt Lake City, Utah

BPPTV-790912IC—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 7, 174-180 MHz, 1 watt, Primary: KUED-TV, Salt Lake City, Utah

BPPTV-790912ID—New: Uravan, Colorado, Union Carbide Communications Company, Inc., Req: Channel 12, 204-210 MHz, 1 watt, Primary: KREY-TV, Montrose, Colorado

BPPTV-790918IA—New: Yerington Nevada, Lyon County, Req: Channel 6, 82-88 MHz, 10 watts, Primary: KOLO-TV, Reno, Nevada

BPPTV-790918IB—New: Yerington Nevada, Lyon County, Req: Channel 11, 198-204 MHz, 10 watts, Primary: KTVN-TV, Reno, Nevada

BPPTV-790918IC—New: Yerington Nevada, Lyon County, Req: Channel 13, 210-216 MHz, 10 watts, Primary: KCRL-TV, Reno, Nevada

BPPTV-790921IA—New: Lloyd, Montana, Bear Paw TV Club, Req: Channel 13, 210-216 MHz, 1 watt, Primary: KRTV-TV, Great Falls, Montana

BPPTV-790928IB—New: Del Norte, Colorado, Parker Hill TV Association, Req: Channel 6, 82-88 MHz, 10 watts, Primary: KRDO-TV, Colorado Springs, Colorado

FM Translator Applications

BPFT-790313IB—New: Hotchkiss, Crawford, Rogers Mesa and Redlands, Mesa, Delta County, Colorado, North Fork Valley Public Radio, Incorporated, Req: Channel 252, 98.3, MHz, 10 watts, Primary: KVNF-FM, Paonia, Colorado

BPFT-790509ID—New: Willamport, Pennsylvania, Muncy Terraces Christian Activity Center, Inc., Req: Channel 232, 94.3 MHz, 1 watt, Primary: WPGM-FM, Danville, Pennsylvania

BPFT-790604JF—New: Marysville and Yuba City, California, The University Foundation California State University, Chico, Req: Channel 210, 89.9 MHz, 10 watts, Primary: KCHO-FM, Chico, California

BPFT-790604JG—New: Redding, California, The University Foundation, California State University, Chico, Req: Channel 214, 90.7 MHz, 10 watts, Primary: KCHO-FM, Chico, California

BPFT-790604JH—New: Red Bluff, California, The University Foundation, California State University, Chico, Req: Channel 218, 91.05 MHz, 10 watts, Primary: KCHO-FM, Chico, California

BPFT-790607IC—New: Webster, New York, Webster Bible Church, Req: Channel 228, 93.5 MHz, 1 watt, Primary: WMHR-FM, Syracuse, New York

BPFT-790608IH—K270AF: Mendenhall Valley, Alaska, Capital Community Broadcasting, Inc., Req: Add Auke Bay to present principal community

BPFT-790706IC—New: La Verne, San Dimas, Glendora and Azusa, California, Frederick

R. Cote, Req: Channel 224, 92.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706ID—New: Piacentia, Brea, La Habra and Whittier, California, Frederick R. Cote, Req: Channel 244, 92.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706IE—New: Yucaipa, Redlands and Loma Linda, California, Frederick R. Cote, Req: Channel 240, 95.9 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706IF—Apple Valley, Victorville, Mountain View and Adelanto, California, Frederick R. Cote, Req: Channel 240, 95.9 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706IG—New: Norco, California, Frederick R. Cote, Req: Channel 272, 102.3 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706IH—New: Monrovia, Arcadia, Sierra Madre and Pasadena, California, Frederick R. Cote, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706II—New: Torrance, Wilmington, Long Beach and San Pedro, California, Frederick R. Cote, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790706IJ—New: San Clemente, Laguna Hills, Santa Ana and Orange, California, Frederick R. Cote, Req: Channel 284, 104.7 MHz, 1 watt, Primary: KOLA-FM, San Bernardino, California

BPFT-790731IB—New: Prineville, Oregon, Gospel Echo, Inc., Req: Channel 280, 103.9 MHz, 10 watts, Primary: KPDQ-FM, Portland, Oregon

BPFT-790731IC—New: Bend, Oregon, Gospel Echo, Inc., Req: Channel 244, 96.7 MHz, 10 watts, Primary: KPDQ-FM, Portland, Oregon

BPFT-790731ID—New: Redmond, Oregon, Gospel Echo, Inc., Req: Channel 249, 97.7 MHz, 10 watts, Primary: KPDQ-FM, Portland, Oregon

[FR Doc. 79-3749 Filed 12-7-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be

submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 20, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accomplished by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-1768-12

Filing Party: John E. Nolan, Assistant Port Attorney, City of Oakland, 66 Jack London Square, Oakland, California 94604.

Summary: Agreement No. T-1768-12, between the City of Oakland (City) and Sea-Land Service, Inc. (Sea-Land) modifies the parties' basic agreement which provides for the preferential assignment of certain facilities to Sea-Land. The modification provides for an extension of time within which Sea-Land may exercise its right to terminate said agreement, following the City's written notification of increase in the minimum/maximum compensation amounts effective at the beginning of the 15th year of the term of said agreement, for an additional two month period of and including the 1st day of March, 1980.

Dated: December 5, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-37778 Filed 12-7-79; 8:45 am]
BILLING CODE 6730-01-M

Intent to Review Prior Exemption of Certain Provisions of Agreements Nos. LM-2 and LM-10

Agreements Nos. LM-2 and LM-10, as amended and supplemented, are the 1978-1981 collective bargaining agreements between the Pacific Maritime Association, on the one hand, and the National Marine Engineers' Beneficial Association (LM-2) and the American Radio Association, AFL-CIO, (LM-10) on the other hand.

The Commission determined Agreements Nos. LM-2, and LM-10 to be exempt *en toto* from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended, on August 30 and October 17, 1978, respectively, in accordance with its

Interim Policy Statement—Collective Bargaining Agreements (46 CFR 530.9), served June 12, 1978.

However, preliminary review of certain other maritime collective bargaining agreements filed pursuant to 46 CFR 530.9 (Agreements Nos. LM-12, LM-14, LM-20, and LM-22) indicates that certain types of provisions contained in Agreements Nos. LM-2 and LM-10 may not, in fact, qualify for labor exemption from the filing and approval requirements of section 15, although they appear to qualify for approval pursuant to that section of the Act.

The first type of provision, which is contained in Agreements Nos. LM-2 (section 34(f)(2)) and LM-10 (section 62, third paragraph), obligates the employer to obtain for the union's benefit a written undertaking with the union executed by a vessel's purchaser or transferee that the collective bargaining agreement shall apply to the vessel for the balance of its term and that the transferee—as well as the union—will comply fully with the agreement.

The second type of provision, which is set forth in the last paragraph on the second page of the preamble of Agreement No. LM-10, states that in the event the employer, in conjunction with one or more of the other employers participating in the collective bargaining agreement, transfers any or all of its passenger vessels for U.S. flag operation to any entity which is not then under agreement with the union, the collective bargaining agreement shall continue to cover the vessels during the life of the collective bargaining agreement.

Inasmuch as the foregoing provisions impose terms (i.e., the underlying collective bargaining agreements) on entities outside of the collective bargaining unit (i.e., the vessel purchaser or transferee), they appear to fail the third criterion for labor exemption set forth in *United Stevedoring Corp. v. Boston Shipping Association*, 16 F.M.C. 7, 12-13 (1972). However, in view of the standards enunciated in 46 CFR 530.9, it would appear that they would qualify for approval pursuant to section 15 since they do not appear to be inconsistent with Commission precedent or violative of the Commission-administered statutes or Commission policies. Even though the competitive impact of these provisions—if implemented—could conceivably raise issues under the antitrust statutes, it appears that the purpose of the provisions is to assure harmonious labor-management relations at times when disputes would be likely to cause industrial strife. It should be noted that the collective bargaining agreements containing these provisions

specifically deem them to be of the essence of the agreements, and in the event the provisions are not properly implemented, either the "no strike" clauses in the underlying collective bargaining agreements are voided or the unions are entitled to cancel the agreements. In view of the foregoing, it would appear that approval of the above provisions in the context of Agreements Nos. LM-2 and LM-10 would be justified by the national policy of the maintenance of peace in industrial labor-management relations.

Therefore, notice is hereby given that the Commission may review its prior exemption of these provisions in the context of Agreements Nos. LM-2 and LM-10, with a view of granting the provisions approval pursuant to section 15 of the Shipping Act, 1916. It should be noted that the exemption of these provisions in the context of these agreements will remain ineffect pending formal Commission action on their status under section 15.

Interested parties may inspect a copy of the provisions at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423. Comments on the provisions, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1979. Comments on the provisions should include facts and arguments concerning the exemption, approval, modification, or disapproval of the provisions. Comments shall also discuss with particularity allegations that the provisions are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements (Edward D. Ransom, Esq., Lillick, McHose & Charles, Two Embarcadero Center, San Francisco, California 94111), and the statement shall indicate that this has been done.

Dated: December 5, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-37716 Filed 12-7-79; 8:45 am]
BILLING CODE 6730-01-M

Temporary Exemption and Interim Approval of Agreements Nos. LM-12, et al.

Notice is hereby given that on November 15, 1979, the Commission (a) determined Section 41(e)(2) of Agreement No. LM-12, the fourth paragraph on page 2 of the preamble together with the third paragraph of Section 62 of Agreement No. LM-14; Section (t) of Agreement No. LM-20-1; and the penultimate paragraph of the preamble of Agreement No. LM-22 together with Section 22 of Agreement No. LM-22-2 to be approved on an interim basis; and (b) determined the balance of the above agreements, as amended and supplemented, and the entirety of Agreement Nos LM-13, LM-15, LM-16, LM-17, LM-18, LM-19 and LM-21, as amended and supplemented, to be temporarily exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814), pending Federal Register notice, opportunity for comments, and subsequent determination by the Commission that the agreements (or any specific provision(s) thereof) should be permanently exempt from the filing and approval requirements of section 15, Shipping Act, 1916, or should be approved, modified, or disapproved under that section. This action was taken in accordance with the Commission's *Interim Policy Statement—Collective Bargaining Agreements*, served July 12, 1978 (46 CFR 530.9). The action described above is effective until February 23, 1980.

Interested parties may inspect the agreements at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218, or at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on the agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1979. Comments should include facts and arguments concerning the exemption, approval, modification or disapproval of the proposed agreements. Comments shall discuss with particularity allegations that the agreements are unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operate to the detriment of the commerce of the United States, or are contrary to the public interest, or are in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos: Agreement Nos. LM-12, et al.

Filing Party: Edward Silver, Esq., Proskauer, Rose, Goetz & Mendelsohn, 300 Park Avenue, New York, New York 10022.

Summary: The following agreements constitute the 1978-1981 collective bargaining agreements between the Maritime Service Committee (MSC) and the Tanker Service Committee (TSC) on the one hand and the National Marine Engineers' Beneficial Association, AFL-CIO (NMEBA), American Radio Association, AFL-CIO (ARA), International Organization of Masters, Mates and Pilots (MMP), National Maritime Union of America (NMU), Staff Officers' Association of America, AFL-CIO (SOA), and Radio Officers' Union of the United Telegraph Workers, AFL-CIO (ROU), on the other hand:

- LM-12: Basic MSC-NMEBA 1972-1975 collective bargaining agreement
- LM-12-1: June 16, 1975, Memorandum of Understanding updating MSC-NMEBA collective bargaining agreement for 1975-1978
- LM-12-2: December 16, 1976, MSC-NMEBA Memorandum of Understanding concerning cost of living bonus
- LM-12-3: June 30, 1977, MSC-NMEBA letter agreement interpreting a December 2, 1974, Supplemental Agreement
- LM-12-4: June 15, 1978, Memorandum of Understanding updating MSC-NMEBA collective bargaining agreement for 1978-1981
- LM-12-A: Agreement and Declaration of Trust Establishing the NMEBA Pension and Welfare Plan
- LM-12-B: NMEBA Pension Trust Declaration
- LM-12-C: NMEBA Pension Fund Regulations
- LM-12-D: Rules and Regulations of the NMEBA Health and Welfare Plan
- LM-12-E: Agreement and Declaration of Trust Establishing the NMEBA Training Plan
- LM-12-F: Rules and Regulations of the NMEBA Training Plan
- LM-12-G: Agreement and Declaration of Trust Establishing the NMEBA Vacation Plan—Atlantic, Gulf and Pacific Coasts
- LM-12-H: Rules and Instructions for Filing Claims under the NMEBA Vacation Plan
- LM-13: Basic TSC-NMEBA 1972-1975 collective bargaining agreement
- LM-13-1: June 16, 1973, TSC-NMEBA Memorandum of Understanding concerning wage and benefit increases
- LM-13-2: December 2, 1974, Supplemental Memorandum concerning wage and benefit increases
- LM-13-3: June 16, 1975, Memorandum of Understanding updating basic TSC-NMEBA collective bargaining agreement for 1975-1978
- LM-13-4: June 15, 1978, Memorandum of Understanding updating TSC-NMEBA collective bargaining agreement for 1978-1981
- LM-14: Basic MSC-ARA 1972-1975 collective bargaining agreement

- LM-14-1: March 28, 1973, MSC-ARA Letter Agreement concerning Section 45 of basic collective bargaining agreement
- LM-14-2: June 16, 1973, MSC-ARA Supplemental Memorandum concerning wage and fringe benefit increases
- LM-14-3: September 24, 1974, MSC-ARA Memorandum of Agreement concerning Service Fees
- LM-14-4: November 30, 1974, Memorandum of Agreement concerning Section 41 of basic MSC-ARA collective bargaining agreement
- LM-14-5: December 2, 1974, Supplemental Memorandum concerning wage and fringe benefit increases
- LM-14-6: July 3, 1975, Memorandum of Understanding updating MSC-ARA collective bargaining agreement for 1975-1978
- LM-14-7: September 1, 1977, MSC-ARA Memorandum of Understanding concerning escrow
- LM-14-8: June 6, 1978, Memorandum of Understanding updating MSC-ARA collective bargaining agreement for 1978-1981
- LM-14-A: Agreement and Declaration of Trust Establishing the ARA Pension and Welfare Plan
- LM-14-B: ARA Pension Trust Declaration
- LM-14-C: ARA Pension Regulations
- LM-14-D: ARA Welfare Regulations
- LM-14-E: Agreement and Declaration of Trust Establishing the ARA Vacation Plan
- LM-15: Basic TSC-ARA 1972-1975 collective bargaining agreement
- LM-15-1: June 16, 1973, TSC-ARA Supplemental memorandum concerning wage and fringe benefit increases
- LM-15-2: November 30, 1974, TSC-ARA Memorandum of Agreement concerning conversion of pension contribution basis
- LM-15-3: December 2, 1974, TSC-ARA Memorandum of Understanding concerning wage and fringe benefit increases
- LM-15-4: July 3, 1975, Memorandum of Understanding updating collective bargaining agreement for 1975-1978
- LM-15-5: June 16, 1978, Memorandum of Understanding updating TSC-ARA collective bargaining agreement for 1978-1981
- LM-16: Basic TSC-MMP 1972-1975 collective bargaining agreement
- LM-16-1: June 16, 1973, TSC-MMP Supplemental Agreement concerning wage and fringe benefits
- LM-16-2: December 7, 1973, TSC-MMP Memorandum of Agreement relating to arbitrators
- LM-16-3: June 16, 1974, TSC-MMP Supplemental Agreement relating to wages and fringe benefits
- LM-16-4: June 16, 1975, Memorandum of Understanding updating TSC-MMP collective bargaining agreement for 1975-1978
- LM-16-5: June 16, 1978, Memorandum of Understanding updating TSC-MMP collective bargaining agreement for 1978-1981
- LM-17: Basic MSC-MMP 1972-1975 collective bargaining agreement
- LM-17-1: June 16, 1973, MSC-MMP Supplemental Agreement concerning wages and fringe benefits

- LM-17-2: April 7, 1974, MSC-MMP Memorandum of Understanding concerning assignment of Licensed Deck Officers
- LM-17-3: June 16, 1974, MSC-MMP Supplemental Agreement concerning wages and fringe benefits
- LM-17-4: June 16, 1975, Memorandum of Understanding updating MSC-MMP collective bargaining agreement for 1975-1978
- LM-17-5: December 16, 1976, MSC-MMP Memorandum of Understanding concerning cost of living bonus
- LM-17-6: December 20, 1977, MSC-MMP Letter Agreement concerning surplus in the special operating account of the MMP Pension Plan
- LM-17-7: June 16, 1978, Memorandum of Understanding updating MSC-MMP collective agreement for 1978-1981
- LM-17-A: Agreement and Declaration of Trust Establishing the MMP Pension Plan
- LM-17-B: MMP Welfare Plan—Rules and Regulations
- LM-17-C: Agreement and Declaration of Trust Establishing the MMP Health and Benefit Plan
- LM-17-D: Rules and Regulations of the MMP Welfare Plan
- LM-17-E: Agreement and Declaration of Trust Establishing the MMP Vacation Plan
- LM-17-F: Agreement and Declaration of Trust Establishing the MMP Joint Employment Committee
- LM-17-G: Agreement and Declaration of Trust Establishing the MMP Maritime Advancement, Training, Education and Safety Program
- LM-18: Basic MSC-NMU 1975-1978 collective bargaining agreement
- LM-18-1: December 16, 1975, MSC-NMU Memorandum of Understanding concerning cost of living increases
- LM-18-2: June 16, 1977, MSC-NMU Memorandum of Understanding concerning cost of living increases
- LM-18-2: December 16, 1977, MSC-NMU Memorandum of Understanding concerning cost of living increases
- LM-18-4: June 15, 1978, Memorandum of Understanding updating collective bargaining agreement for 1978-1981
- LM-18-A: Agreement and Declaration of Trust Establishing the NMU Pension and Welfare Plan
- LM-18-B: NMU Pension Trust Declaration
- LM-18-C: NMU Pension Regulations
- LM-18-D: NMU Welfare Plan Regulations
- LM-18-E: Agreement and Declaration of Trust Establishing the NMU Upgrading and Retraining Plan
- LM-18-F: Agreement and Declaration of Trust Establishing the NMU Vacation Plan
- LM-18-G: Agreement and Declaration of Trust Establishing the NMU Joint Employment Committee
- LM-19: Basic TSC-NMU 1975-1978 collective bargaining agreement
- LM-19-1: June 15, 1978, Memorandum of Understanding updating TSC-NMU collective bargaining agreement for 1978-1981
- LM-20: Basic MSC-SOA 1961-1965 collective bargaining agreement
- LM-20-1: December 8, 1965, Memorandum of Agreement updating basic MSC-SOA collective bargaining agreement for 1965-1969
- LM-20-2: January 11, 1966 MSC-SOA Supplementary Memorandum concerning wage increases
- LM-20-3: July 30, 1966, MSC-SOA Memorandum of Agreement and Supplementary Memorandum concerning increases
- LM-20-4: August 16, 1966, MSC-SOA Memorandum of Understanding concerning Purser-Trainee Program
- LM-20-5: June 30, 1967, MSC-SOA Memorandum of Agreement concerning increases
- LM-20-6: November 6, 1967, MSC-SOA Supplementary Memorandum of Agreement concerning Permanent Arbitrator's decision on June 1967 wage increase
- LM-20-7: December 9, 1968, MSC-SOA Supplementary Memorandum of Agreement concerning arbitration ruling on wages and benefits
- LM-20-8: August 4, 1969, Memorandum of Understanding updating MSC-SOA collective bargaining agreement for 1969-1972
- LM-20-9: December 30, 1969, MSC-SOA Memorandum of Understanding concerning training plan contributions
- LM-20-10: June 15, 1973, MSC-SOA Stipulation and Agreement concerning allocation of wage and benefit increases
- LM-20-11: June 17, 1974, MSC-SOA Stipulation and Agreement concerning allocation of wage and benefit increases
- LM-20-12: September 28, 1975, MSC-SOA Stipulation and Agreement concerning allocation of wage and benefit increases
- LM-20-13: June 16, 1976, Memorandum of Understanding updating MSC-SOA collective bargaining agreement for 1976-1979
- LM-20-14: April 28, 1977, MSC-SOA Supplementary Memorandum of Understanding concerning the reallocation of benefits
- LM-20-15: September 20, 1978, Memorandum of Understanding updating MSC-SOA collective bargaining agreement for 1979-1982
- LM-20-A: Agreement and Declaration of Trust Establishing SOA Pension and Welfare Plan
- LM-20-B: SOA Pension Trust Declaration
- LM-20-C: SOA Pension Regulations
- LM-20-D: Rules and Regulations of the SOA Welfare (Health-Benefit) Plan
- LM-20-E: Agreement and Declaration of Trust for the SOA Pharmacist Mate (Marine Physician Assistant) Program
- LM-21: Basic TSC-ROU collective bargaining agreement for 1969-1972
- LM-21-1: June 16, 1972, Memorandum of Understanding updating TSC-ROU collective bargaining agreement for 1972-1975
- LM-21-2: June 16, 1973, TSC-ROU Supplementary Memorandum concerning wage and benefit increases
- LM-21-3: September 16, 1974, TSC-ROU Supplementary Memorandum concerning allocations
- LM-21-4: August 4, 1975, Memorandum of Understanding extending TSC-ROU collective bargaining agreement for 1975-1978
- LM-21-5: June 16, 1978, Memorandum of Understanding updating TSC-ROU collective bargaining agreement for 1978-1981
- LM-22: Basic MSC-ROU 1969-1972 collective bargaining agreement
- LM-22-1: May 27, 1971, MSC-ROU Memorandum of Agreement concerning ROU apprentices' vacations
- LM-22-2: June 16, 1972, MSC-ROU Memorandum of Understanding updating MSC-ROU collective bargaining agreement for 1972-1975
- LM-22-3: June 16, 1978, MSC-ROU Supplementary Memorandum concerning allocation of wage and benefit increases
- LM-22-4: September 16, 1974, MSC-ROU Supplementary Memorandum concerning fringe benefits
- LM-22-5: January 30, 1975, MSC-ROU Memorandum of Understanding concerning allocation of wage and fringe benefit increases
- LM-22-6: August 4, 1975, Memorandum of Understanding updating MSC-ROU collective bargaining agreement for 1975-1978
- LM-22-7: September 23, 1975, MSC-ROU Memorandum of Understanding concerning vacations
- LM-22-8: December 16, 1976, MSC-ROU Memorandum of Understanding concerning cost of living bonus
- LM-22-9: August 12, 1977, MSC-ROU Memorandum of Understanding concerning Apprentice Program
- LM-22-10: December 19, 1977, MSC-ROU Memorandum of Understanding concerning transfer of escrow monies
- LM-22-11: June 16, 1978, Memorandum of Understanding updating MSC-ROU collective bargaining agreement for 1978-1981
- LM-22-A: Agreement and Declaration of Trust Establishing ROU Pension Plan
- LM-22-B: ROU Pension Regulations
- LM-22-C: Agreement and Declaration of Trust Establishing the ROU Benefits Plan
- LM-22-D: Rules and Regulations Providing Welfare Benefits of the ROU Benefits Plan
- LM-22-E: Agreement and Declaration of Trust Establishing the ROU Joint Employment Committee
- LM-22-F: Agreement and Declaration of Trust Establishing ROU Vacation Plan Dated: December 5, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-37717 Filed 12-7-79; 8:45 am]
BILLING CODE 6730-01-M

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 31, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3879.

Filing Party: John C. Barnett, Assistant Chief, Leases & Operating Division, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T-3879, between the Port Authority of New York and New Jersey (Port) and C.A. Venezolana De Navegacion and Compania Peruana De Vapores (collectively called "the Lines"), provides for the month-to-month lease of Pier 1 at the Brooklyn, Port Authority Marine Terminal, New York, New York for use by the Lines as a public marine terminal facility. The agreement provides an increase in the rate per revenue ton payable by the lessees under a minimum/maximum rental formula. The agreement also defines revenue ton respecting specific enumerated types of cargo.

Agreements Nos. 8080-17 and 8240-15.

Filing Party: Wade S. Hooker, Jr., Esquire, Burlingham Underwood & Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreements Nos. 8080-17 and 8240-15 modify the basic agreements of the Atlantic and Gulf-Indonesia Conference and the Atlantic and Gulf-Singapore, Malaya and Thailand Conference, respectively, by amending Article 1 of each to provide for substituted service between loading or discharging ports covered by each Agreement. Such ports shall be divided essentially, into three ranges, i.e., Gulf, South Atlantic and North Atlantic ports. Substituted service between ranges shall be by water

only and between ports within a range by any mode.

Agreement No. 10261-6.

Filing Party: Stanley O. Sher, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 10261-6, among the members of the U.S. South Atlantic/Spanish, Portuguese, Moroccan and Mediterranean Rate Agreement, would amend Article 3 of the basic agreement by adding new language to provide that "substituted service by land," (the movement of cargo by land at the member line's expense, from a port of discharge to a port within the scope of the agreement named as the port of discharge in the bill of lading,) between Italian ports, between French ports, and between Spanish ports, but not between ports located in different countries, may be permitted, prohibited or limited upon the member lines' majority vote to agree upon and file, cancel, or modify necessary tariff provisions.

By Order of the Federal Maritime Commission

Dated: December 5, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 37779 Filed 12-7-79; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Arvada Bankshares, Ltd., Formation of Bank Holding Company

Arvada Bankshares, Ltd., Arvada, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Arvada State Bank, Arvada, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37764 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Banc One Corp.; Acquisition of Bank

Banc One Corporation, Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of The Pomeroy National Bank, Pomeroy, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37771 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 27, 1979.

A. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia; Pennsylvania 19105:

1. **FIRST PENNSYLVANIA CORPORATION**, (financing and insurance activities; Ohio): To engage, through its subsidiary, Investors Loan Corporation, in making or acquiring, for its own account or the account of others, loans and other extensions of credit, servicing loans and other extensions of credit, and selling the following types of insurance in connection with its loans and other extensions of credit: Credit life insurance, credit accident and health insurance, and property damage and liability insurance as part of a package of insurance relating to physical damage of collateral. These activities would be conducted from an office to be relocated from Columbus, Ohio to Reynoldsburg, Ohio.

2. **FIRST PENNSYLVANIA CORPORATION**, (insurance activities, Ohio); to engage, through its subsidiary, Investors Mortgage Company of Ohio, in selling credit accident and health insurance to borrowers in connection with loans made pursuant to Investors Mortgage Company's second mortgage lending business. Such insurance will be sold at the following locations in Ohio: Cincinnati, Circleville, Reynoldsburg, Dayton, Findlay, Fostoria, Lancaster, Lima, Washington Courthouse, and Stubenville, and the immediate surrounding areas.

B. *Federal Reserve Bank of St. Louis*, 411 Locust Street, St. Louis, Missouri 63166:

MARK TWAIN BANCSHARES, INC., (leasing activities; Missouri) to engage, through its subsidiary, Mark Twain Leasing Company, in making leases of personal property in accordance with the Board's Regulation Y. The activities would be conducted from the main office of the Applicant in St. Louis, Missouri, serving customers in and adjacent to St. Louis, Missouri.

C. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

G & R, INC., Troy, Kansas (insurance activities; Kansas): to engage, as insurance agent for the sale of fidelity

and other indemnity protection insurance for the benefit of its banking subsidiary, Troy State Bank, Troy, Kansas. Such activities will be conducted on the premises of Troy State Bank. Comments on this application must be received by January 3, 1980.

D. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, December 3, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-37774 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute; summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 28, 1979.

A. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

1. **BANKAMERICA CORPORATION**, San Francisco, California (financing,

industrial loan and insurance activities; Tennessee): To engage, through its subsidiary, FinanceAmerica Corporation, in making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; engaging in the activities of an industrial loan company under the Tennessee Industrial Loan and Thrift Companies Act; and servicing loans and other extensions of credit. Such activities will include but not be limited to making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans secured by real and personal property; and selling, as agent, life, accident and health and property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. In accordance with Tennessee law, the credit-related property insurance will be limited to comprehensive physical damage insurance on motor vehicles, mobile homes, and recreational vehicles. All of the above described activities would be conducted from an office in Goodlettsville, Tennessee, serving the State of Tennessee.

2. **SECURITY PACIFIC CORPORATION**, Los Angeles, California (financing and credit-related insurance activities; Florida): To engage through its subsidiaries American Finance Corporation of Florida and American Consumer Finance Corporation, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from offices of American Finance Corporation of Florida and American Consumer Finance Corporation located in Orange Park, Florida 32073, serving the State of Florida.

B. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, November 30, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-37775 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 28, 1979.

A. Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045: CHEMICAL NEW YORK CORPORATION, New York, New York (financing and insurance activities; Georgia): To continue to engage, through its subsidiary, Sunamerica Corporation, in the previously approved activities of making direct loans, purchasing installment sales finance contracts, and acting as agent or broker for the sale of life, accident and health, and property damage and liability insurance directly related to its extensions of credit. These activities will be conducted from an office in Columbus, Georgia, serving the northeast and southeast sections of the city. This application is for the relocation of an office within the same city.

B. Federal Reserve Bank of Chicago, 230 South LaSalle Street, Chicago,

Illinois 60690: COURT ACCEPTANCE COMPANY, Pekin, Illinois (insurance activities; Illinois): To continue to engage in acting as agent for credit life and credit accident and health insurance directly related to extensions of credit by its subsidiary, First State Bank of Pekin, Pekin, Illinois. This activity would be conducted from an office in Pekin, Illinois, serving Illinois.

C. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120: SECURITY PACIFIC CORPORATION, Los Angeles, California (financing and insurance activities; Colorado): To engage through its subsidiary, The Bankers Investment Company (dba Security Pacific Finance Corp.) in making and acquiring, for its own account and for the account of others, loans and other extensions of credit, including consumer loans and loans to small businesses, such as would be made by a factoring company or a consumer finance company; and in acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from an office in Arvada, Colorado, serving the State of Colorado.

D. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37776 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Buffalo National Bancshares, Inc.; Formation of Bank Holding Company

Buffalo National Bancshares, Inc., Buffalo, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 per cent or more of the voting shares of Buffalo National Bank, Buffalo, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minnesota. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and

summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37767 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Cattle Crossing, Inc.; Formation of Bank Holding Company

Cattle Crossing, Inc., Seward, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 87.6 per cent of the voting shares of The Cattle National Bank of Seward, Seward, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37765 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

First Fessenden, Inc.; Formation of Bank Holding Company

First Fessenden, Inc., Fessenden, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent (less director's qualifying shares) of the voting shares of First National Bank of Fessenden, Fessenden, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve

Bank, to be received not later than December 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37760 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

First International Banking Corp.; Relocation of Corporation Doing Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the relocation of First International Banking Corporation, a corporation doing business under section 25(a) of the Federal Reserve Act ("Edge Corporation") from Houston, Texas, to Dallas, Texas. First International Banking Corporation operates as a subsidiary of First National Bank in Dallas, Dallas, Texas. The factors that are considered in acting in this application are set forth in § 211.4(a) of the Board's Regulation K- (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 3, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 3, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37777 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

FNB Banshares, Inc.; Formation of Bank Holding Company

FNB BanShares, Inc., West Union, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding

company by acquiring 80 percent or more of the voting shares of The First National Bank of West Union, West Union, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 3, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37763 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Fort Sam Houston BankShares, Inc.; Acquisition of Bank

Fort Sam Houston BankShares, Incorporated, San Antonio, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent, less directors qualifying shares, of the voting shares of Universal City Bank, N.A., Universal City, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37772 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Marshall & Ilsley Corp.; Acquisition of Bank

Marshall & Ilsley Corporation, Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 per cent or more of the voting shares of Merchants Bank & Trust, Rhinelander, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.

[FR Doc. 79-37770 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Prairie Bancshares, Inc.; Formation of Bank Holding Company

Prairie Bancshares, Inc., Lester Prairie, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88 per cent or more of the voting shares of Farmers State Bank of Lester Prairie, Lester Prairie, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-37768 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Republic Bancshares, Inc.; Formation of Bank Holding Company

Republic Bancshares, Inc., Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96 per cent or more of the voting shares of Republic Bank, Oklahoma City, Oklahoma. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 4, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-37761 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

San Antonio Bancshares, Inc.; Formation of Bank Holding Company

San Antonio Bancshares, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less director's qualifying shares) of Bank of San Antonio, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be

received not later than December 31, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 30, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-37762 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

Trust Co. of Georgia; Acquisition of Bank

Trust Company of Georgia, Atlanta, Georgia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the successor by merger to The Citizens & Southern Bank of Rockdale, Conyers, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 28, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-37769 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

United Bank Corp. of New York, Acquisition of Bank

United Bank Corporation of New York, Albany, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Peninsula National Bank, Cedarhurst, New York.

The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 4, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 4, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-37773 Filed 12-17-79; 8:45 am]
BILLING CODE 6210-01-M

Verndale Bancshares, Inc.; Formation of Bank Holding Company

Verndale Bancshares, Inc., Verndale, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94 per cent or more of the voting shares of The First National Bank of Verndale, Verndale, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 27, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 29, 1979.

William N. McDonough,
Assistant Secretary of the Board.
[FR Doc. 79-37760 Filed 12-7-79; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Prevention Research and Demonstration Grants on Impact of Severely Disturbed Parents on Children, Receipt Date for Applications

Notice is hereby given that pursuant to Sections 301 and 303 of the Public Health Service Act, as amended; Sections 311 and 501 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended; and Section 410 of the Drug Abuse Office and Treatment Act of 1972, as amended, applications are being accepted for research and demonstration grants related to the prevention of the harmful psychological effects on children of severe parental disturbance involving mental illness, alcoholism, and/or drug abuse.

Applications may focus on parents with one or with multiple types of these disturbances. The Alcohol, Drug Abuse, and Mental Health Administration's objective is to encourage and provide support for two types of research and demonstration activities focused on children at high-risk because one (or both) parents are severely disturbed: (1) Intervention Model Development and (2) New Knowledge Development. Grants may be made to any public or private non-profit institution, or a unit of State or local government.

Applications submitted for a February 1, 1980 receipt date will be considered for funding in Fiscal Year 1980. For detailed information about program interests and application procedures, contact:

Office of Prevention, National Institute of Mental Health, Adamha, 5600 Fishers Lane, Room 17C-20, Rockville, Maryland 20857. Telephone 301/443-4233.

Dated: November 19, 1979.

Robert L. Trachtenberg,

*Acting Administrator, Alcohol, Drug Abuse,
and Mental Health Administration.*

[FR Doc. 79-37720 Filed 12-7-79; 8:45 am]

BILLING CODE 4110-89-M

Office of the Assistant Secretary for Health

Intent To Grant Exclusive License to Starks Associates, Inc.

Pursuant to § 8.2(b), 45 CFR Part 8, and 41 CFR Part 1-9, notice is hereby given of an intent to grant to Starks Associates, Inc., an exclusive license to

make, use and sell the inventions disclosed and claimed in the following patent and patent applications:

1. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Jack L. Parsons, U.S. Patent Application Serial No. 932,487.

2. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Robert J. Schultz, et al., U.S. Patent Application Serial No. 932,501.

3. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Jack L. Parsons, et al., U.S. Patent Application Serial No. 954,579.

4. Preparation of N-(Phosphonoacetyl)-L-Aspartic Acid by Jack L. Parsons, et al., U.S. Patent No. 4,154,759, issued May 15, 1979.

Copies of the patent or patent applications may be obtained upon written request addressed to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, Room 5A03 Westwood Building, c/o National Institutes of Health, Bethesda, MD. 20205.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the Acting Chief, Patent Branch, named hereinabove, receives in writing a statement from any person setting forth the reasons why it would not be in the best interest of the United States to grant the proposed license, together with supporting documents.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 8.2 and 41 CFR Part 1-9)

Dated: December 4, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-37743 Filed 12-7-79; 8:45 am]

BILLING CODE 4110-85-M

Intent To Grant Exclusive License to Starks Associates, Inc.

Pursuant to § 6.3, 45 CFR, Part 6, and 41 CFR Part 101-4, notice is hereby given of an intent to grant to Starks Associates, Inc., an exclusive license to make, use, and sell the invention disclosed and claimed in U.S. Patent Application Serial No. 25,157, for "IMPROVED MULTI-STEP PROCESS FOR THE PRODUCTION OF METHANESULFON-M-ANISIDINE, 4-(9-ACRIDINYLAMINO)-" by Henryk

Dubicki et al. Copies of the patent application may be obtained upon written request addressed to the Acting Chief, Patent Branch, Department of Health, Education, and Welfare, Room 5A03 Westwood Building, c/o National Institutes of Health, Bethesda, Maryland 20205.

The proposed license will have a duration of five (5) years, may be royalty-bearing, and will contain other terms and conditions to be negotiated by the parties in accordance with Department of Health, Education, and Welfare (HEW) regulations. HEW will grant the license unless, within sixty (60) days of this Notice, the Acting Chief, Patent Branch, named hereinabove, receives in writing any of the following, together with supporting documents:

- (1) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or
- (2) An application for a nonexclusive license to manufacture, use, or sell the invention in the United States submitted in accordance with 41 CFR 101-4-104-2, and the applicant stated that he has already brought the invention to practical application, or is likely to bring the invention to practical application expeditiously.

The Assistant Secretary for Health of the Department of Health, Education, and Welfare will review all written responses to this Notice.

(45 CFR 6.3 and 41 CFR Part 101-4)

Dated: December 4, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-37744 Filed 12-7-79; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14885-A (Anch.)]

Alaska Native Claims Selection

Correction

In FR Doc. 79-34700, published at page 65192, on Friday, November 9, 1979, on page 65193, in the second column, make the following corrections:

1. Under the section "T. 6 S., R. 72 W.", in the second line, "Secs. 20 to 33, inclusive, all." should be corrected to read "Secs. 29 to 33, inclusive, all.";
2. Under the section "T. 3 S., R. 74 W.", in the fourth line, "Sec. 13 (fractional), all;" should be corrected to read "Sec. 31 (fractional), all;".

BILLING CODE 1505-01-M

[W-45070]

Sale of Public Lands in Rock Springs, Wyo.**Correction**

In FR Doc. 79-34739, published at page 65195, on Friday, November 9, 1979, on page 65195, in the third column, in the first line of the table

"1 17
20.17 \$51,800" should be
corrected to read "1 17
20.71 \$51,800".

BILLING CODE 1505-01-M

Fish and Wildlife Service**Endangered Species Permit; Receipt of Application**

Applicant: Northern Prairie Wildlife Research Center, Box 1747, Jamestown, North Dakota 58401.

The applicant requests a permit to capture bald eagles (*Haliaeetus leucocephalus*) in Nebraska for banding and release for scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-4803. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: December 3, 1979.

Donald G. Donahoo,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-37788 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: Charles E. Salter, PRT 2-4942, Salter Tree Farm, Route 2, Box 1332, Madison, Florida 32340.

The applicant requests a permit to sell in interstate commerce artificially propagated Chapman rhododendron (*Rhododendron chapmanii*) plants for enhancement of propagation and survival.

Applicant: National Zoological Park, PRT 2-4976, Washington, D.C. 20008.

The applicant requests a permit to import five (5) golden marmosets (*Leontideus rosalia*) from the Tijuca Biological Bank, Brazil for enhancement of propagation and survival.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: December 4, 1979.

Donald G. Donahoo,
Chief, Permit Branch.

[FR Doc. 79-37789 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-55-M

National Park Service**Montezuma Castle National Monument and the Coconino National Forest; Exclusion and Addition of Certain Lands; Correction**

In Federal Register Document 19170 appearing on page 36119 dated June 20, 1979, the last line of the legal description paragraph under the heading "Area Transferred From Coconino National Forest to Montezuma Castle National Monument", should read: "containing 14.84 acres, more or less"; and the last line of the legal description paragraph under the heading "Area Transferred From Montezuma Castle National Monument to Coconino National Forest", should read: "containing 3.03 acres, more or less".

For further information contact Curtis Hunigan, Land Acquisition Division, National Park Service, 1100 L Street NW., Washington, D.C. 20240, telephone: (202) 523-5120.

Dated: November 29, 1979.

John H. Davis,
Acting Regional Director, Western Region,
National Park Service.

[FR Doc. 79-37747 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service**Contract Negotiations with P&C Irrigation Association, Inc., Idaho; Intent To Begin Repayment Contract Negotiations**

The Department of the Interior, through the Water and Power Resources Service, intends to open negotiations to amend the September 30, 1977, repayment contract with P&C Irrigation Association, Inc., Carey, Blaine County, Idaho. That contract was executed under the authority of the Emergency Drought Act of April 7, 1977 (91 Stat. 36), as amended. The proposed amendment will defer the time for payment of installments under that contract, pursuant to the Act of September 21, 1959 (73 Stat. 581).

Pursuant to the Emergency Drought Act and the 1977 contract, funds in the amount of \$24,707.66 were expended to construct emergency water supply facilities that were needed to alleviate the effects of the severe drought of 1977. The 1977 contract provided that those funds would be repaid by the contractor in annual installments beginning in 1979.

Blaine County suffered a serious drought in 1979. In addition a damaging hailstorm struck the area on August 15, 1979. As a result of the drought and hailstorm, Blaine County was declared a disaster area. P&C Irrigation Association, Inc., requested deferment of the annual installment due December 1979 due to significant crop losses.

The public may observe any negotiating sessions. Advance notice of such meetings, if any, will be furnished on request. Requests must be in writing and submitted at least 1 week prior to any session. Requests must specify that the requesting party is interested in the proposed contract with P&C Irrigation Association, Inc. Inquiries should be addressed to the Regional Director, attention code 440, Water and Power Resources Service, 550 West Fort Street, Box 043, Boise, Idaho 83724.

A proposed draft contract will be made available for public review following completion of contract negotiations. Thereafter, a 30-day period will be allowed for receipt of written comments from the public.

All written correspondence concerning the proposed contract will be

made available pursuant to the Freedom of Information Act (80 Stat. 383), as amended.

For further information on scheduled negotiating sessions and copies of the proposed contract form, please contact: Mr. Richard M. Rigby, Water and Power Resources Service, Repayment and Statistics Branch, Division of Water, Power and Lands, 550 West Fort Street, Box 043, Boise, Idaho 83724, telephone (208) 334-9503.

Date: November 30, 1979.

Clifford I. Barrett,

Assistant Commissioner of Water and Power Resources.

[FR Doc. 79-37681 Filed 12-7-79; 8:45 am]

BILLING CODE 4310-09-M

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment, United States v. Chelsea Industries, Inc., et al., and Competitive Impact Statement Therein

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the District of Massachusetts in Civil Action No. 78-3224-C, *United States v. Chelsea Industries, Inc., et al.*

The complaint in this case alleges that two corporate defendants, engaged in the manufacture and sale of pressure sensitive tape products, conspired to fix the price of these products sold to the shoe industry between 1967 and April 1, 1978.

The proposed judgment prohibits each defendant from agreeing to fix, maintain, or stabilize prices with any other person or company and from communicating past, current and future price information concerning pressure sensitive tape products with any other manufacturer of these products. The proposed judgment, which is ten years in duration, requires the corporate defendants to distribute copies of the judgment to each of its officers and employees responsible for the pricing of pressure sensitive tape products. In addition, each defendant is required to review and publish new domestic prices for its pressure sensitive tape products within 60 days following the entry of the proposed judgment.

Public comment is invited within the statutory 60 day time period. Such comments and responses thereto will be published in the Federal Register and

filed with the Court. Comments should be directed to Anthony V. Nanni, Chief, Trial Section, Antitrust Division, Department of Justice, Room 3268, 10th and Constitution Avenue, N.W., Washington, D.C. 20530.

Dated: November 30, 1979.

Joseph H. Widmar,

Director of Operations.

U.S. District Court, District of Massachusetts
[Civil Action No. 78-3224-C, Filed: November 30, 1979]

United States of America, Plaintiff, v. Chelsea Industries, Inc., and Avon Tape, Inc., Defendants.

Stipulation

It is hereby stipulated by and between the plaintiff, United States of America, and each of the above named defendants, by their respective attorneys, that:

1. The parties consent that a Final Judgment in the form attached hereto may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendants and filing that notice with the Court.

2. In the event plaintiff withdraws its consent hereto, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall have no effect whatever and the making of this Stipulation shall be without prejudice to any consenting party in this or any other proceeding.

John H. Shenefield,

Assistant Attorney General.

Richard J. Favretto,

Joseph H. Widmar,

Peter E. Halle,

Robert E. Bloch,

Attorneys, United States Department of Justice.

For the Defendants:

John J. Curtin, Jr.,

Daniel L. Goldberg,

Bingham, Dana & Gould, 100 Federal Street, Boston, Massachusetts 02110—Attorneys for Chelsea Industries, Inc.

Stanley H. Rudman,

Guterman, Horvitz, Rubin & Rudman, 3 Center Plaza, Boston, Massachusetts 02108—Attorney for Avon Tape, Inc.

U.S. District Court, District of Massachusetts

[Civil Action No. 78-3224-C, Filed: November 30, 1979]

United States of America, Plaintiff, v. Chelsea Industries, Inc., and Avon Tape Inc., Defendants

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on December 14, 1978, and plaintiff and defendants by their respective attorneys having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence against or admission by any party hereto with respect to any issue of fact or law herein:

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II

As used in this Final Judgment:
A. "Pressure Sensitive Tape Products" means tape of various sizes, widths and compositions with adhesive qualities which is manufactured and sold to the shoe industry. Pressure sensitive tape products within this definition include, but are not limited to, tapes with the following compositions or descriptions: nylon; cotton; nylon/cotton; paper and foam.

B. "Shoe Industry" means domestic manufacturers of shoes, distributors or other persons that purchase pressure sensitive tape products from the defendants for use in shoes manufactured in the United States.

III

The provisions of this Final Judgment shall apply to each of the defendants and to each of their domestic subsidiaries, successors and assigns and their officers, directors, agents and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions or activities solely between a defendant and its directors, officers, or employees.

IV

Each defendant is enjoined and restrained from directly or indirectly entangling into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement, understanding, plan, program, combination or conspiracy with any other manufacturer of pressure sensitive tape products or other person to:

A. fix, maintain or stabilize the price, discount, markup, or any other term or condition of sale for pressure sensitive tape products; or

B. furnish or request from any other manufacturer of pressure sensitive tape products any information concerning any

price, discount, markup, specific account, or any other term or condition of sale for pressure sensitive tape products.

V

Each defendant is enjoined and restrained from:

A. proposing, requiring, coercing or attempting to require or coerce any other manufacturer of pressure sensitive tape products or any other person to adopt, establish or adhere to any price, discount, markup, or other term or condition of sale for pressure sensitive tape products;

B. communicating or exchanging with, or requesting from any other manufacturer of pressure sensitive tape products any information concerning:

(1) Any past or present sale price, discount, markup or any other term or condition of sale for pressure sensitive tape products;

(2) Any future price, discount, markup, or any other term or condition of sale for pressure sensitive tape products; or

(3) Any price or discount announcement, list, schedule or book, or any revision or modification thereto.

VI

Nothing contained in Section V (B) of this Final Judgment shall prohibit defendants from negotiating or entering into any bona fide contract, agreement or understanding to purchase, sell or furnish pressure sensitive tape products to another manufacturer of pressure sensitive tape products.

VII

Each defendant is ordered and directed to take the affirmative steps enumerated below to ensure compliance with each provision of this Final Judgment:

A. Each defendant shall provide a copy of this Final Judgment to each of its officers and employees who sell, have responsibility for or authority over the sale of pressure sensitive tape products, or the establishment of prices therefor, and shall advise each such officer and employee of his or her obligations under this Final Judgment and of the criminal penalties for violation of this Final Judgment. Each officer or employee who receives a copy of this Final Judgment shall execute a written receipt therefor, which shall be retained by each defendant in its corporate files;

B. Each defendant shall review with its officers and employees described in subsection A, the terms of this Final Judgment and the requirement to comply therewith, at least once each year for five (5) years after the entry of this Final Judgment;

C. Each defendant shall within sixty (60) days following the entry of this Final Judgment:

(1) Independently review its prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of its individual cost figures, individual judgment as to profits, and other lawful considerations;

(2) Adopt and publish domestic prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of such independent review; and

(3) Submit an affidavit to the Court and plaintiff certifying that such new prices, discounts and terms and conditions of sale

were arrived at individually and independently;

D. Each defendant shall for a period of five (5) years certify by affidavit by an officer with responsibility for or authority over the establishment of prices for pressure sensitive tape products, at or about the time of every succeeding change in its published prices, discounts or terms and conditions of sale for pressure sensitive tape products, that such change was arrived at individually and independently and was not the result of any agreement or understanding with any other manufacturer of pressure sensitive tape products. Each affidavit executed to comply with the provisions of this subsection (D) shall be filed in accordance with and as part of the compliance requirements of Section VIII of this Final Judgment. A copy of each affidavit shall be retained by each defendant in its corporate files;

E. Each defendant shall submit an affidavit to the plaintiff within sixty (60) days after the entry date of this Final Judgment setting forth the manner in which it has complied with this Section.

VIII

For a period of five (5) years from the date of entry of the Final Judgment, each defendant is ordered to file with this Court and the plaintiff on each anniversary date of this Final Judgment, a written statement signed by an officer, setting forth the steps it has taken during the prior year to comply with Section VII of this Final Judgment.

IX

A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

1. Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

B. A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Section shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the

purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff pursuant to this Section, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material. "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of any of the provisions herein, for the modification of any of the provisions contained herein, for the enforcement of compliance therewith and for the punishment of violations thereof.

XI

Entry of this Final Judgment is in the public interest. This Final Judgment shall be effective for a period of ten (10) years from its date of entry.

Dated:

Andrew A. Caffrey,
Chief Judge, United States District Court.

U.S. District Court, District of Massachusetts
[Civil Action No. 78-3224-C, Filed: November 30, 1979]

United States of America, Plaintiff v.
Chelsea Industries, Inc.; and Avon Tape Inc.,
Defendants.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On December 14, 1978, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. 4) to enjoin the above named corporate defendants from continuing violations of Section 1 of the Sherman Act (15 U.S.C. 1).

The Complaint alleges that beginning in 1967 and continuing thereafter until at least April 1, 1978, the defendants engaged in a combination and conspiracy to restrain interstate commerce by fixing, maintaining and stabilizing the prices of pressure sensitive tape products sold to the shoe industry in the United States.

The Complaint seeks a judgment by the Court that the defendants have engaged in a combination and conspiracy in restraint of trade in violation of Section 1 of the Sherman

Act together with an order by the Court to enjoin and restrain the defendants from such activities in the future.

Proceedings in this case were stayed pending disposition of a companion criminal prosecution before Judge Joseph Tauro. The criminal prosecution was initiated by a grand jury indictment returned on December 14, 1978, charging the same corporate defendants with a criminal violation of the Sherman Act arising out of the same conspiracy alleged in the Complaint. On February 1, 1979, pleas of *nolo contendere* were entered by both defendants before Judge David Mazzone. Chelsea Industries, Inc. was fined \$210,000.00; Avon Tape Inc. was fined \$45,000.00.

II

The Terms of the Alleged Conspiracy

The pressure sensitive tape products involved in this case are a component used in the manufacture of shoes. These products have adhesive qualities so that the finished tape product can be affixed to different parts of a shoe to provide reinforcement. Pressure sensitive tape products are primarily purchased by shoe manufacturers, but are also purchased by distributors for resale to shoe manufacturers or other persons.

The defendants are the principal manufacturers and sellers in the United States of pressure sensitive tape sold to the shoe industry. During the period of time covered by the Complaint, the defendants sold approximately \$30 million of pressure sensitive tape products to the shoe industry pursuant to the conspiracy alleged in the Complaint. During 1977 the defendants' domestic sales of pressure sensitive tape products were approximately \$5 million which represented 75-90 percent of the total sales of these products in the United States.

The Complaint alleges that the defendants combined and conspired to restrain interstate commerce from 1967 until at least April 1, 1978 in violation of Section 1 of the Sherman Act by fixing, maintaining and stabilizing the prices of pressure sensitive tape products sold to the shoe industry. The defendants effectuated their unlawful conduct by conspiring to: increase the prices of pressure sensitive tape products; publish, disseminate, and exchange price announcements and price lists in accordance with and to implement agreements reached; solicit and encourage the participation of another competitor in their price-fixing activities; telephone, meet and otherwise contact each other to discuss, agree, coordinate, police and secure adherence to agreements reached; and exchange price information concerning the sale price of pressure sensitive tape products to specific customer accounts in order to maintain a fixed range of prices below which neither defendant would sell its products. According to the Complaint, the conspiracy among the defendants has had the effect of increasing the prices of pressure sensitive tape products and eliminating competition in the sale of said products between the defendants throughout the United States.

III

Explanation of the Proposed Judgment

The United States and the defendants have stipulated that the proposed Final Judgment

may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The Final Judgment between the parties provides that there is no admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

The proposed Final Judgment enjoins and restrains the defendants from directly or indirectly entering into or adhering to, maintaining or claiming any rights under any contract, agreement, understanding, plan, program, combination or conspiracy: to fix, maintain or stabilize the prices or any other term or condition of sale for pressure sensitive tape products; or to furnish or request from any information concerning prices, specific accounts or any other term or condition of sale for pressure sensitive tape products.

The Final Judgment also enjoins and restrains each defendant from proposing, requiring, coercing or attempting to require or coerce any manufacturer of pressure sensitive tape products or other person to adopt, establish or adhere to any price or other term or condition of sale for pressure sensitive tape products; or to communicate or exchange with, or request from any other manufacturer of pressure sensitive tape products any information concerning any price or other term or condition of sale for pressure sensitive tape products now or in the future, or any price or discount announcement, list, schedule or book, or any revision or modification thereto.

The only exception to the broad prohibitions of these provisions in the Final Judgment is found in Section VI which allows each defendant to enter into a bona fide contract or agreement to purchase, sell or furnish pressure sensitive tape products to another manufacturer of the same products.

In addition to the foregoing prohibitions, the Final Judgment orders and directs each defendant to take certain affirmative steps to insure compliance with its provisions. Each defendant is required to provide a copy of the Final Judgment to each of its officers and employees who sell, have responsibility for or authority over the pricing or sale of pressure sensitive tape products and to obtain a written receipt from each person receiving a copy of the Final Judgment. In addition, each officer and employee who receives a copy of the Final Judgment must be advised of his or her obligations under the Final Judgment and of the criminal penalties for violation thereof. Each defendant is required to review with each person receiving a copy of the Final Judgment the terms thereof and the requirement to comply therewith at least once each year for five years after the entry of the Final Judgment.

In addition, each defendant is required within sixty days following the entry of the Final Judgment to independently review its prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of its individual cost figures, individual judgment and other lawful considerations; to adopt and publish

domestic prices, discounts and terms and conditions of sale for pressure sensitive tape products on the basis of such independent review; and to submit an affidavit to the Court and the United States certifying that such new prices, discounts and terms and conditions of sale were arrived at individually and independently. Each defendant is also required for a period of five years to have an officer with responsibility for or authority over the establishment of prices for pressure sensitive tape products certify by affidavit that every succeeding change in its published prices, discounts or terms and conditions of sale for said products was arrived at individually and independently and was not the result of any agreement or understanding with a competitor.

Each defendant is required to submit an affidavit to the United States within sixty days after the entry of the Final Judgment setting forth the manner in which it has complied with these provisions; and for a period of five years is required to file with the Court and the United States a written statement signed by an officer setting forth the steps taken during the prior year to assure compliance with the terms of the Final Judgment.

The Department of Justice is given access under the proposed Final Judgment to the files and records of the defendant corporations, subject to reasonable notice requirements, in order to examine such records to determine compliance or non-compliance with the Final Judgment. The Department is also granted access to interview officers, directors, agents or employees of the defendants to determine whether the defendants and their representatives are complying with the Final Judgment. Finally, the defendants, upon the written request of the Department of Justice, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in the Final Judgment.

IV

Remedies Available to Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorney's fees. The entry of the proposed Final Judgment will not have any adverse effect on the right of any potential private plaintiff who was a direct purchaser of pressure sensitive tape products from the defendants and claims to have been damaged by the alleged violation. *Illinois Brick Co. v. Illinois*, 431 U.S. 720, (1977). These potential private plaintiffs may sue for monetary damages or any other legal or equitable remedies, provided that such potential claim is timely under Sections 4 and 5(l) of the Clayton Act (15 U.S.C. 15, 16(l)). However, this Final Judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act (15 U.S.C. 16(a)).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Anthony V. Nanni, Department of Justice, Antitrust Division, 10th & Constitution Avenue, N.W., Washington, D.C. 20530, within the 60-day period provided by the Act. The comments and the government's responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is appropriate and necessary to the public interest. The proposed Final Judgment provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for its modification or enforcement. The Final Judgment is to remain in effect for a period of ten (10) years from the date of its entry.

VI

Alternatives to the Proposed Final Judgment

The proposed Final Judgment will completely dispose of the United States' claim for injunctive relief. The only alternative available to the Department of Justice is a full trial of this case on the merits. The proposed Final Judgment provides essentially all the equitable relief requested in the Complaint. The Final Judgment absolutely prohibits the continuation or renewal of the price-fixing activities of the defendants. It severely limits the circumstances in which representatives of the defendants can communicate with each other or other competitors concerning prices or price related matters, and the affirmative action required by the defendants is designed not only to prevent and discourage such activity in the future, but to effectively restore competition to this industry. For these reasons, in addition to the substantial savings of public funds and judicial time that would result from the acceptance of this proposed Final Judgment, it is the view of the United States that the proposed Final Judgment is in the public interest.

VII

Determinative Materials

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16(b)] were considered in formulating this proposed Final Judgment. Consequently, none are filed herewith.

Dated: November 30, 1979.

Robert E. Bloch,

Attorney, Department of Justice.

[FR Doc. 79-37750 Filed 12-7-79; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES**Humanities Panel; Meeting**

December 3, 1979.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at The National Endowment for the Humanities, Washington, D.C. from 9 a.m. to 5:30 p.m. on the following date: January 10, 1979 (5th Floor Conference Room) NEH, 806 15th St., N.W.

The purpose of these meetings is to review NEH Libraries-Humanities Projects Program applications submitted to The National Endowment for the Humanities for projects beginning after April 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, 806 15th Street, N.W., Washington, D.C. 20506 or call (202) 724-0367.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 79-37602 Filed 12-7-79; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meeting

December 3, 1979.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at The National Endowment for the Humanities, Washington, D.C. from 9 a.m. to 5:30 p.m. on the following date: January 8-9, 1979 (Room 807) NEH; 806 15th St., N.W., Washington, D.C.

January 11 (Planning Panel) (12th Floor Conference Room), Washington, D.C.

The purpose of these meetings is to review NEH Media Humanities Projects Program applications submitted to The

National Endowment for the Humanities for projects beginning after April 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, 806 15th Street, N.W., Washington, D.C. 20506 or call (202) 724-0367.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 79-37603 Filed 12-7-79; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meeting

December 3, 1979.

Pursuant to the Provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended) notice is hereby given that meetings of the Humanities Panel will be held at The National Endowment for the Humanities, Washington, D.C. from 9 a.m. to 5:30 p.m. on the following dates:

January 3-4, 1979 (Room 897) NEH, 806 15th St., N.W., Washington, D.C.
January 14-16, 1979 (Room 807) NEH, 806 15th St., N.W., Washington, D.C.

The purpose of these meetings is to review NEH Museums and Historical Organizations Humanities Projects Program applications submitted to The National Endowment for the Humanities for projects beginning after April 1, 1980.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close the meetings to protect the free exchange of internal views and to avoid

interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen McCleary, 806 15th Street, N.W., Washington, D.C. 20506 or call (202) 724-0367.

Stephen J. McCleary,
Advisory Committee Management Officer.

(FR Doc. 79-37804 Filed 12-7-79; 8:45 am)
BILLING CODE 7536-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

December 4, 1979.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;
The agency form number, if applicable;

How often the form must be filled out;
Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimated of the total number of hours needed to fill out the form; and

The name and telephone number of the person or officer responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved

promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Agriculture Marketing Service *Forms Under the Cotton Standards Act CN-246, 247, 248, 357 on Occasion Cotton industry, 3,516 responses; 307 hours Charles A. Ellett, 395-5080

Economic, Statistics, and Cooperatives Service *Manufactured Dairy Products Other (see SF 83) Manufacturers of dairy products, 48,252 responses; 10,380 hours Off. of Federal Statistical Policy and Standard, 673-7974

Food Safety and Quality Service *Request and Notice of Shipment of Sealed Meats MP-408 on Occasion Food inspector, 78,000 responses; 6,500 hours Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
1980 Census of American Samoa, Guam, Northern Mariana Islands, Trust

Territory of the Pacific Islands, and Virgin Islands
D 80AS, 80G, 80NM, 80TT, & 80VI
Single time
All households in the areas, 170,500 responses; 127,875 hours
Off. of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-8558

New Forms

Fuel Consumed for All Purposes at Refineries
EIA-173 (Formerly BOM 6-1335-A) Annually
Petroleum refineries in U.S., 319 responses; 1,276 hours
Jefferson B. Hill, 395-5867
Evaluation of Low Cost/No Cost Program
CS-445
Single time
Sample of households in NE and NY, 1,800 responses; 900 hours
Jefferson B. Hill, 395-5867
Weatherization Assistance Progress Report
CS-434
Quarterly
Economic opportunity offices; community action agencies, 4,196 responses; 4,392 hours
Jefferson B. Hill, 395-5867

Revisions

Report of Oil Imports Into the United States and Puerto Rico
ERA-60
Monthly
Importers of oil & petroleum products, 5,400 responses; 10,800 hours
Jefferson B. Hill, 395-5867
Refiners' Monthly Cost Allocation Report
EIA-14
Monthly
Crude oil refiners, 2,100 responses; 33,600 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Center for Disease Control
Tuberculosis Short Course
Chemotherapy Questionnaire
Single time
State & city TB controllers & other TB experts, 128 responses; 43 hours
Richard Eisinger, 395-3214
Social Security Administration

***Quality of Service Survey
Questionnaires (District Office)/
(Teleservice)**

SSA-4662 & SSA-4663

On occasion

SSA Clients Receiv. Serv. in DO's &
Thru Teleserv. Centers, 12,000

responses; 4,000 hours

Barbara F. Young, 395-6132

Extensions

Center for Disease Control
Rat Control Project Activities—
Quarterly Report

CDC-7.15

Quarterly

Rat control projects grantees, 272

responses; 2,176 hours

Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M.
Oliver—523-6341

Revisions

Employment Standards Administration
OFCCP Recordkeeping and Reporting
Requirements¹

CC-60-2

Other (See SF 83)

Employers and workers, 2,560,000 -
responses; 1,280,000 hours

Arnold Strasser, 395-5080

Reinstatements

Bureau of Labor Statistics

*Characteristics of the Insured
Unemployed

BS-203

Quarterly

State employment security agencies, 212
responses; 106 hours

Arnold Strasser, 395-5080

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Floyd I.
Sandlin—376-0436

Revisions

Bureau of Customs

*Declaration for Free Entry of Game
Animals or Birds Killed by U.S.
Residents

¹The Department of Labor, Office of Federal Contract Compliance Programs, request to revise an existing clearance covering the "definition of workforce analysis" has been approved by OMB on an interim basis. This clearance, which provides for consolidation and modification of a number of existing clearances as well as the addition of related new material has been granted to permit orderly implementation of E.O. 11246, as amended, Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, and Section 503 of the Rehabilitation Act of 1973, as amended. OMB will continue its review of the need for and utility of the data requirements covered by this clearance. Comments submitted to OMB prior to January 30, 1980 will be taken into consideration in this review. Any modification of these materials that may result from the OMB review will be published by the Department of Labor as a condition of continued clearance.

Customs 3315

On occasion

U.S. residents game & bird hunters,

30,000 responses; 3,000 hours

Marsha D. Traynham, 395-6140

EXECUTIVE OFFICE OF THE PRESIDENT, OTHER

Agency Clearance Officer—Stewart
Gamage—456-7975

New Forms

State/Local Regulatory Reform Survey

Single time

Gov's Offices; AG's; State/Local

Officials, 150 responses; 75 hours

Richard Eisinger, 395-3214

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P.
Weld—632-7737

New Forms

*Health Benefits Election Form

SF-2813

On occasion

Retired Federal employees, 1,500

responses; 125 hours

Laverne V. Collins, 395-3214

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John

Reidy—653-6081

Reinstatements

*Application for Surety Bond Guarantee
Assistance

SEA-994

On occasion

Small contractors requesting assistance,

34,000 responses; 17,000 hours

Richard Sheppard, 395-3211

**UNITED STATES INTERNATIONAL TRADE
COMMISSION**

Agency Clearance Officer—Charles

Ervin—523-0267

New Forms

Questionnaires—Sugars and Syrups
From Canada

Single time

Producers of refined sugar & corn

sweeteners, 41 responses; 1,198 hours

Off. of Federal Statistical Policy and

Standard, 673-7974

Stanley E. Morris,

Deputy Associate Director for Regulatory
Policy and Reports Management.

[FR Doc. 79-37652 Filed 12-7-79; 8:45 am]

BILLING CODE 3110-01-M

Agency Forms Under Review

Background

December 5, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping

requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

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The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Revisions

Farmer's Home Administration
7 CFR 1945-B, Emergency Loan Policies, Procedures, and Authorizations
1945-22, 1940-38

On occasion

Farmers Suffering From a Natural Disaster; Lenders, 675,000 responses; 179,050 hours

Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

Revisions

Bureau of the Census
Survey on Pollution Abatement Costs and Expenditures

MA-200

Annually

Manufacturing Establishments, 20,000 responses; 30,000 hours

Office of Federal Statistical Policy and Standard, 673-7974

Departmental and Other

*Personal History Statement for Possible Nomination to an Advisory Committee

CD-555

On occasion

Individual experts, specialists, and leaders from the public; 500 responses; 125 hours

Richard Sheppard, 395-3211

Extensions

Bureau of the Census

*Export Sales and Orders by Month

M4-A

Monthly

Manufacturers of durable goods for export, 3,000 responses; 1,500 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Office of Human Development
National Overview Survey

Questionnaire

Single time

Knowledgeable Staff in State Depts. of Human Resources, 51 responses; 51 hours

Barbara F. Young, 395-6132

Office of Human Development

*Process Measures for the CFMH Evaluation

Semi-annually

Head Start staff, children and parents, 2,250 responses; 2 hours

Barbara F. Young, 395-6132

Revisions

Center for Disease Control

*National Venereal Disease Morbidity Program

CDC 9.688; 9.2638, and 9.98

Other (see SF-83)

State, Territorial, and Local Health Departments, 3,010 responses; 1,251 hours

Office of Federal Statistical Policy and Standard, 673-7974

Food and Drug Administration

Survey of Nutrition Vocabulary and Quantitative Declarations

Single time

Food shopper for household, area probability, 1,600 responses; 1,200 hours

Richard Eisinger, 395-3214

Office of the Assistant Secretary for Education

IMS Program Application

IMS No. 102 and 103

Annually

Predominantly private-nonprofit museums, 3,000 responses; 25,500 hours

Laverne V. Collins, 395-3214

Reinstatements

Food and Drug Administration

*The Conference of Radiation Control Programs

Directors Nationwide Evaluation of X-ray Trends

Survey form

FD 2578

On occasion

X-ray equipment operators, 4,900 responses; 2,450 hours

Richard Eisinger, 395-3214

Office of Education

Guarantee Agency Monthly Report

OE 1130

Quarterly

State and Private Guarantee Agencies, 212 responses; 477 hours
Laverne V. Collins, 395-3214

Office of Human Development
Project Head Start Program Information Report

Semi-annually

Head Start grantees and delegate agencies, thruout here 3,900 responses; 5,850 hours

Barbara F. Young, 395-6132

Office of Human Development
Statement of Eligibility—Child Abuse and Neglect

HEW 627

Annually

50 State Social Service Agencies 50 responses; 100 hours

Barbara F. Young, 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

Reinstatements

New Communities

Title I Community Development Block Grant Budget and Progress Report
HUD-2008 (formerly NCA-75-1 & NCDC-990)

On occasion

Federally Assisted New Communities 180 responses; 360 hours
Budget Review Division, 395-4775

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

Revisions

Immigration and Naturalization Service
Application by a Lawful Permanent Resident for an Alien Registration Receipt Card

I-90

On occasion

Lawful perm. resi. apply. for an alien registra. rcpt. card 160,000 responses; 53,333 hours

Laverne V. Collins, 395-3214

Immigration and Naturalization Service
*Request for Determination That Prospective Immigrant is an Investor
I-526

On occasion

Prospective Immigrants 4,000 responses; 2,000 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

Extensions

Federal Aviation Administration
Notice of Proposal (or actual)
Construction or Alteration

FAA 7460-1, 7460-2

On occasion
Contractors in private enterprises 13,600 responses; 10,720 hours
Steed, Diane K., 395-3176

FEDERAL RESERVE SYSTEM

Agency Clearance Officer—Carolyn B. Doying—452-3512

New Forms

1980 Finance Company Survey
FR 3011S
Single time
Sample of Finance Companies 750 responses; 2,625 hours
Marsha D. Traynham, 395-6140

*Report of Assets of Money Market Mutual Funds

FR 2051A, FR 2051B

Monthly

All Money Market Mutual Funds 4,800 responses; 615 hours
Marsha D. Traynham, 395-6140

*Report of Deposits at Credit Unions
FR 2055

Monthly

Sample of Credit Unions 8,800 responses; 2,200 hours
Marsha D. Traynham, 395-6140

Finance Company Questionnaire
FR 3011P

Single time

All Known Finance Companies 5,000 responses; 500 hours
Office of Federal Statistical Policy and Standard, 673-7974

Extensions

*Oil and Energy Company Reports
FR 2580, 2581

Annually

Major gasoline and home heating oil retailers 19 responses; 5 hours
Office of Federal Statistical Policy and Standard, 673-7974

*Monthly Report of Negotiable Orders of Withdrawal

(now) accounts

FR-2015

Monthly

All Depository Institutions in NE and NY 17,738 responses; 1,774 hours
Office of Federal Statistical Policy and Standard, 673-7974

Finance Rates on Consumer Installment Credit

FR2419, FR 2421, FR 2636

Quarterly

Major Finance Companies 84 responses; 126 hours
Office of Federal Statistical Policy and Standard, 673-7974

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—634-4070

Revisions

*1980 Survey of Science and Engineering Graduates

Annually

Bachelors and Masters Graduates from 1978 and 1979 21,530 responses; 5,383 hours

Office of Federal Statistical Policy and Standard, 673-7974

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—John Reidy—653-6081

New Forms

Pollution Control Study Questionnaire for Recipients of Loans from or Guaranteed by SBA

Single time

Small Manufacturing Firms 250 responses; 125 hours

Richard Sheppard, 395-3211

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

New Forms

Survey of Volunteers and VA Hospital Inpatients

VAF 10-20699 (NR) A&B

Single time

Volunteers and inpatients at VA Hospitals 1,324 responses; 221 hours
Richard Eisinger, 395-3214

Revisions

*Letter to Veteran Requesting Information About Intentions to Acquire Specially Adapted Housing

FL 26-583

Annually

Veterans 2,000 responses; 667 hours
Richard Eisinger, 395-3214

Application for Dependency and Indemnity Compensation by Parent(s)
21-535

On occasion

Parent(s) 25,000 responses; 31,250 hours
Richard Eisinger, 395-3214

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-37605 Filed 12-7-79; 2:48 am]

BILLING CODE 3110-01-M

Interim Guidelines for the Collection of Race, Ethnic Background, Age, and Sex Information on Applications Made by Individuals for Benefits From Federal Programs

Summary

The Office of Management and Budget is issuing interim guidelines regarding the collection of information on the race, ethnic background, age, and sex of individuals applying for a benefit under Federal programs (including employment by Federal agencies). The guidelines enable Federal Departments and agencies to collect such information to assure that they are complying with various civil rights provisions such as Titles VI and VII, of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, the Age Discrimination Act of 1975, as amended, and other statutes while allowing OMB to assure that the reporting burden on respondents is kept to a minimum.

The guidelines were developed through extensive consultation with the Civil Rights Division of the Department of Justice and the Equal Employment Opportunity Commission. In addition, the proposed guidelines were circulated for comment to all Federal Departments and agencies. The published guidelines have been revised to take into consideration comments received from the earlier distribution.

We received several comments that the guidelines be expanded to cover the collection of information relating to handicap. We have asked the Department of Health, Education, and Welfare to begin work on a similar policy to cover the collection of information on handicap in conjunction with its responsibilities under Section 504 of the Rehabilitation Act of 1973.

We are publishing this notice to allow the public an opportunity to comment on these interim guidelines. Written comments should be sent to Stanley Morris, Deputy Associate Director, Regulatory Policy and Reports Management Division, Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503, on or before February 8, 1979. In the interim, these guidelines will be effective only for new requests for clearance submitted to the Office of Management and Budget under the Federal Reports Act of 1942 and OMB Circular No. A-40. The policy will not be put into effect for all reporting requirements until after receiving public comment and publication of a final notice. For further information contact: Mrs. LaVerne Vines Collins, Regulatory Policy and Reports Management

Division, Office of Management and Budget, 726 Jackson Place, N.W., Washington, D.C. 20503. Telephone: 202/395-3214; or Ms. Stewart Oneglia, Office of Coordination and Review, Civil Rights Division, Department of Justice, Washington, D.C. 20530. Telephone: 202/724-6757; or Ms. Francesta Farmer, Office of Interagency Coordination, Equal Employment Opportunity Commission, Washington, D.C. 20506. Telephone: 202/653-5490.

Wayne G. Granquist,
Associate Director for Management and Regulatory Policy.

Concurrence:

Eleanor Holmes Norton,
Chair, Equal Employment Opportunity Commission.

Drew S. Days III,
Assistant Attorney General, Civil Rights Division.

Interim Guidelines for the Collection of Race, Ethnic Background, Age, and Sex Information on Applications Made by Individuals for Benefits From Federal Programs

Past OMB guidelines for controlling and reducing reporting burden state that a request for clearance of an application form, under the Federal Reports Act of 1942 and OMB Circular A-40, may not contain information other than that necessary to determine (1) whether an applicant is eligible to receive the benefit applied for or (2) the amount of benefit to which an eligible applicant may be entitled. As a consequence of these past guidelines, departments and agencies have had difficulty in obtaining sufficient information to assure themselves that they are fully meeting their obligations under civil rights provisions such as Titles VI and VII of the Civil Rights Act of 1964, as amended, Title IX of the Education Amendments of 1972, as amended, the Age Discrimination Act of 1975, as amended, and other statutes.

Under the new guidelines departments and agencies will be permitted to collect information on the race, ethnic background, age, and sex of applicants for benefits under Federal programs. This will enable agencies to meet their legal obligations while allowing OMB to assure that the reporting burden on respondents is kept to a minimum.

Accordingly, it is now OMB policy that information on an applicant's race, ethnic background, age, and sex may be collected from all persons applying for a Federal benefit when such information is necessary to:

(1) Determine eligibility to receive the benefit; or

(2) Determine the amount of benefit payable to an eligible applicant; or

(3) Determine whether a program is being administered to provide equal opportunity to all eligible groups in the population regardless of race, ethnic background, age or sex.

The Department of Justice, pursuant to its authority under Executive Order 11764, has directed that all agencies administering programs covered by Title VI and similar nondiscrimination provisions of other statutes must collect data on the race and ethnic background of persons applying for services or benefits under their programs when needed for compliance or enforcement purposes. Sex and age discrimination are not covered by Title VI, but are covered under a number of other civil rights laws. The Department of Justice has advised agencies to use their authority under such laws or their general authority under grant statutes to require recipients to collect data on the sex and age of persons applying for benefits.

The Equal Employment Opportunity Commission, has taken the position that the collection of racial, ethnic background, and sex information on applicants for employment does not violate Title VII of the Civil Rights Act of 1964, as amended, if done:

(1) To fulfill the test validation and information requirements of the Equal Employment Opportunity Commission;

(2) In connection with implementing an affirmative action program; or

(3) In connection with the administration of fair employment practices programs; and

(4) Not for any discriminatory purpose.

Information on these personal characteristics may be collected in the course of the application process in accordance with the following guidelines:

1. Application for Employment

Questions relating to the race, ethnic background, age, and sex of an applicant must be collected on a separate or detachable portion of the application. The separate or detachable portion of the application may contain identifying information (e.g., name, serial number of the form, or social security number), but must be processed and maintained separately from the application form. When necessary for compliance or enforcement purposes, data may be cross-matched with application forms.

2. Application for a Service or Benefit Other Than Employment

Questions relating to the race, ethnic background, age, and sex of an applicant for a service or benefit under a nonemployment program may be placed directly on the application form.

3. Method of Collection

Self identification by the applicant is the preferred method of obtaining characteristic data. Where an applicant does not provide this information, the application taker shall through observation secure and record the information where possible. However, the application taker may not "second-guess," or in any other way change, a self-declaration made by the applicant as to his or her race, sex, age, or ethnic background unless such declaration is patently false.

4. Voluntary Nature of Reporting for Applicants

Applicants may not be required to furnish information on their race, ethnic background, age or sex unless this information is necessary to determine the applicant's eligibility to receive a benefit or to determine the amount of benefit to which an eligible applicant may be entitled.

Except in those cases in which race, ethnic background, age or sex information is necessary to determine an applicant's eligibility to receive a benefit or to determine the amount of benefit to which an eligible applicant is entitled, each application which seeks to collect this information shall carry the following statement:

"This information is requested solely for the purpose of determining compliance with Federal civil rights law, and your response will not affect consideration of your application. By providing this information, you will assist us in assuring that this program is administered in a nondiscriminatory manner."

5. Privacy Act

Agencies are reminded that in most cases Privacy Act requirements will apply to application forms. Even if a particular application form does not fall under the requirements of the Privacy Act, agencies should include on or with those forms notices containing the type of information required under 5 U.S.C. 552a(e)(3) concerning systems of records maintained by agencies on individuals.

6. Race and Ethnic Standards

Departments and agencies collecting information on the race and ethnic background of applicants for benefits under Federal programs (including employment) will use the categories

specified in Directive No. 15. "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," issued by the Office of Federal Statistical Policy and Standards, Department of Commerce. Any exceptions to the categories specified in Directive No. 15 must be approved by the Office of Federal Statistical Policy and Standards.

7. Department or Agency Responsibility

Any department or agency that collects or requires its recipients to collect information on the race, ethnic background, age, or sex of individuals applying for benefits or services is responsible for assuring that neither the information nor the method by which it is collected is used in any way to enable anyone to discriminate against the individual to whom the information pertains.

[FR Doc. 79-37748 Filed 12-7-79; 8:45 am]

BILLING CODE 3110-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1716; Amdt. 1]

Connecticut Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 61716), is amended by extending the filing date for physical damage until the close of business on January 3, 1980, and for economic injury until the close of business on August 14, 1980.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: December 4, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-37829 Filed 12-7-79; 8:45 am]

BILLING CODE 8025-01-M

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Public Forum

Small Business Conference Public Forum

January 14, 1980—2:00 p.m.—5:00 p.m.

Sheraton Washington Hotel, 2660 Woodley Road, N.W., Washington, D.C.

Public Forum

Views on the future of small business in the national economy will be aired at public hearings scheduled by the White House Conference on Small Business on Monday, January 14, 1980 from 2:00 p.m.—5:00 p.m. at the Sheraton Washington Hotel.

The hearing, a part of the White House Conference's week-long activities, are intended to elicit positions

and opinions relative to this broad subject area from organizations and the public. The White House Conference on Small Business was established in May 1978 by executive order of President Carter. Recommendations emanating from the Conference will be presented to the President within 60 days of these hearings.

The Conference program is organized around 12 major issue areas: Capital Formation and Retention, Minority Business Development, Economic Policy and Government Programs, Women in Business, Government Regulations and Paperwork, Inflation, International Trade, Federal Procurement, Education Training/Assistance, Innovation and Technology, Energy and Veterans in Business. Witnesses should focus their remarks within these issue areas.

The Conference is an important opportunity for citizens' organizations, public interest groups, labor and business representatives and state and local officials to recommend ways in which the private sector and government at all levels can work toward a better future for small business.

Those interested in testifying personally or in submitting written statements should communicate in writing no later than December 28, 1979 at 5:00 p.m. EST to: Ms. Elise Knapp, White House Conference on Small Business, 730 Jackson Place, N.W., Washington, D.C. 20006.

Dated: December 5, 1979.

Michael B. Kraft,
Deputy Advocate for Advisory Councils,
Small Business Administration.

[FR Doc. 79-37830 Filed 12-7-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-79-30]

Summary of Petitions for Exemption Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I)

and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 31, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. . 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on November 30, 1979.

Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations
and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
18824	Dave Prussner	14 CFR 141.35(c) (4) and (5)	To allow petitioner to be designated as a Chief Flight Instructor for a course of training leading to the issuance of an instrument rating without meeting the eligibility requirements.
18825	World Aerobatics, Inc.	14 CFR 61.3, 91.27(a), and 91.71(d).	To permit foreign pilots and aircraft to participate in the Tenth World Aerobatic Championships without showing that they meet U.S. pilot and aircraft certification requirements. Instead, the standards of the Federation Aeronautique Internationale would be applied.
19827	Frontier Airlines, Inc.	14 CFR 121.310(d)(2)(i)	To permit the petitioner to conduct Part 121 operation of Convair CV-580 aircraft with an emergency lighting system which cannot be operated manually from a point in the passenger compartment unless the flightcrew station emergency lighting switch is in the "armed" position.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
12638	Air Transport Association	14 CFR 121.351(a)	To allow the petitioner to operate aircraft over water on oceanic routes with only one High Frequency (HF) radio. <i>Granted 11/21/79.</i>
12738	Union de Transports Aeriens	14 CFR Parts 21, 61, 63, and 91	To amend Exemption No. 1775S, as amended, to the extent necessary to add the names of certain flight crewmembers and the deletion of others from the Appendix to that exemption. <i>Granted 11/27/79.</i>
15735	Cessna Aircraft Co.	14 CFR 65.81(a) and 145.39(d)	To extend for 1 year, Exemption No. 2353 covering the eight-month experience requirements for Propeller Repairmen. <i>Granted 11/26/79.</i>
18238	Flugleidir, H. F. and Seaboard World Airlines, Inc.	14 CFR Parts 21, 43, 61, 63, 91, and 121.	To amend Exemption No. 2602, as amended, to add two airmen and extend the exemption for one year. <i>Granted 11/20/79.</i>
18912	Air Transcontinental Airlines	14 CFR Parts 21, 61, 63, and 91	To amend Exemption No. 2714, as amended, to permit certain foreign airmen to operate U.S.-registered B-707 aircraft N762TB. <i>Granted 11/27/79.</i>
19246	Trans World Airlines	14 CFR 121.409(b)(2) and 121.441(a)(2)(i).	To permit pilot training in those maneuvers which best complement the TWA needs and satisfy the second-in-command pilot proficiency check each 24 calendar months. <i>Denied 11/16/79.</i>
18423	Eastern Air Lines, Inc.	14 CFR 121.291	To allow operation of the A300 aircraft configured for 244 passengers without conducting a full scale emergency evacuation. <i>Granted 11/20/79.</i>
19425	Garret E. Taylor	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79.</i>
19432	Edwin F. Herr Jr.	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79.</i>
19433	Edward R. Watson Jr.	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79.</i>
19434	William B. Moody	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79.</i>
19435	Wayne E. Cook	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79.</i>
19436	Edward E. Wood	14 CFR 121.383(c)	To permit petitioner to continue to serve as a pilot in air carrier operations after having reached his 60th birthday. <i>Denied 11/16/79.</i>
19444	Kodiak-Western Alaska	14 CFR 135.203	To allow the petitioner to operate aircraft below Visual Flight Rules minimums. <i>Granted 11/29/79.</i>
19466	Nevada Systems	14 CFR Parts 61, 91, and 121	To permit the petitioner to operate its large transport aircraft for hire without a Part 121 certificate and to utilize both flight attendants and flight crewmembers who are not qualified in accordance with Parts 61 and 91. <i>Denied 11/21/79.</i>
19494	Key Airlines	14 CFR 135.261(b)	To allow petitioner to operate a helicopter in hospital medical emergency service without meeting the flight and duty time limitations. <i>Partial grant 11/20/79.</i>
19496	Windstar Aviation Corp.	14 CFR 121.383(c)	To permit petitioner to use Mr. Henry J. Deuschendorf as pilot in air carrier operations after he reaches his 60th birthday. <i>Denied 11/20/79.</i>
19506	Hughes Airwest	14 CFR 121.443	To permit petitioner's pilots to serve on routes and into airports which are served by radar traffic control and precision landing systems, without meeting the route and airport qualifications. <i>Granted 11/20/79.</i>
19585	Ms. Della L. Farris and Key West Airlines	14 CFR 135.39(b) and 135.243(a)	To allow Ms. Farris to serve as Chief Pilot of Key West Airlines without having the prerequisite Airline Transport Pilot Certificate (ATPC). <i>Partial grant 11/20/79.</i>
19586	Mr. Brian Coast	14 CFR 135.243(a)	To permit Mr. Coast to serve as pilot in command for ZIA airlines, a commuter airline, without holding an Airline Transport Pilot Certificate (ATPC), due to the age 23 requirement. <i>Denied 11/20/79.</i>
19595	Windstar Aviation	14 CFR 121.155(a), (1), (b), and (c).	To allow lease arrangements for the purpose of flight training and demonstration flights by companies leasing the petitioner's Learjet 35. <i>Granted 11/21/79.</i>
19600	Chaffey Community College District	14 CFR 65.77	To permit the petitioner's students who have completed the "general section" of Chaffey College's approved mechanics program to take the general written examination prior to obtaining a graduation certificate. <i>Denied 11/21/79.</i>
19629	Curtis Ciancetta	14 CFR 69.91(c)(1)	To permit the petitioner to take the required examinations for an inspection authorization without 3 years of mechanic experience. <i>Denied 11/28/79.</i>
19648	Anthony Lindner	14 CFR 61.65(e)(1)	To permit the petitioner to apply for an additional category instrument rating (airplane) without obtaining the required cross country experience in the category of aircraft for which the instrument rating is sought. <i>Granted 11/26/79.</i>
19822	Pan American World	14 CFR 121.291	To allow the petitioner to introduce initial service in B-727-200 series aircraft in a 178 passenger seat configuration without first conducting a full scale emergency evacuation and ditching demonstration. <i>Partial grant 11/28/79.</i>

Research and Special Programs - Administration

[Docket No. 77-13W, Notice 1]

Transportation of Natural Gas and Other Gas by Pipeline; Petition for Waiver

The Tennessee Gas Pipeline Company has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirements of 49 CFR 192.707, which requires the marking of each gas pipeline with a sign at navigable water crossings, except for lines within 100 feet of a marker. The proposed waiver would apply to Tennessee Gas' pipeline systems 100 and 800, each containing multiple pipelines, which cross the Mississippi River near Greenville, Mississippi, and Lake Providence, Louisiana, respectively, in a catenary, or curved configuration.

In support of its petition, Tennessee Gas submits that the current regulation is adequate for multiple line straight crossings, but in the case of a catenary crossing, the required sign would be of little value a short distance from shore, and then of no value further from shore, as the curve of catenary pipelines is so great as to create a misconception of the pipeline's location.

Rather than mark each pipeline in System 100 and 800 as required by § 192.707, Tennessee Gas proposes a marking method which would delineate a zone, or corridor, containing all the pipeline crossings in that zone. This zone would be marked by placing signs slightly upstream of the intersection of the first pipeline in the zone and the bank, and downstream slightly past the apogee of the furthestmost pipeline in the zone. Tennessee Gas contends that this proposed marking method would provide better protection against the

dangers of anchoring and dredging than by complying with the specific requirements of § 192.707.

Tennessee Gas enclosed drawings showing the route, size, and location of each crossing of the multiple pipeline systems and the proposed sign locations. The drawings show that none of the pipelines are laid straight across the river, but form a catenary with the curve extending some 700 to 800 feet downstream from where the pipeline crosses the water's edge. Tennessee Gas also states that under the existing regulations, the 100 system crossing would require eight signs and the 800 system would require six signs.

Tennessee believes that a marking method consisting of four signs for each pipeline system crossing, two on each bank, will be more informative and provide better warning to boat and dredge operators. This method would delineate the entire warning zone as opposed to indicating only the point at which each catenary pipeline intersects the water's edge. The signs would be standard signs described by § 192.707 indicating (Warning, Do Not Anchor or Dredge, Gas Pipeline Crossing, Company Name and Phone Number), but in addition, each sign would contain an arrow of 8 feet by 6 inches long and two feet wide with 12-inch letters stating "Between Signs," with the arrows pointing in the appropriate direction. In addition, six fewer signs would be required by the proposed method, with an estimated cost savings of \$27,000 compared to compliance with the existing regulations.

MTB is considering granting the requested waiver from the requirements of § 192.707(2) and § 192.707(a)(1) for the following reasons:

1. The use of signs delineating a zone which includes the whole area in which there is danger of pipelines being

damaged by anchoring or dredging provides better safety for the public than the existing requirements of § 192.707 for those areas where pipelines crossing navigable waters have a curved configuration.

2. After consulting with the Coast Guard and the Corps of Engineers, MTB is of the opinion that the granting of the waiver would not impact adversely on their regulatory functions and would not adversely affect the public safety.

3. The granting of the waiver would lessen the cost to the operator while enhancing safety.

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views or arguments as they may desire. Communications should identify the docket and notice numbers and be submitted between 8:30 a.m. to 5:00 p.m., to: Docket Branch, Room 8426, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before February 1, 1980 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available at the Docket Branch, Materials Transportation Bureau, before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the Federal Register if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

(49 U.S.C. 1672; 49 CFR Part 1.53(a), Appendix A of Part 1 and Appendix A of Part 106).

Issued in Washington, D.C., on December 3, 1979.

Cesar De Leon,
Associate Director for Pipeline Safety
Regulation Materials Transportation Bureau.
(FR Doc. 79-37561 Filed 12-7-79; 8:45 am)
BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Imported Steel Mill Products Trigger Price Mechanism: First-Quarter 1980 Revision of Trigger Prices; Corrections

The Treasury Department Federal Register Notice on first quarter 1980 trigger prices dated November 27, 1979 contained several errors in Table 3 and omissions from revised page 14-23. The following table and page revision corrects these errors and omissions.

A. Corrections to Table 3.

Product	Page	1st quarter 1980 base price	1st quarter ocean freight				1st quarter interest			
			W.	G.	A.	L.	W.	G.	A.	L.
Standard channels	3-4	281	29	36	39	48	9	11	11	14
Unequal angles	3-6	295	29	36	39	48	9	12	12	15
Equal angles	3-8	265	29	36	39	46	8	11	11	13
Standard "I" beams	3-10	323	29	36	39	46	10	13	13	16

Product	Page	1st quarter 1980 base price	1st quarter ocean freight				1st quarter interest			
			W	G.	A.	L.	W	G.	A.	L.
Reinforcing bars.....	8-1	259	29	36	39	46	8	11	11	13
Bar size channel.....	9-1	389	29	36	39	46	12	16	16	19
Merchant quality squares, round cornered squares.....	10-3	325	29	36	39	46	10	13	13	16
Merchant quality round bar.....	10-5	325	29	36	39	46	10	13	13	16
Merchant quality flat bars.....	10-7	295	29	36	39	46	9	12	12	15
CBW pipe.....	14-6	400		See freight table			13	16	16	20
ERW line pipe.....	14-8	419		See freight table			13	17	17	21
ERW standard pipe.....	14-22	406		See freight table			13	16	16	20
ERW oil well casing.....	15-13	439		See freight table			14	18	18	22
H.R. high carbon Cr steel tube AISI 52100.....	15-48	641	69	79	95	105	20	26	28	32
C.R. high carbon Cr steel tube AISI 52100.....	15-49	954	67	79	95	105	30	39	39	47
Seamless round ornamental tube AISI TP 304.....	15-50	21637	65	86	96	97	68	88	88	107
Seamless square ornamental tube AISI TP 304.....	15-52	2358	65	76	96	97	74	96	96	117
Galvanized sheet ASTM A525G90.....	27-4	424	30	33	37	47	13	17	17	21
H.R. strip produced on bar mills, cut lengths.....	29-1	330	29	36	39	46	10	13	13	17

B. Corrections to page 14-23.

The following size ranges were inadvertently omitted from revised page 14-23.

E.R.W. Standard Pipe Dollars Per Metric Ton

[1st Quarter 1980]

Outside diameter.....	5% e	6%	8%	10%	12%	14	16
Extra strong wall thickness.....	426	426	409	409	409	409	409

Dated: December 4, 1979.

David R. Brennan,

Acting General Counsel.

[FR Doc. 79-37644 Filed 12-7-79; 8:45 am]

BILLING CODE 4810-25-M

INTERSTATE COMMERCE
COMMISSION

Office of Hearings

[Notice No. 152]

Assignment of Hearings

December 4, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 93649 (Sub-23F), Gaines Motor Lines, Inc., now assigned for hearing on December 3, 1979, is canceled and transferred to Modified Procedure.

MC 123091 (Sub-29F), Nick Strimbu, Inc., now assigned for hearing on November 29, 1979, is canceled and transferred to Modified Procedure.

MC 51018 (Sub-11F), The BESL Transfer Company, An Ohio Corporation, now assigned for hearing on December 5, 1979 at Cincinnati, OH., is canceled and transferred to Modified Procedure.

MC 145574 (Sub-1F), Russ's Motor Service, Inc., now assigned for hearing on December 5, 1979 at Chicago, IL in Room No. 350, 230 South Dearborn Street.

MC 146038 (Sub-1F), Quick Silver, Inc., Transferred to Modified Procedure.

MC 95098 (Sub-1F), Boonton Transport, A Corp., now assigned for hearing on December 17, 1979 at Newark, NJ, will be held in Room Salon E, Robert Treat Hotel, 50 Park Place, Newark, NJ.

MC 138469 (Sub-96F), Donco Carriers, Inc., now assigned for hearing on December 5, 1979 at Kansas City, MO. is canceled and transferred to Modified Procedure.

MC 138627 (Sub-49F), Smithway Motor Xpress, Inc., now assigned for hearing on December 5, 1979 at Omaha, NE. is canceled and transferred to Modified Procedure.

MC 114273 (Sub-409F), CRST, Inc., now assigned for hearing on December 10, 1979 at Chicago, IL, is canceled and Application Dismissed.

MC 114273 (Sub-409F), CRST, Inc., now assigned for hearing on December 10, 1979 at Chicago, IL, is canceled and Application Dismissed.

MC 142416 (Sub-1) (M1F), Hamilton Transfer, Storage & Feeds, Inc., now assigned for hearing on December 3, 1979 at Casper, WY. is postponed to February 25, 1980 (4 Days), at Casper, WY. in a hearing room to be designated later.

MC 119349 (Sub-12F), Starling Transport Lines, Inc., now assigned for hearing on December 4, 1979 at Washington, DC. is canceled and Application Dismissed.

MC 114569 (Sub-246F), Schaffer Trucking, Inc., now assigned for hearing on

December 3, 1979 is canceled and transferred to Modified Procedure. MC 117730 (Sub-43F), Koubenec Motor Service, Inc., now assigned for continued hearing on December 4, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 1494 (Sub-26F), Gross Common Carrier, Inc., now assigned for hearing on December 3, 1979 at Madison, Wisconsin will be held at the Sheraton Inn, Sheraton Inn & Conference Center, 706 John Nolen Drive, Madison, Wisconsin.

MC 146467 F, Triad Motor Lines, Inc., now being assigned for hearing on January 22, 1980 (4 Days), at Durham, NC. in a hearing room to be designated later.

MC 133937 (Sub-31F), Carolina Cartage Company, Inc., now being assigned for hearing on January 28, 1980 (5 Days), at Columbia, SC. in a hearing room to be designated later.

MC 41406 (Sub-126F), Artim Transportation System, Inc., now assigned for hearing on March 10, 1980 (1 Day), at Louisville, KY. in a hearing room to be designated later.

MC 107403 (Sub-1186F), Matlack, Inc., now being assigned for hearing on March 11, 1980 (1 Day), at Louisville, KY. in a hearing room to be designated later.

MC 138882 (Sub-238F), Wiley Sanders Truck Lines, Inc., now being assigned for hearing on March 12, 1980 (3 Days), at Louisville, KY. in a hearing room to be designated later.

MC 135812 (Sub-1F), Professional Driver Services, Inc., now assigned for continued hearing on March 4, 1980 (4 Days), at Louisville, KY. in a hearing room to be designated later.

- MC 144672 (Sub-6F), Victory Express, Inc., now assigned for hearing on December 10, 1979 (1 day) at New York, NY will be held in room D-2206, Federal Building, 26 Federal Plaza.
- MC 135874 (Sub-147F) Lt1 Perishables, Inc., now assigned for hearing on December 11, 1979 (2 days) at New York, NY will be held in Room D-2206, Federal Building, 26 Federal Plaza.
- MC 144247 (Sub-3F), Downey Enterprises, Inc., now assigned for continued hearing on November 29, 1979 (7 days) at Los Angeles, CA will be held November 29, 1979 through December 2, 1979 at U.S. Tax Court, 8541 Federal Building, 300 North Los Angeles Street, and on December 3, 1979 through December 7, 1979 at the U.S. County Court House, 111 North Hill Street.
- MC 108633 (Sub-16F), Barnes Freight Line, Inc., now for hearing on December 3, 1979 at the Ramada Inn, 854 N. Gloster, Tupelo, MS, December 6, 1979 at the Hilton Inn, Memphis Airport, Memphis, TN and also December 10, 1979 in the Ramada Inn, 5216 Airport Highway, Birmingham, AL.
- MC 129615 (Sub-4F), American International Driveaway Extension—Hawaii, now assigned for hearing December 12, 1979 (3 days) at Chicago, IL in Room 672, 536 South Clark St., V.A. Administration Bldg.
- MC 136774 (Sub-12F), MC-MOR-HAN Trucking Co., Inc., now assigned for hearing on December 4, 1979 at Chicago, IL in Room No. 350, 230 South Dearborn Street.
- MC 83835 (Sub-153F), Wales Transportation, Inc., now assigned for hearing on December 3, 1979, is canceled and transferred to Modified Procedure.
- MC 20824 (Sub-40F), Commercial Motor Freight, Inc., now assigned for hearing on December 3, 1979 at Indianapolis, IN. is postponed indefinitely.
- MC 36448 (Sub-7F), Murfreesboro Freight Lines Company now assigned for Prehearing Conference on December 17, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.
- MC 103051 (Sub-462F), Fleet Transport Company, Inc., A Georgia Corporation, now being assigned for hearing on January 23, 1980 (3 Days), at Memphis, TN. in a hearing room to be designated later.
- MC 116254 (Sub-241F), Chem-Haulers, Inc., now being assigned for hearing on January 28, 1980 (2 Days), at Nashville, TN. in a hearing room to be designated later.
- MC 145779F, Oil Service Company, Inc., now being assigned for hearing on January 30, 1980 (3 Days), at Nashville, TN. in a hearing room to be designated later.
- MC 37958 (Sub-3F), Trenton Lambertville Bus Line, Inc., now assigned for hearing on December 10, 1979 will be held in Hearing Room 10, Third Floor, Wallace Building, 88 East State Street, Trenton, NJ.

Agatha L. Mergonovich,
Secretary.

[FR Doc. 79-37794 Filed 12-7-79; 8:45 am]
BILLING CODE 7035-01-M

[Revised Exception No. 5 to Corrected
Second Revised Service Order No. 1301]

Burlington Northern, Inc.

Pursuant to the authority vested in me by Section (a)(4) of Corrected Second Revised Service Order No. 1301, Burlington Northern Inc. is authorized to use forty-foot narrow-door plain boxcars owned by Canadian National Railways or by CP Rail from stations in the State of Montana destined to Tacoma, or Seattle, Washington, subject to the following conditions.

1. Cars must be used in compliance with United States Customs regulations.
2. Cars must be used in compliance with Car Service Rules 1 and 2 adopted by the Commission in Docket Ex Parte No. 241.
3. Car Relocation Directives and Car Assistance Directives issued by the Car Service Division, Association of American Railroads, applicable to such cars remain fully in effect.

Effective November 14, 1979.

Expires January 31, 1980.

Issued at Washington, D.C., November 14, 1979.

Robert S. Turkington,
Assistant Director, Bureau of Operations.

[FR Doc. 79-37796 Filed 12-7-79; 8:45 am]
BILLING CODE 7035-01-M

[Amendment No. 1 to Revised I.C.C. Order
No. 57 Under Service Order No. 1344]

Rerouting Traffic

To: All Railroads

Upon further consideration of Revised I.C.C. Order No. 57, and good cause appearing therefor:

It is ordered, Revised I.C.C. Order No. 57 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 10, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., November 23, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 23, 1979.

Robert S. Turkington,
Agent.

[FR Doc. 79-37795 Filed 12-7-79; 8:45 am]
BILLING CODE 7035-01-M

[Notice No. 202]

**Motor Carrier Temporary Authority
Applications**

November 7, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 199

November 5, 1979.

MC 2229 (Sub-222TA), filed September 11, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie

Hill, 3177 Irving Blvd., Dallas, TX 75247. *Self-propelled mobile work platforms* from Los Angeles, CA to all points in the United States (except CA, AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keedon Enterprises, Inc., 5845 S. District Blvd., Los Angeles, CA 90040. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 36509 (Sub-35TA), filed June 28, 1979. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome St., San Francisco, CA 94111. Representative: R. C. Konkle (same address as above). Contract carrier; irregular routes: *Coin* between San Francisco, CA, on the one hand, and, on the other, Las Vegas, NV., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Services Administration, Representation, Negotiations, and Economics Division, Transportation and Public Utilities Service, Washington, D.C. 20406. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 48958 (Sub-201TA), filed September 24, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Compounds, fireproofing, or retardants, flame, dry or liquid* from Phoenix, AZ and its commercial zone, to points in AR, CA, CO, ID, IL, IN, IA, KS, MN, NO, NE, NV, NM, OH, OK, TX, UT, WI and WY for 180 days. Supporting Shipper(s): H.J.H. Chemicals Co., 2229 East Magnolia, Phoenix, AZ 85034. Send protests to: Roger Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 103798 (Sub-40TA), filed September 28, 1979. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Canned and preserved foodstuffs* from the facilities of Heinz, USA at or near Muscatine and Iowa City, IA to points in WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 4th Street, Minneapolis, MN 55401.

MC 110988 (Sub-406TA), filed September 27, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Varnish* from Saukville, WI to Kansas City, KS,

for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Delta Oil Products Corporation, 6263 N. Teutonia Ave., Milwaukee, WI 53209. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 111548 (Sub-22TA), filed September 20, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Penn. Bldg., Penn. Ave. and 13th St., NW, Washington, DC 20004. *Foodstuffs, canned or preserved* from the facilities of Heinz, USA at Muscatine and Iowa City, IA to the facilities of Heinz, USA at Greenville, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, PO Box 57, Pittsburgh, PA 15230. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC.

MC 113828 (Sub-278TA), filed September 25, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 21210. *Flour, in bulk, in tank vehicles* from Barksdale, MD to points in the District of Columbia, MD, PA, CT, DE, MA, NJ, NY, and VA for 180 days. Supporting shipper(s): Ross Industries, Department of Cargill, Inc., P.O. Box 2696, Wichita, KS 67201. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 118468 (Sub-55TA), filed September 10, 1979. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson St., Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Contract carrier—irregular routes. *Treated lumber and wood products* from Beardstown, IL, to points in IA under contract with Emmer-Eagle Grove, Inc. of Eagle Grove, IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Emmer-Eagle Grove, Inc., 6800 France Ave., South, Minneapolis, MN 55435. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 123048 (Sub-469TA), filed September 10, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21 St., Racine, WI 53406. Representative: John Bruemmer, 121 W. Doty St., Madison, WI 53703. *Crushed stone, in bags*, from DeMarco, Marble Falls and San Saba, TX; Tate and Whitestone, GA; and Canon City, CO to Chicago, IL and Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Terrazzo & Marble Supply Co. of IL, 5700

S. Hamilton Ave., Chicago, IL 60636. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 123048 (Sub-470TA), filed September 18, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21 St., Racine, WI 53406. Representative: John L. Bruemmer, 121 W. Doty St., Madison, WI 53703. *Fire place logs* from facilities of D.G. Shelter Products at Austin, TX to points in IL, IN, IA, KS, MI, MN, MO, NE, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): D. G. Shelter Products, 401 Watt Ave., Sacramento, CA 95825. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 125689 (Sub-8TA), filed Sept. 17, 1979. Applicant: BEATTYVILLE TRANSPORT, INC., P.O. Box 357, Catlettsburg, Ky. 41129. Representative: Fred H. Daly, 2550 M St., N.W., Washington, D.C. 20037. Petroleum products, in bulk, in tank vehicles, from the facilities of Gulf Oil Corporation near Huntington, WV, to points in Johnson, Floyd, Lawrence and Magoffin Counties, KY, for 180 days. Supporting shipper(s): F. J. Reilly, Facilities & Distribution Mgr. Gulf Oil Corp., P.O. Box 15678, Nashville, TN 37215 and Marvin Music Distributors, Inc., Box 609, Prestonsburg, KY 41653. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 128709 (Sub-5TA), filed September 12, 1979. Applicant: PARIS MOTOR FREIGHT, INC., P.O. Box 1787, Fort Smith, AR 72901. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. Common carrier over regular routes: *General commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), between Mansfield, AR and Ft. Smith, AR, from Mansfield over U.S. Hwy 71 to Ft. Smith, AR and return over the same route, serving the commercial zones of Mansfield and Ft. Smith, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 35 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 133689 (Sub-309TA), filed September 11, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street, Southwest, New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Games and toys and equipment, materials and supplies used or useful in the manufacture and distribution of*

games and toys between the facilities of Schaper Manufacturing Co. located at Minneapolis, MN and points in its Commercial Zone, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schaper Manufacturing Company, 9909 South Shore Drive, Minneapolis, MN 55441. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 136819 (Sub-5TA), filed September 24, 1979. Applicant: SPIVEY, INC., P.O. Box 674, Franklin, VA 23851. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. *Contract; Irregular: Lumber and pallets*, between points in NC and VA, on the one hand, and, on the other, points in DC, DE, MD, NC, NJ, PA, VA, and NY (New York and points in the commercial zone thereof, and points in Nassau and Suffolk Counties), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farnham Manufacturing Co., Inc., Farnham, VA 22460. Send protests to: ICC Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106, Room 620.

MC 142059 (Sub-97TA), filed September 13, 1979. Applicant: Representative: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (address same as applicant). *Structural steel*, from Milwaukee, WI to Clinton, IL; St. Louis, MO; Buffalo, NY and Cleveland and Toledo, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cardinal Fabricating Corporation, 3400 South Hanson, P.O. Box 07483, Milwaukee, WI 53207. Send protests to: Annie Booker, TA, ICC—219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 143739 (Sub-35TA), filed September 26, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same address as applicant. *Canned and preserved foodstuffs* from the facilities of Heinz USA, Div. of H. J. Heinz Co. at or near Muscatine, IA and Iowa City, IA to points in MN, WI and ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Div. of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 143739 (Sub-36TA), filed September 27, 1979. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter, same address as applicant. *Foodstuffs, (except in bulk)*, from the facilities of Great American Basic Commodities, Inc. located at or near Plover, WI to points in AZ, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NV, ND, OH, OK, SD, TN, TX and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Great American Basic Commodities, Inc., Plover, WI 54467. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 146659 (Sub-3TA), filed September 27, 1979. Applicant: GOLDSTON TRANSFER, INC., P.O. Box 338, Eden, NC 27288. Representative: Archie W. Andrews, same as above. *Materials, equipment and supplies used in the manufacture of malt beverages* from points in NC to points in Rockingham Co., NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miller Brewing Co., 3939 West Highland Blvd., Milwaukee, WI 53201. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 146729 (Sub-6TA), filed September 24, 1979. Applicant: JAMES S. HELWIG and ALLEN L. GRIMLAND d.b.a. H & G LEASING, 2509 Inwood Road, Dallas, TX 75235. Representative: D. Paul Stafford, Winkle, Wells & Stafford, P.O. Box 45538, Dallas, TX 75245. *Hams, in containers, in vehicles equipped with mechanical refrigeration*, from the facilities of Garland Foods, Inc., Dallas, TX to points in NJ, NY, MD, MA, and PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Garland Foods, Inc., 5003 South Lamar, Dallas, TX 75215. Send protests to: Opal Jones, ICC 9A27 Fritz Garland Lanham Federal Building, 819 Taylor Street, Ft. Worth, TX 76102.

MC 147659 (Sub-1TA), filed June 26, 1979. Applicant: CARTIN DELIVERY SERVICE, INC., 8911 Evergreen Way, P.O. Box 2976, Everett, WA 98203. Representative: Robert G. Gleason, 1127-10th East, Seattle, WA 98102. *General commodities, except those of unusual value, Classes A & B explosives, household goods as defined by the Commission and commodities in bulk*, between points in Pierce, King, Snohomish, Skagit and Whatcom Counties and between points in those counties and Ports of Entry on the International Boundary between the

U.S. and Canada, located at or near Blaine, Lynden and Sumas, WA, restricted to shipments of 500 lbs or less, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fisheries Supply Co., 1900 N. Northlake, Seattle, WA 98103; Kaman Bearing Supply Corp., N.W., 4030—1st Ave. S., Seattle, WA 98134; Morgan Bros. of Everett, Inc., 3225 Cedar St., Everett, WA 98201; Kaman Bearing & Supply Northwest, 1106 Hewitt Ave., Everett, WA 98201. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 148018 (Sub-1TA), filed September 6, 1979. Applicant: JAMES S. BATT d.b.a. BATT TRUCKING, P.O. Box 921, Caldwell, ID 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Fertilizer, dry in bulk*, from Moab, Garfield and Wendover, UT to point in ID, OR, and WA, for 180 days. An underlying ETA seeks 90 days authority. Applicant is a contract carrier over irregular routes. Supporting shipper(s): North Pacific Trading Co.; a division of North Pacific Lumber Co., Inc., Box 3915, Portland, OR 97208. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 148228 (Sub-1TA), filed September 12, 1979. Applicant: TRI-PAK, INC., 2 North Park East, Suite 406, Dallas, TX 75231. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Truck, machinery and equipment parts, used in the replacement, servicing and repairing of trucks, machinery and equipment* between Dallas, TX and the Commercial Area of Dallas, TX on the one hand, and, on the other points in AR, LA, OK, and NM for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Gardner-Denver Company, 3305 Wiley Post Road, Carrollton, TX 75006; Crane Carrier Company, 4832 Cash Road, Dallas, TX 75247. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 148548TA, filed September 5, 1979. Applicant: KEIM TRANSPORTATION, INC., RFD No. 2, Box 10, Sabetha, KS 66534. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. Contract carrier. *Iron and steel articles* (except "Mercer" commodities as defined in 74 MCC 459, 543, or earth drilling commodities as described in Roy L. Jones, et al 103, M.C.C. 825, 832) from the commercial zone of Sterling and Chicago, IL and Union, MO to points in KS east of US Hwy 81 and north of US Hwy 54, for 180 days, irregular routes, supporting shipper: Steel & Pipe Supply Co., Inc.,

P.O. Box 703, Manhattan, KS; send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 148549TA, filed September 11, 1979. Applicant: FRANK DONADIO trading as SOUTH PHILLY TRIPS, 1828 S. Mole St., Philadelphia, PA 19145. Representative: William Morrow, 2540 P.S.F.S. Bldg., Phila, PA 19107. *Common; regular; passengers in a limousine type van (Max. 12) via scheduled services from their homes in So. Phila. to casinos in Atlantic City, NJ over particular highways, and from A.C. to their homes in So. Phila. The van will leave So. Phila. via the Walt Whitman Bridge, travel So., on N.J. No. 42 South to the A.C. Expressway and south to A.C. and discharge at the Casinos. The return trip will depart from A.C. via the Atlantic City Expressway to Route No. 42 to Walt Whitman Bridge to So. Phila. for 180 days. Supporting shipper(s): Michael Ozzie Myers, 600 Arch St., Phila. PA 19106; James J. Tayoun, Rm. 404, City Hall, Phila., Pa. 19107. Joseph Aiello, 1317 Filbert St., Phila., PA. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 148608TA, filed April 17, 1979. Applicant: WAREHOUSE TRANSPORTATION COMPANY, INC., 750 W. Third St., Cincinnati, OH 45203. Representative: Richard Knock (same as applicant). *Contract carrier; irregular routes: Such commodities as are used, dealt in, or distributed by retail and wholesale department, hardware, drug and food stores and equipment, materials and supplies used in the conduct of the business described above, between Urbana, OH, and Detroit, MI; Elizabeth, NJ; Syracuse, NY; Pittsburgh, PA; and Nashville, TN; and between Dayton, OH, and Jacksonville, FL; Atlanta, GA; Bedford Park and Peoria, IL; Detroit, MI; Elizabeth, NJ, Syracuse, NY, Pittsburgh and E. Stroudsburg, PA; and Memphis and Nashville, TN; and between Nashville, TN, and Jacksonville, FL; Atlanta, GA; Bedford Park and Peoria, IL; Baltimore, MD; Detroit, MI; Minneapolis, MN; St. Louis, MO; Pittsburgh and E. Stroudsburg, PA; Memphis, TN; and Richmond, VA; and between Franklin, KY, and Jacksonville, FL; Atlanta, GA; Bedford Park and Peoria, IL; Cincinnati and Dayton, OH; and Pittsburgh, and E. Stroudsburg, PA; Kansas City, KS; Baltimore, MD; Detroit, MI; Minneapolis, MN; St. Louis, MO; Memphis and Nashville, TN; and Richmond, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Drackett Products Co., Randall D. Weis, Manager Transportation Services, 5020*

Spring Grove Avenue, Cincinnati, OH 45232. Send protests to: Bureau of Operations, ICC, Wm. J. Green, Jr., Federal Bldg., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 146378, filed June 1, 1979. Applicant: PAUL H. HARPOLE TRUCK SERVICE, INC., 22 Wilshire Ct., Belleville, IL 62223. Representative: William Gagen, 118 S. Charles St., Belleville, IL 62221. (1) *Tires, machinery, and supplies used in the manufacture of tires, between the facilities of the General Tire and Rubber Co. at Akron, OH and points in CA, IL, IN, KY, MI, MO, OH, PA, and WI; (2) Household appliances, equipment, materials and supplies used in the manufacture and distribution thereof, between the facilities of General Electric Co. at Appliance Park, Louisville, KY and points in WI, IL, MO, IN, MI, OH, and PA; (3) Automobile parts and accessories, related racks, and containers and related iron and steel articles, between points in CA, IL, OH, IN, KY, MI, MO, NJ, NY, PA, WI, and Louisville, KY and the Detroit, MI Commercial Zone, and from points in MI to the Ford Motor Plants at Claycomo, MO, St. Louis, MO, Pico Rivera, CA and Milpitas, CA; and (4) Candy and confectionary N.O.I., from the facilities of Hollywood Brands, Inc., at Centralia, IL to points in KY, MD, MI, NJ, NY, OH, PA, WI, and WV in vehicles equipped with mechanical refrigeration for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): The General Tire & Rubber Co., No. 1 General St., Akron, OH 44329; Ford Motor Co., One Parkland Blvd., Parkland Towers E., Suite 200, Dearborn, MI 48126; General Electric Co., Appliance Park, Louisville, KY 40225; Hollywood Brands, Inc., 836 S. Chestnut St., Centralia, IL 62801. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.*

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MC 2229 (Sub-224TA), filed October 4, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill, same as above. *Fired Clay Cat Litter* from the facilities of O.C.P.C. Inc. at or near Stroud, OK to points in the US (except OK, AK, and HI) for 180 days. Underlying ETA filed. Supporting shipper(s): O.C.P.C., Inc., 523 W. 1st St., Stroud, OK 74079. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 14138 (Sub-10TA), filed October 4, 1979. Applicant: HEAVY TRANSPORT INC., P.O. Box 727, Long Beach, CA

90801. Representative: William P. Jackson, Jr., P.O. Box 240, Arlington, VA 22210. *Contractor's material, equipment, and supplies (except in bulk),* Between Los Angeles, CA and its commercial zone, on the one hand, and, on the other, points in Nevada, Arizona, Utah, Oregon, Texas and New Mexico, for 180 days. Supporting shipper(s): Peter Bawden Drilling, Inc., Mechanical Superintendent, 6242 Paramount Blvd., Long Beach, CA 90805. Send protests to: Irene Carlos, TA, ICC, Room 1321—Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 17829 (Sub-17TA), filed October 15, 1979. Applicant: DISILVA TRANSPORTATION, INC., 50 Middlesex Ave., Somerville, MA 02145. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Contract carrier; irregular route; (1) such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business (except commodities in bulk) and such commodities as are dealt in by retail and discount department stores (except commodities in bulk),* from Braintree, MA to points in VA. (2) *returned shipments of the above-described commodities, from the above-described destinations to Braintree, MA.* RESTRICTION: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with The Stop & Shop Companies, Inc., Boston, MA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Stop & Shop Companies, Inc., 393 D Street, South Boston, MA 02210. Send protests to: John B. Thomas, D/S, I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 35628 (Sub-422TA), filed October 2, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue NW, Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175, 110 Ionia Avenue NW, Grand Rapids, MI 49501. *General Commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); serving Carrollton, KY as an off route point in connection with applicant's presently authorized operations. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roberts Corporation, 150 Orchard Street, Grand Ledge, MI 48837. Send protests to: C. R. Flemming, D/S,

201 Corr Bldg., 300 E. Michigan Ave.,
Lansing, MI 48933.

MC 35628 (Sub-423TA), filed October 3, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49501. Representative: Michael P. Zell, same address as applicant. Part 1. (1) *Gypsum, gypsum products, building materials*; and (2) *materials and supplies used in the installation and distribution of commodities in (1) above* (except commodities in bulk) From the facilities of Georgia-Pacific Corporation in Marshall County, Kansas to all points in the United States. Part 2. *Materials, equipment, and supplies used in the manufacture, installation and distribution of gypsum, gypsum products, and building materials* (except in bulk) From points in the United States, to the facilities of Georgia-Pacific Corporation in Marshall County, KS. For 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 1062 Lancaster Ave., Rosemont, PA 19010. Send protests to: C. R. Flemming, I.C.C., Room 201, Corr Building, 300 East Michigan, Lansing, MI 48933.

MC 35628 (Sub-424TA), filed October 9, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, P.O. Box 175, 110 Ionia Avenue, NW, Grand Rapids, MI 49501. Representative: Michael P. Zell, P.O. Box 175, 110 Ionia Ave, NW, Grand Rapids, MI 49501. *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses* (except frozen commodities and commodities in bulk); originating from The Clorox Company facilities located at Kansas City, MO and destined to Aberdeen, Brookings, Chamberlain, Ellsworth AFB, Huron, Mitchell, Rapid City, Sioux Falls, Sturgis, Watertown and Yankton, SD. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway Street, Oakland, CA 94612. Send protests to: C. R. Flemming, D/S, I.C.C., 201 Corr Building, 300 E. Michigan Avenue, Lansing, MI 48933.

MC 43269 (Sub-74TA), filed October 10, 1979. Applicant: WELLS CARGO, INC., 1775 East Fourth Street, Reno, NV 89512. Representative: David N. Inwood, P.O. Box 1511, Reno, NV 89505. *Insulating materials and materials used in the installation of insulating materials* from Corona and Willows, CA, to points in the states of AZ, ID, OR, NV, UT, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johns-Manville Sales Corporation, 2600 Campus Drive, San Mateo, CA. Send protests to: W. J.

Huetig, ICC, 705 North Plaza Street,
Carson City, NV 89701.

MC 48958 (Sub-203TA), filed October 12, 1979. Applicant: ILLINOIS CALIFORNIA EXPRESS, 510 E. 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero, same address as applicant. *Carbonyl chloride (phosgene), in containers or cylinders, and empty containers or cylinders in a return movement* between Denver, CO and its commercial zone, on the one hand, and, on the other, Palacios, TX for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Hu-Mar Chemicals, Inc., P.O. Box 872, Palacios, TX 77465. Send protest to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 50069 (Sub-552TA), filed September 12, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: William P. Fromm (same as applicant). *Aviation gasoline, in bulk, in tank vehicles*, from Clermont, IN, to Charlotte, NC; Greenville, SC & Spartanburg, SC, for 180 days. Supporting Shipper(s): Phillips Petroleum Company, 222 E. Ogden Ave., Hinsdale, IL 60521. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., RM. 620, Phila., PA 19106.

MC 52709 (Sub-377TA), filed October 3, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec Street, Denver, CO 80297. Representative: Rick Barker, (same address). *Explosives and Freight Trailers*, between points in the United States in and west of MN, IA, MO, AR, and LA for 180 days. Supporting Shipper(s): Explosive Sales Corp., 410 17th Street, Denver, CO 80202. Send protests to: District Supervisor R.L. BUCHANAN, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 56679 (Sub-145TA), filed October 2, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps, 352 University Ave., S.W., Atlanta, GA 30310. *Milk food liquid, milk food powder, drugs, and plastic or rubber articles* (except in bulk) from Altavista, VA; Columbus, OH, and Sturgis, MI, to points in the U.S. in and east of TX, OK, AR, TN, KY, IL, and WI, for 180 days. Supporting Shipper(s): Ross Laboratories, 625 Cleveland Ave., Columbus, OH 43216. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 56679 (Sub-146TA), filed October 2, 1979. Applicant: BROWN TRANSPORT CORP., 352 University

Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps, 352 University Ave., S.W., Atlanta, GA 30310. *Soybean flour, in intermodal containers* from Dawson, Minneapolis, and Redwing, MN; Hager City, WI and Louisville, KY to Wilmington, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 73688 (Sub-108TA), filed October 15, 1979. Applicant: SOUTHERN TRUCKING CORP., 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Rt. 6, Box 15, North Little Rock, AR 72118. *Meat, meat products, meat by-products and articles distributed by meat packing houses, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766*, (except in bulk) from Mansfield, OH to AL, GA, CT, FL, GA, IL, KY, LA, MD, MA, MO, MJ, NC, PA, SC, TN, TX, VA and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Haring Meats, 1095 National Parkway, P.O. Box 2695, Mansfield, OH 44906. Send protests to: Floyd A. Johnson, Rm. 2006—100 N. Main St., Memphis, TN 38103.

MC 81779 (Sub-3TA), filed September 20, 1979. Applicant: PAUL JOHNSON, INC., 340 West Adams St., Waterman, IL 60556. Representative: Paul G. Johnson, (same address as applicant). *Common carrier-irregular route, iron and steel articles* from the Chicago, IL Commercial Zone, to points in the state of IL, and to points in the state of IA, and to points in the St. Louis, MO Commercial Zone. Underlying ETA seeks 90 day authority. For 180 days. Supporting Shipper(s): 6 supporting shippers. Send protests to: Jacquelyn L. Banks, TA, ICC, 219 South Dearborn St., Chicago, IL 60604.

MC 98938 (Sub-4TA), filed September 27, 1979. Applicant: SEVERANCE TRUCKING CO., INC., 7 Walnut Hill Park, Woburn, MA 01801. Representative: Mary E. Kelley, Attorney, 22 Stearns Ave., Medford, MA 02155. *General commodities, usual exceptions*, between Haverhill, Lawrence, Lowell and Newburyport, MA, on the one hand, and, on the other, points in NH on and south of NH Highway 202. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fifty-nine (59) supporting shippers Send protests to:

John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 105289 (Sub-85TA), filed October 3, 1979. Applicant: GRAFF TRUCKING COMPANY, INC., 2110 Lake Street, P.O. Box 986, Kalamazoo, MI 49005.

Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. (1) *Agricultural insecticides of fungicides, weed killing compounds, medicinal feeding compounds, chemicals, drugs, medicines, and related articles and materials, equipment and supplies* used or useful in the manufacture, processing, sale and distribution of all such commodities between Kalamazoo, MI, and its commercial zone, on the one hand and on the other, Carle Place, Long Island, NY, Chamblee, GA, Cheektowaga, NY, Cincinnati, OH, Dallas, TX, Denver, CO, Hollywood, CA, Kansas City, MO, Memphis, TN, Miami, FL, Minneapolis, MN, Needham Heights, MA, Portland, OR and Washington, D.C. (2) *Equipment, materials and supplies* as are used or useful in the manufacture, processing, sale and distribution of agricultural insecticides or fungicides, weed killing compounds, medicinal feeding compounds, chemicals, drugs, medicines, and related articles from points in the United States (except AK and HI) to Kalamazoo, MI and its commercial zone. Restricted to equipment with temperature control devices and further restricted to either shipments from or destined to the facility of the Upjohn Company. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Upjohn Company, Kalamazoo, MI 49001. Send Protests To: C.R. Flemming, D/S, I.C.C., 201 Corr Building, Lansing, MI 48933.

MC 106398 (Sub-979TA), filed October 5, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Railroad wheels and Accessories* (1) from the facilities of Griffin wheel located at Keokuk, IA to points in PA, OH, VA, AL, CO, MI, and WV and (2) from the facilities of Griffin Wheel located at Keokuk, IA to points in PA, OH, VA, AL, CO, MI, and WV and (2) from the facilities of Griffin Wheel located at Colton, GA to points in PA, OH, VA, AL, CO, MI, WV and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Wheel, P.O. Box 68, Keokuk, IA 52632. Send protests to: Connie Stanley, RM 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-980TA), filed October 5, 1979. Applicant: NATIONAL

TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Iron and Steel Articles* From the facilities of Eppic Metals, Inc. located at Chicago, IL. to points in IN, WI, KY, TN, MO, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eppic Metals, Inc., 4343 South Askey Ave., Chicago, IL 60609. Send protests to: Connie Stanley, RM 240, 215 N.W. 3rd, Oklahoma City, OK 73002.

MC 106398 (Sub-981TA), filed October 15, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, Oklahoma 74100. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Ventilators and Accessories* From the facilities of Penn Ventilator Company, Inc., located at Junction City, KY, to points in AL, FL, GA, NC, SC, VA, PA, NJ, and NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Penn Ventilator Co., Inc., Red Lion and Gantry, Rd. Philadelphia, PA. 19115. Send protests to: Connie Stanley, Rm 240, 215 N.W. 3rd., Oklahoma City, OK 73102.

MC 106398 (Sub-982TA), filed October 5, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. (1) *Fabricated steel articles used in the erection and construction of electrical substations and towers, and (2) Accessories used in the installation and erection of the commodities in (1) above.* From the facilities of Charles Schuler Engineering Company located at Newark, OH to points in GA, NC, SC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Charles Schuler Engineering Company, P.O. Box 800, Newark, OH. Send protests to: Connie Stanley, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-983TA), filed October 15, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 S. Elgin, Tulsa, OK 74120. Representative: Gayle Gibson, 705 S. Elgin, Tulsa, OK 74120. *Buildings, complete, knocked down or in sections and component parts and accessories* from the facilities of United Steel Structures, Inc., located at Houston, TX to all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): United Steel Structures, Inc., 1201 Dairy Ashford, Houston, TX 77079. Send protests to: Connie Stanley, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-984TA), filed October 1, 1979. Applicant: NATIONAL

TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Lumber, lumber mill products, paneling, plywood and building materials*, from the facilities of Galveston Wharves, located at Galveston, TX, to all points in the United States, (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Board of Trustees of the Galveston Wharves, P.O. Box 328, Galveston, TX 77553. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-985TA), filed October 1, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Composition board*, from the facilities of United States Gypsum Company, located at Greenville, MS, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, RI, & VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60608. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-986TA), filed October 1, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Lumber*, from the facilities of Smith-Evans Lumber Company, located at Rome, GA, to points in TN, AL, SC, FL, & NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Smith-Evans Lumber Company, P. O. Box 81, Rome, GA 30161. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 106398 (Sub-987TA), filed October 2, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (Same address as applicant). *Iron and steel articles*, from the facilities of Midwest Steel, Division of National Steel Corporation, located at Portage, IN, to all points in the United States, (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shippers(s): Midwest Steel, a division of National Steel Corporation, Route 12, Portage, IN 46368. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 107478 (Sub-53TA), filed September 27, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., PO Box 2006, High Point, NC 27261.

Representative: C. T. Harris, PO Box 999, Wilson, NC 27893. *Particleboard, fibreboard and built up woods, including faced or finished from Towanda, PA to points in CT, IL, IN, ME, MA, MI, NH, NY, OH, RI and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Masonite Corp., PO Box 378, Waverly, VA 23890. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd Rm CC516, Charlotte, NC 28205.*

MC 109689 (Sub-363TA), filed October 11, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Chemicals, in bulk, from Casper, WY to AZ, CA, CO, ID, MT, NV, NM, OR, ND, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, IL 60521. Send Protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.*

MC 109689 (Sub-364TA), filed October 17, 1979. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Representative: Mark K. Boyle, Attorney at Law, 10 West Broadway Bldg., Suite 400, Salt Lake City, UT 84101. *Cupric Chloride and etchants from Minneapolis, MN and Eau Claire, WI to Casa Grande, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): IMR Corporation, P.O. Box 573, 1508 VIP Blvd., Casa Grande, AZ 85222. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.*

MC 109818 (Sub-69TA), filed October 9, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52804. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. (1) (a) *steel bar joists*, (b) *Metal roof deck*, (c) *metal siding*, (d) *accessories for the commodities named in (a), (b) and (c)*; and (2) *iron and steel articles*, from the facilities of Nucor Corporation located at or near Norfolk, NE, to points in IL, IN, IA, MN, WI, MI, and OH and (3) *Materials, equipment, and supplies used in the manufacturer of the commodities in (1) (a), (b), (c), and (d) above (except commodities in bulk)*, from points in IN, IL, IA, MN, WI, MI, and OH, to the facilities of Nucor Corporation located at or near Norfolk, NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nucor Corporation, P.O. Box 59, Norfolk, NE 68701. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 110988 (Sub-404TA), filed September 24, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. (1) *Rolling processing fluids, wire drawing compounds and lubricating oil from facilities of Ironsides Company at Columbus, OH to points in PA, MD, WV, KY, AL & SC*; and (2) *equipment, materials and supplies used in the manufacture and distribution of the commodities names in (1) above from points in PA, MD, WV, KY, AL, SC, NJ & TN to Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ironsides Company, 270 W. Mound St., Columbus, OH 43215. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.*

MC 110988 (Sub-405TA), filed October 10, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Animal fats, in bulk, from the facilities of Lauridsen Foods, Inc., at or near Britt, IA to points in IL, IN, IA, KY, MI, MO, MN, KS, SD & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Armour and Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.*

MC 113388 (Sub-129TA), filed September 21, 1979. Applicant: LESTER C. NEWTON TRUCKING CO., P.O. Box 618, Seaford, DE 19973. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. N.W., Washington, DC 20036. *Frozen potatoes products, from Springfield, MA to pts. in PA, MD, NY, NJ, DE, WV, OH, VA, NC, SC, GA, FL, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Del Monte Corp., 160 N. MacQuesten Parkway, Mt. Vernon, NY 10550. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.*

MC 113678 (Sub-844TA), filed October 3, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Frozen and chilled foodstuffs, from Vernon, CA, and its commercial zone, to points in GA, IL and VT (representative destinations—Atlanta, Macon, Columbus, GA; Chicago, Springfield, Rockford, IL; Salt Lake City, Ogden, and Provo, UT) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alex Xlnt Foods, Inc., 2750 E. 50th St.,*

Vernon, CA 90058. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 113678 (Sub-845TA), filed October 4, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Candy and confectionery products (except commodities in bulk) from facilities of Charms, Inc., Covington, TN, to points in and west of MI, OH, KY, AR, and LA (except AK, AZ, CO, HI, ID, KS, NM, OK, OR, TX, WA and WY), for 180 days. Supporting shipper(s): Charms Company, Halls Mill Road, Freehold, NJ 07728. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 113678 (Sub-846TA), filed October 16, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Canned goods, from Walla Walla, WA, and Milton Freewater, OR, to points in CA (representative points: San Francisco, Los Angeles, San Diego), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rogers Walla Walla, Inc., P.O. Box 998, Walla Walla, WA 99362. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.*

MC 113828 (Sub-277TA), filed September 24, 1979. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 3006, Washington, DC 20014. Representative: William P. Sullivan, 1320 Fenwick Lane, Silver Spring, MD 21210. *Natural latex, in bulk from Baltimore, MD to Fort Myer, FL, for 180 days. Supporting Shipper(s): The Goodyear Tire & Rubber Co., 1144 E. Market St., Akron, OH 44316. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., Pa 19106.*

MC 113908 (Sub-480TA), filed September 27, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068, G. S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Vinegar, in bulk, from Montgomery, AL and its commercial zone, to Holland, MI and its commercial zone. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Standard Brands, Inc., Vinegar Division, 1900 Brand Ave., Baltimore, MD 21209. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.*

MC 113908 (Sub-481TA), filed October 5, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068 G. S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Fruit juice and fruit juice concentrates, in bulk, from points in OR*

and WA to Denver and Golden, CO and their commercial zones. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colorado Mountain Vineyards, 15740 West 6th Avenue, Golden, CO 80401. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 113908 (Sub-482TA), filed October 10, 1979. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 10068, G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same as applicant). *Vinegar concentrate, in bulk*, from Chicago, IL and its C.Z., to Faison, NC and its C.Z. for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Standard Brands, Midwest Vinegar Div., 999 Touhy Ave., Suite 350, Des Plaines, IL 60018. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 117119 (Sub-779TA), filed September 24, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Activated carbon* (except in bulk), from Marshall, TX to points in the U.S. (except TX, AK and HI), for 180 days. Supporting Shipper(s): ICI Americas Inc., Wilmington, DE 19897. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 11789 (Sub-65TA), filed June 13, 1979. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue S., Seattle, WA 98108. Representative: Michael D. Duppenhaler, 211 S. Washington St., Seattle, WA 98104. *Frozen foodstuffs (except in bulk in tank vehicles)*, from Eugene, OR and Seattle, WA to the Commercial Zones of Denver, CO and Salt Lake City, UT and points in NM for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pauls Cheesecake, Inc., 1600 S. Lane, Seattle, WA 98144, Nobel, Inc., 1101 W. 48th Avenue, Denver, CO. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 117878 (Sub-17TA), filed August 9, 1979. Applicant: DWIGHT CHEEK d.b.a. DWIGHT CHEEK TRUCKING, 4831 E. 25th Street, Amarillo, TX 79104. Representative: Joe Lanham, 801 Vaughn Bldg., 807 Brazos Street, Austin, TX 78701. *Animal feed, feed ingredients, supplements, additives, and materials used in the manufacture and promotion of animal feeds* from the facilities of Kal Kan Foods, Inc., at or near Vernon, GA; Cerritos, CA; and Irvine, CA to all points in TX, NM, OR, WA, and AZ, for 180

days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kal Kan Foods, Inc., 3386 East 44th Street, Vernon, CA 90058. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118159 (Sub-363TA), filed September 27, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Container ends*, from Tampa, FL, to San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Jos. Schlitz Brewing Company, 235 W. Galena Street, Milwaukee, WI 53201. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 118959 (Sub-243TA), filed September 28, 1979. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Plastic articles* (except in bulk), between Nicholasville, KY, on the one hand, and, on the other, points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hoover Universal Rte. #4 St. Rd. 29, Nicholasville, KY 40350. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 119399 (Sub-111TA), filed October 1, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Doris Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Animal Feed Ingredients*, from the facilities of Progressive Grain Processing Corporation, Lubbock, TX, to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, MO, NE, OK, SD, TN and WI. For 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Progressive Grain Processing Corporation, P.O. Box 3520, Lubbock, TX 79452. Send protests to: Vernon Coble D/S, 600 Federal Building, 911 Walnut St., Kansas City, MO 64106.

MC 119968 (Sub-13TA), filed October 1, 1979. Applicant: A. J. WEIGAND, INC., 1046 N. Tuscarawas Ave., Dover, OH 44622. Representative: Beery & Spurlock Co, LPA, 275 E. State St., Columbus, OH 43215. *Sulfuric acid in tank vehicles* from the plant site of Asarco Incorporated at Columbus, OH to points in WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Asarco Incorporated, 611 Olive St., St. Louis, MO 63101. Send protests to: I.C.C., Fed.

Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 119789 (Sub-635TA), filed October 9, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr. (same as above). (1) *Steel buildings, knocked down*, from Dallas, TX to points in AZ, CA, CO, NJ, NM, UT, WA, and WY; (2) *Materials and supplies used in the manufacture and distribution of steel buildings*, from AL, IL, and MO to Dallas, TX for 180 days. Supporting Shipper(s): Delta Steel Building Co., P.O. Box 20877, Dallas, TX 75220. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor Street, Fort Worth, TX 76102.

MC 120098 (Sub-35TA), filed September 12, 1979. Applicant: UINTAH FREIGHTWAYS, 1030 Redwood Road, Salt Lake City, UT 84104. Representative: William S. Richards, Post Office Box 2465, Salt Lake City, UT 84110. *Sand*, in bulk, from Brady, TX to Roosevelt and Vernal, UT for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): B. J. Hughs, Box 968, Roosevelt, UT 84066. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 121598 (Sub-6TA), filed October 5, 1979. Applicant: SHELBYVILLE EXPRESS, INC., Seery St., P.O. Box 187, Shelbyville, TN 37160. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. *Common carrier regular routes: General commodities, except household goods, classes A and B explosives, commodities in bulk, and articles requiring special equipment.* 1. Between Nashville and Shelbyville, TN via US Hwy 41-A, serving all intermediate points, and points within five miles of Shelbyville as off-route points. 2. Between Shelbyville and Memphis, TN. (a) From Shelbyville via US Hwy 231 to Fayetteville, thence via US Hwy 64 to Memphis, and return over the same route, serving no intermediate points. (b) From Shelbyville via US Hwy 231 to its junction with I-24, thence via I-24 to Nashville, thence via I-40 to Memphis, and return over the same route, serving Nashville as an intermediate point. Restriction: Restricted against the handling of traffic which originated at or is destined to points in Davidson County, on the one hand, and, on the other, that which originates at or is destined to Memphis, TN, and points in its commercial zone. 3. Between Memphis, TN and Greeneville, MS. From Memphis via US Hwy 61 to Clarksdale, MS, thence via MS Hwy 322 to junction with MS Hwy 1, thence via

MS Hwy 1 to Greenville, and return over the same route, serving all intermediate points between Clarksdale (including Clarksdale) and Greenville, and serving points in MS within an area bounded by the above described route between Clarksdale and Greenville, and thence from Greenville via US Hwy 82 to Greenwood, thence via MS Hwy 7 to junction MS Hwy 35, thence via MS Hwy 35 to junction MS Hwy 32, at or near Charleston, thence via MS Hwy 32 to junction with US Hwy 49-E, thence via US Hwy 49-E to junction with US Hwy 49, thence via US Hwy 49 to Clarksdale for 180 days. Supporting Shipper(s): There are (78) Shippers, their statements may be examined at the office listed below and headquarters. Send protests to: Glenda Kuss, TA, Suite A-422, U.S., Court House, 801 Broadway, Nashville, TN 37203.

Note.—Applicant proposes to tack all of said routes set out above with each other, and to interline traffic with other carriers at all authorized points, and to serve the commercial zones of all authorized points.

MC 123649 (Sub-7TA), filed September 26, 1979. Applicant: MAGILL TRUCK LINES, INC., 211 West 53rd North, Wichita, KS 67204. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. *Iron and steel articles* from the facilities of Bull Moose Tube Company near Gerald, MO to points in CO, KS, NE, OK & TX; for 180 days, common, irregular. An underlying ETA seeks 90 days authority. Supporting Shipper: Bull Moose Tube Company, Box 214, Gerald, MO 63037. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 124078 (Sub-996TA), filed October 11, 1979. Applicant: SCHWERTMAN TRUCKING CO., 611 S. 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same address as applicant). *Limestone slurry*, in bulk, in tank vehicles from Cartersville, GA, to Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thompson, Weinman and Company, P.O. Box 130, Cartersville, GA 30120. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm 619, Milwaukee, WI 53202.

MC 124109 (Sub-18TA), filed October 3, 1979. Applicant: B.F.C. TRANSPORTATION, INC., P.O. Box 985, Cedar Rapids, IA 52406. Representative: William L. Fairbank, 1980 Financial Ctr., Des Moines, IA 50309. Contract carrier—irregular routes. *Foodstuffs and pet foods and materials and supplies used in the manufacture and distribution of foodstuffs and pet foods (except commodities in bulk and frozen foods)*

from points in IL, MN, NE, and WI to Cedar Rapids, IA, under contract with The Quaker Oats Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Quaker Oats Company, Merchandise Mart Plaza, Chicago, IL 60654. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124679 (Sub-107TA), filed October 3, 1979. Applicant: C.R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same as applicant). *Malt beverages* from the facilities of Blitz Weinhard Brewing Company (Pabst Brewing Company) at Portland, OR to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gateway Dist. Co., 130 - 26th Street, Ogden, UT 84401; Carlson Distributing, 11th West 200 South, Salt Lake City, UT; Big Four Dist. Co., 304 East 900 South, Provo, UT 84601; Grant's Distributing Co., Inc., 435 North Main, Helper, UT 84526. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124579 (Sub-108TA), filed October 11, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Meat and meat products* from the facilities of Otto & Sons, Inc., at or near West Jordan, UT to points in CA, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Otto & Sons, Inc., a Division of OSI Industries, 4980 West 9470 South, West Jordan, UT 84084. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125368 (Sub-92TA), filed September 14, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., PO Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, PO Box 26, Holly Ridge, NC 28445. *Glass and glass products* from the facilities of Libbey Owens Ford Co., at or near Toledo, OH to point in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Libbey-Owens-Ford Company, 811 Madison Ave., Toledo, OH 43695. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 125368 (Sub-93TA), filed October 16, 1979. Applicant: CONTENTAL COAST TRUCKING CO., INC., PO Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, PO Box 26, Holly Ridge, NC 28445. *Such commodities as dealt in by wholesale, retail, chain grocery and food business*

house, (except in bulk); and (b) meats, meat products, meat by-products, and articles distributed by meat packinghouses (except hides and commodities in bulk) as defined in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 between the facilities of Inland Storage Distribution Center, Kansas City, KS, on the one hand, and, on the other, points in the US, except Ak and HI, for 180 days. Supporting shipper(s): Inland Storage Distribution Center, PO Box 2249, Kansas City, Kansas 66110. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd., Rm CC516, Charlotte, NC 28205.

MC 126018 (Sub-3TA), filed October 18, 1979. Applicant: PREM-PAK INC., 1 Exeter Rd., No. Hampton, NH 03862. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Paper, paper products, and papermaking material and supplies used in the manufacture or distribution thereof, (except in bulk), between the facilities of Scott Paper Company located in PA, DE, NJ, NY, and ME, on the one hand, and, on the other, points in MA, NJ, PA, NY, CT, RI, VT, ME, NH, and DE, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Ross J. Seymour, DS, ICC, Rm 3, 6 Loudon Rd., Concord, NH 03301.

MC 126118 (Sub-200TA), filed October 3, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). *Electrical appliances* from the facilities of Mid-South Electric located at or near Manchester, KY to Sparks, NV and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-South Electric, Jake T. Sandlin, Production Control Manager, Route 6, Box 400, Manchester, KY 40962. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 128848 (Sub-24TA), filed September 17, 1979. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, P.O. Box 2081, East Chicago, IN 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. *Contract carrier: irregular routes: (1) Railway car and locomotive wheels, iron or steel, loose or mounted on axles, with or without bearings, and (2) railway car or locomotive brake shoes, from the facilities of Griffin Wheel Company, Div. of Amsted Industries Incorporated, at or near Bessemer, AL, Colton, CA, Bensenville and West*

Chicago, IL, Keokuk, IA, and Kansas City, KS, to points in the U.S. (except AK and HI), under continuing contract(s) with Amsted Industries Incorporated. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Griffin Wheel Company, Division of Amsted Industries Incorporated, 200 W. Monroe Street, Chicago, IL 60606. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 128709 (Sub-6TA), filed September 25, 1979. Applicant: PARIS MOTOR FREIGHT, INC., P.O. Box 1787, Ft. Smith, AR 72901. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. *General commodities* (except commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment), serving the junction of AR Hwy. 11 and U.S. Hwy. 70 for the purpose of joinder only, for 180 days. Underlying ETA seeks 90 days authority. NOTE: Applicant intends to tack this authority with its present authority in MC 29130 and Subs No. 40, 46, 56, and 57, and intends to interline with another carrier at Memphis, Little Rock and Oklahoma City. Supporting shipper(s): Approximately 9 supporting shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 129759 (Sub-30TA), filed September 7, 1979. Applicant: TRIANGLE TRUCKING CO., P.O. Box 490, McKees Rocks, PA 15136. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contact carrier: Irregular routes: Bagged clay*, from the facilities of Floridin Co. at or near Quincy and Magnet Cove, FL and Ochlocknee, GA to pts. in and east of ND, SD, NE, KS, OK and TX, for 180 days. Restricted to service performed under a continuing contract or contracts with Floridin Co. Supporting shipper(s): Floridin Co., 3 Penn Center, Pittsburgh, PA 15235. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 129908 (Sub-17TA), filed October 15, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, Oklahoma City, OK 73107. Representative: T. J. Blaylock, 8125 Southwest, 15th Street, Oklahoma City, OK 73107. *Wooden and wooden upholstered furniture, in packages*, from the facilities of Broyhill Industries in North Carolina to points in the State of MO, for 180 days. Supporting shipper(s): Broyhill Industries, Broyhill Park, Lenoir, NC. Send protests to: Connie Stanley, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 133478 (Sub-20TA), filed Oct. 1, 1979. Applicant: D G TRANSPORT, INC., 8565 S.W. Beaverton-Hillsdale Hwy., P.O. Box 25448, Portland, OR 97225. Representative: Nick I. Goyak & Peter H. Glade, One S.W. Columbia, Suite 555, Portland, OR 97258. Contract, irregular, prefinished paneling and wood and plywood materials from the facilities of Vanply, Inc. at or near Vancouver, WA to points in the United States (except Alaska and Hawaii), for 180 days. A permanent will be filed. Supporting shipper(s): Vanply, Inc., P.O. Box 720, Vancouver, WA 98660. Send protests to: R. V. Dubay, DS/ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 133689 (Sub-311TA), filed October 15, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. N.E., Blaine, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Games and toys, and equipment, materials and supplies used or useful in the manufacture and distribution of games and toys* between the facilities of Tonka Toy Corporation located at Minneapolis, MN and Mound, MN and points in their respective commercial zones on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tonka Toy Corp., Transportation Analyst, 5300 Shoreline Blvd., Mound, MN 55364. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133689 (Sub-312TA), filed October 10, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Printed matter, equipment, materials and supplies used in the manufacture of printed matter* between the facilities of Brown Printing Company, Inc., at Waseca, MN, East Greenville, PA and Franklin, KY, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX, for 180 days. Supporting shipper(s): Brown Printing Co., U.S. Hwy. 14 West, Waseca, MN 56093. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133689 (Sub-313TA), filed October 17, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St., NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, W. St. Paul, MN 55118. *Foodstuffs (except commodities in bulk)* from the facilities of Geo. A. Hormel & Co. at Beloit, WI to

points in AR and TN and from the facilities of Geo. A. Hormel & Co. at Austin, MN to points in AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 133828 (Sub-10TA), filed October 11, 1979. Applicant: CASAZZA TRUCKING COMPANY, 1250 Glendale Avenue, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Petroleum products in bulk in tank vehicles, and in metal containers* from points in Sacramento, Contra Costa and San Joaquin Counties, CA to points in Washoe, Humboldt and Lander Counties and Carson City, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Oil Company of California, P.O. Box 7600, San Diego, CA 92138. Send protest to: W. J. Huetig, ICC, 705 N. Plaza Street, Carson City, NV 89701.

MC 134978 (Sub-19TA), filed October 10, 1979. Applicant: C. P. BELUE, d.b.a., BELUE'S TRUCKING, Rt. 6, Spartanburg, SC 29303. Representative: Mitchell King, Jr., P.O. Box 1628, Greenville, SC 29602. *Aluminum dross and aluminum scrap*, between Spartanburg County, SC, on the one hand, and, on the other, points in IN, KS, MI, OH and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Batchelder Blassius, Box 5503, Spartanburg, SC 29304. Send protests to: E. E., Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 135399 (Sub-17TA), filed October 15, 1979. Applicant: HASKINS TRUCKING, INC., P.O. Drawer 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. *Aluminum Siding and Scrap Aluminum* from the facilities of Reynolds Metals Company at or near Malakoff, TX to points in and east of MT, WY, CO, and NM for 180 days. Supporting shipper(s): Reynolds Metals Company, P.O. Box 768, Malakoff, TX 75148. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135399 (Sub-18TA), filed October 17, 1979. Applicant: HASKINS TRUCKING, INC., P.O. Box 7729, Longview, TX 75602. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. (1) *Plastic film and plastic sheeting* from Monroe, LA to points in and east of ND, SD, NE, CO, and NM, and (2) *materials, equipment and supplies used in the manufacture*

and distribution of plastic film and plastic sheeting from points in and east of ND, SD, NE, CO, and NM to Monroe, LA, restricted to shipments originating at or destined to the facilities of Sun Belt Plastics, a division of Sun Belt Manufacturing, Inc., for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Sun Belt Plastics, a div. of Sun Belt Manufacturing, Inc., P.O. Box 7400, Monroe, LA 71203. Send protests to: Opal M. Jones, TCS, ICC, 819 Taylor St., 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 135678 (Sub-8TA), filed October 17, 1979. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, 1411 N. Classen, Oklahoma City, OK 73106. (a) *Household Appliances, and (b) parts and Accessories for household appliances* From the facilities of General Electric Co. at Little Rock, AR to all points in Oklahoma, New Mexico and Texas, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Co., 6901 Lindsey Road, Little Rock, AR 72206. Send protests to: Connie Stanley, Rm 200, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 135989 (Sub-10TA), filed October 17, 1979. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Avenue, Chino, CA 91710. Representative: William J. Lippman, 50 South Steele Street, Suite 330, Denver, Colorado 80809. *Contract; Irregular; (1) plastic pipe and fittings and (2) materials, supplies and equipment used in the manufacture of plastic pipe and fittings, (1) from Asheville, NC and Los Angeles, CA to points in the United States and (2) from Deer Park, TX, Baton Rouge, LA, Perth Amboy, NJ, and Erie, PA to Asheville, NC and Los Angeles, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Orangeburg Plastics Company, Manufacturing Manager, 2101 E. Washington Boulevard, Los Angeles, CA 90021. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.*

MC 136828 (Sub-30TA), filed October 9, 1979. Applicant: COOK TRANSPORTS, INC., 214 South Tenth Street, Birmingham, AL 35233. Representative: Ocie Cook, Jr. (same address as applicant). *Iron and steel articles* from Baytown, TX to all points in AL, AR, FL, GA, LA, MS, TN, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, PA 15230. Send protests to:

Mabel E. Holston, T/a, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 138308 (Sub-83TA), filed October 11, 1979. Applicant: KLM, INC., P.O. Box 6098, Old Hwy. 49 S., Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *New furniture parts* from the facilities of Kroehler Mfg. Co. at or near San Bernardino, CA to Dallas, TX; Meridian, MS; Charlotte, NC; Binghamton, NY; Kankakee (Bradley), IL; and Welcome, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kroehler Mfg. Co., 222 East Fifth Ave., Naperville, IL 60540. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 138568 (Sub-5TA), filed October 16, 1979. Applicant: CROSS TRANSPORTATION, INC., 100 Factory St., Lewis, KS 67552. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Contract carrier Part 1 (A) Hydraulic cylinders, fittings, adapters, valves, pumps and motors and hydraulic coupling equipment and component parts thereof; (B) Equipment materials and supplies used in the manufacture of hydraulic cylinders, fittings, adapters, valves, pumps and motors and hydraulic coupling equipment.* Between facilities of Cross Mfg., Inc., at or near Lewis, Hays, Pratt and Kinsley, KS; LaJunta, CO and Heidelberg, MS. Part 2. *Equipment, materials and supplies used in the manufacture and/or transportation of hydraulic cylinders, fittings, adapters, valves, pumps and motors and hydraulic coupling equipment and component parts thereof.* Between points in the 48 contiguous U.S. and the facilities of Cross Mfg. Inc., at or near LaJunta, CO and Heidelberg, MS. Part 3. *Hydraulic cylinders fittings, adapters, valves, pumps and motors and hydraulic coupling equipment and component parts thereof* between facilities of Cross Mfg., Inc. at or near LaJunta, CO and Heidelberg, MS and points within the 48 contiguous U.S. Under contract with Cross Manufacturing, Inc., Lewis, KS. Part 1. *Bulk fertilizer handling equipment (except farm implements), bulk storage equipment and trenchers and component parts thereof* between facilities of R & R Industries, Inc., at or near Pratt, KS and points and places in the 48 contiguous U.S. Part 2. *Equipment, materials and supplies used in the manufacture of bulk fertilizer handling equipment (except farm implements), bulk storage equipment and trenchers and component parts thereof* between points in the 48 contiguous U.S. and the

facilities of R & R Industries, Inc. at or near Pratt, KS. Under contract with R & R Industries, Inc. of Pratt, KS. for 180 days, irregular routes; Supporting shippers: Cross Manufacturing, Inc., 100 Factory St., Lewis, KS 67552 and R & R Industries, Inc., P. O. Box 924, Pratt, KS 67124; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 140829 (Sub-325TA), filed October 18, 1979. Applicant: CARGO INC., P. O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King, same address as above. *Wire, cable and tape; materials, equipment and supplies utilized in the manufacture and distribution of wire, cable and tape (except in bulk, in tank vehicles)* from points in CT, MA and RI to Siloam Springs, AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brand-Rex, Charles R. Bowers, Traffic Manager, P. O. Box 498, Willimantic, CT 06226. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140259 (Sub-100TA), filed September 24, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Ovens, furnaces, washers, conveyors and parts, from Franklin, WI to Jackson, MS; New Haven, CT; Indianapolis, MN; Houston, TX; Pittsburgh, PA and Menomonee, MI* for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Industrial Heat Equipment, Inc., 9800 South 60th Street, Franklin, WI 53132. Send protests to: Annie Booker, TA, IC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 141489 (Sub-7TA), filed October 4, 1979. Applicant: HUNTER TRUCKING, INC., 805—32nd Avenue, Council Bluffs, IA 51501. Representative: Kenneth P. Weiner, 408 Executive Bldg., Omaha, NE 68102. *Lumber and lumber products* from Fredonia, Payson and Whiteriver, AZ; Craig and Eagle, CO; and Panguitch, UT to points in AR, IL, IA, KS, KY, MO, NE, TN, TX and OK for 180 days. Supporting shipper(s): Kaibab Industries, Inc., P.O. Box 20506, Phoenix, AZ 85036, John C. Kalisiak, Traffic Coordinator. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141969 (Sub-11TA), filed October 18, 1979. Applicant: MOBLE TRANSPORT, INC., 1555 Tremont Place, P.O. Box 17-B, Denver, CO 80217. Representative: Richard P. Kissinger, 50 South Steele St., Suite 330, Denver, CO 80209. (1) *Commodities which, by reason of size or weight require special*

handling or the use of special equipment, and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which, by reason of size or weight, require special handling or the use of special equipment; (2) Selfpropelled articles, each weighing 15,000 pounds or more, transported on trailers, and related machinery, tools, parts and supplies moving in connection therewith; and (3) Iron and steel articles as described in Appendix V, Ex Parte No. MC-45, in Descriptions in Motor Carrier Certificates, 61 MCG 209 and 766, between points in CA on the one hand and on the other, points in AZ, CO, ID, MT, NV, NM, OR, UT, WA and WY for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Applicant supports to minimize fuel usage; provide more efficient service. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 142508 (Sub-119TA), filed September 21, 1979. Applicant: NATIONAL TRANSPORTATION, INC., P. O. Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, P. O. Box 37098, Omaha, NE 68137. *Barbecue grills and camping equipment* from Neosho, MO to points in and west of ND, SD, NE, KS, OK and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Neosho Products Company, D.A. Marty, Traffic Manager, P.O. Box 622, Neosho, MO 64850. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142519 (Sub-8TA), filed September 17, 1979. Applicant: DELIVERY SERVICE CORPORATION, 5000 Wyoming Avenue—Suite 218, Dearborn, MI 48126. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Contract carrier: irregular routes: Chemicals, plastics, and materials and supplies distributed by manufacturers of chemicals and plastics*, from the facilities of Dow Chemical Corporation in LA to points in IL, IN, KY, MI, MN, MO, OH, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dow Chemical U.S.A., P.O. Box 150, Plaquemine, Louisiana 70764. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142619 (Sub-5TA), filed September 18, 1979. Applicant: DASH TRANSPORTATION, INC., P.O. Box 221, Bloomington, Illinois 60108. Representative: Edward J. Kiley, 1730 M

Street, NW., Washington, D.C. 20036. *Contract carrier: irregular routes: Steel and aluminum pipe and tubing, and materials, supplies and equipment used in the transportation, sale and distribution of pipe and tubing*, between the facilities of Tubesales at or near Houston and Dallas, TX, on the one hand, and, on the other, the facilities of Tubesales at or near Los Angeles, CA; Carol Stream, IL; Atlanta, GA; and Cranberry, NJ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tubesales, Carol Stream, IL. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142909 (Sub-7TA), filed October 1, 1979. Applicant: TIMBER TRUCKING, INC., 4100 South West Temple, Salt Lake City, UT 84107. Representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Salt, in bulk, from UT to WA, OR, MT, and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leslie Salt Co., 866 W. 2600 S., Salt Lake City, UT 84119 Bonanza Salt Company, P.O. Box 2369, Salt Lake City, UT 84110.

MC 144258 (Sub-2TA), filed September 13, 1979. Applicant: PINWOOD TRANSPORT, INC., P.O. Box 311, Glenwood, AR 71943. Representative: William G. Wright, P.O. Drawer 947, Arkadelphia, AR 71923. *Contract Carrier over irregular routes: Wood chips, dust, bark and residuals* in bulk from the Georgia-Pacific Plant at Glenwood, Pike County, AR, to Weyerhaeuser Company plants at Craig and Valiant, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corporation, Georgia-Pacific St., Glenwood, AR 71943. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144678 (Sub-12TA), filed September 26, 1979. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Suite 500, Overland Park, KS 66210. Representative: Harold H. Clokey (same as applicant). *General commodities (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, serving the facilities of Tridon, Inc., at or near Smyrna, TN as an off-route point in connection with carrier's otherwise authorized regular route service. Applicant proposes to tack sought authority with its other authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tridon, Inc., P.O. Box 65, Smyrna, TN 37167. Send protests to: Vernon Coble D/S, 600

Federal Building, 911 Walnut St., Kansas City, MO 64108.

MC 144688 (Sub-38TA), filed September 4, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Such commodities as are dealt in by wholesale, retail and chain grocery and foods business houses (except frozen commodities and commodities in bulk)* (1) from the facilities of Hunt-Wesson Foods, Inc., at or near Atlanta, GA to points in TN and KY (2) from the facilities of Hunt-Wesson Foods, Inc., at or near Jacksonville, FL to points in FL, GA and SC., for 180 days. Supporting shipper(s): Hunt-Wesson Foods, Inc., P.O. Box 61770, New Orleans, LA 70161. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW., Rm. 300, Atlanta, GA 30309.

MC 144989 (Sub-11TA), filed September 13, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. *Carpeting, carpet remnants, or rugs and other articles manufactured and used in the carpet industry, including yarn, padding, jute or sisal; also material used in the manufacture of carpets, carpeting or rugs (except in bulk)* between Dalton, GA and points in AL, AZ, FL, MS, NM, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cavalier Carpets, Inc., 910 S. Green St., Dalton, GA 30720. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 144989 (Sub-12TA), filed October 2, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28205. *Household and commercial laundry and kitchen appliances and related repair parts (except in bulk)*, between Newton, IA, and to points in AZ, CA, NV, ID, WA, OR, UT, FL, GA, AL, MS, SC, and NC, for 180 days. An underlying ETA seeks 90 days authority. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW., Room 300, Atlanta, GA 30309.

MC 145468 (Sub-24TA), filed October 19, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Meats and packinghouse products

from the facilities of Custom Beef Fabricators of Iowa, Inc. at Hartley, IA to points in FL and GA (Representative points: Miami, FL and Atlanta, GA) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Custom Beef Fabricators of Iowa, Inc., P.O. Box 58, Hartley, IA 51346. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145468 (Sub-25TA), filed October 19, 1979. Applicant: K.S.S. TRANSPORTATION CORP., Route 1 and Adams Station, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Meats, meat products; meat by-products, and articles distributed by meat packinghouses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers as described in Sections A, C, and D of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) between the facilities of Armour and Company at Mason City, IA and the facilities of Lauridsen Foods, Inc., at or near Britt, IA, on the one hand, and, on the other, points in the US in and east of MT, WY, CO, and NM, restricted to traffic originating at and destined to points in the above described territory. (Representative points include virtually all major cities in the states involved) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour and Company, Greyhound Towers, Phoenix, AZ 85077. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145688 (Sub-3TA), filed October 10, 1979. Applicant: FARMINGDALE TRUCKING CORPORATION, 22 Carnegie Drive, Smithtown, NY 11787. Representative: Lester R. Gutman, 805 McLachlen Bank Building, 666 Eleventh St., N.W., Washington, D.C. 20001. *Contract Carrier*, irregular routes: *Wines and liquors*, in containers, from the port of Baltimore, MD, to points in OH; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Banfi Products, Inc., 200 Sherwood Drive, Farmingdale, NY 11735. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 1007.

MC 146128 (Sub-8TA), filed October 10, 1979. Applicant: MERRITT FOODS COMPANY d.b.a. MERRITT REFRIGERATED SERVICES, 2840

Guinotte, Kansas City, MO 64141. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. *Confectionery, in mechanically refrigerated equipment*, from the facilities of Peter Paul Cadbury, Inc. at Frankfort, IN, to points in the commercial zones of Kansas City, MO and Dallas, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Peter Paul Cadbury, Inc., New Haven Ave., Naugatuck, CT 06770. Send protests to Vernon Coble D/S, 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 146149 (Sub-14TA), filed September 10, 1979. Applicant: KENNEDY FREIGHT LINES, INC., 7401 Fremont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Clay absorbents*, (except commodities in bulk), from Wrens and Ochlocknee, GA and Quincy and Lowell, FL to pts. in MI, IN and OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Auburn Automotive Supply Co., 1818 Sprott St., Auburn, IN 46706. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 146349 (Sub-1TA), filed September 20, 1979. Applicant: D. D. & B. TRUCKING, INC., R.R. #1, Shoals, IN 47581. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Contract Carrier*: Irregular Routes: (1) *Railroad cross-ties and lumber* from, Winslow, IN to points in IL, IA, KS, KY, MN, MO, MI, OH, PA, TN, WV and WI; (2) *creosote, in bulk, in tank vehicles*, from points in OH to Winslow, IN; (3) *iron and steel articles* from Bedford Park, IL, Plymouth, MI and Sheffield, OH to points in IL, IN, IA, KS, KY, MN, MO, MI, OH, PA, TN, WV and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): L. B. Fost Company, 1111 E. Touhy Avenue, Des Plaines, IL 60018. Send protests to: Beverly J. Wil Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 147148 (Sub-1TA), filed October 3, 1979. Applicant: GOLDEN TRIANGLE TRANSPORTATION, INC., Highway 82 E., Columbus, MS 39701. Representative: G. Lowrey Lucas, P.O. Box 1615, Jackson, MS 39205. *Contract carrier*: Irregular routes: *Titanium dioxide (pigment)* from Hamilton and Tupelo, MS to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr-McGee Chemical Corp., P.O. Box 25861, Kerr-McGee Center, Oklahoma City, OK 73125. Send protests to: Alan Tarrant,

D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 147858 (Sub-1TA), filed July 23, 1979. Applicant: SEA-TAC INTERNATIONAL WAREHOUSE, INC., 20 S. Idaho, Seattle, WA 98134. Representative: William H. Grady, 1100 Norton Building, Seattle, WA 98104. *General commodities, (except those of unusual value and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading)*, within the Seattle Commercial Zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morflot & Fesco, 1505 Norton Bldg., Seattle, WA 98104; Kerr Steamship Company, 1001-4th Ave., Seattle, WA 98154; Eckert Overseas Agency, Inc., Seattle Tower, 1218 3rd Ave., Seattle, WA 98101. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 174998 (Sub-1TA), filed September 10, 1979. Applicant: STEVE POPE ENTERPRISES, INC. d.b.a. CRAIN WRECKER SERVICE, 344 Kathleen Drive, Marietta, GA 30065. Representative: Sue Foster, 507 Whistle Stop Drive, Woodstock, GA 30188. *Wrecked and disabled tractors and trailers, Mobile Homes and including those designed to be drawn by passenger vehicles, and trucks in secondary movements* AL, FL, GA, KY, MS, NC, SC, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Frito-Lay Company, 4950 P'Tree Ind. Blvd., Chamblee, GA 30341; Consolidated Freightways, 2590 Campbell Road, Ellenwood, GA 30049; Ryder Truck Lines, Inc., 2300 Jonesboro Rd., Atlanta, GA. Send protests to: Sara K. Davis T/A, ICC, 1252 W. Peachtree St., NW, Room 300, Atlanta, GA 30309.

MC 147999 (Sub-1TA), filed August 21, 1979. Applicant: J. R. THOMPSON, INC., Rt. 1, Haw River, NC 27258. Representative: Roger P. Ingram, Sr, P.O. Box 958, Graham, NC 27253. *Contract Carrier*-Irregular routes; *Lumber and lumber products* from Graham & Mebane, NC to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sawyer Lumber Co., Rt. 1, Haw River, NC; Walton Lumber Co., Box 218, Mebane, NC 27302. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd, Rm CC516, Charlotte, NC 28205.

MC 148149 (Sub-1TA), filed October 1, 1979. Applicant: INDUSTRIAL TRUCKING CO. INC., 382 Newbury

Street, Danvers, MA 01923.

Representative: Joseph M. Klements, 84 State Street, Boston, MA 02109.

Chemicals, in bulk, in containers, and in bags 1) between Peabody, Beverly and Salem, MA, on the one hand, and, on the other, points in ME, and New York, N.Y.; 2) from Peabody, Beverly and Salem, MA to points in RI, NH, VT, NY, NJ and CT; and 3) from points in NJ to points in MA, NH, RI, and CT. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leon E. Monnier, Inc., 60 Pulaski St, P.O. Box 606, Peabody, MA 01960. Hamblet & Hayes Co., Colonial Road, Salem, MA 01970. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 148348 (Sub-1TA) filed September 25, 1979. Applicant: GILBERT FONT d.b.a., FONT TRUCKING COMPANY, Route 2, Hartford, AL 36344. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Lumber, lumber and forest products, and particle boards*, from Geneva, Covington, Houston and Escambia Counties, AL, on the one hand, and to points in the United States (except AK and HI), on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Casey Bros. Lumber Mills, Inc., Sloumb, AL 36375. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 148348 (Sub-2TA) filed September 25, 1979. Applicant: GILBERT FONT d.b.a., FONT TRUCKING COMPANY, Route 2, Hartford, AL 36344. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Plastic pipe, plastic pipe fittings, and connections, valves, and materials and supplies used in the installation thereof*; except commodities in bulk, from Geneva County, AL to points in the United States (except AK and HI) (2) *Materials and supplies used in the manufacture of commodities named in (1) above*, (except commodities in bulk), from points in the United States to Geneva County, AL; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Samson Plastic Conduit & Pipe Corp., 100 Industrial Drive, Samson, AL 36477. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 148349 (Sub-1TA), filed September 28, 1979. Applicant: AGRI PECK, INC., P.O. Box 86, Garneill, MT 59445. Representative: Harry B. Peck (same address as applicant). *Dry animal and poultry feed and feed ingredients*; in

bags and in bulk, from Great Falls and Billings, MT to Deeth, Montello, Wells and Elko, NV; and from Twin falls, Burley and Pocatello, ID, Moses Lake, Wallula, Sunnyside, Spokane, Tacoma, Seattle and Blaine, WA and Portland, OR to all points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilbur Ellis Company, 1200 Westlake Ave N., No. 1000, Seattle, WA 98109, Big Sky Feed & Supply, Inc., 601—8th Ave. North, Great Falls, MT 59403. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 148369 (Sub-1TA), filed October 3, 1979. Applicant: WALTER J. GRIFFIN, JR., Box 327, Monroe, NC 28110. Representative: W.G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Textiles and textile products* between the facilities of Southern Industries located at or near Danville, VA and Jersey City, NJ and points in CA, FL and NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Southern Industries, Inc., 1805 Williamsbridge Rd., Bronx, NY. Send protests to: Sheila Reece, T/A 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 148378 (Sub-1TA), filed October 2, 1979. Applicant: STOVER TRUCK LINE, INC., 809 E. Court, Beloit, KS 67420. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Dry animal and poultry feed from Mitchell County, KS to points in NE; Dry animal and poultry feed ingredients from points in NE and MO to points in Mitchell Co., KS; Blood meat and bone meal in bulk from Liberal, KS to points in MO, OK, TX, NM, AR, TN, CO, NE, IL, AZ and IA*; for 180 days, common, irregular; Supporting Shippers: National Beef Packing Company, Liberal, KS 67901 and Farmland Industries, Inc., 3315 N. Oak Trafficway, Kansas City, MO 64116; Send Protests to: M.E. Taylor, DS, ICC, 101 Litwing Bldg., Wichita, KS 67202. An underlying ETA seeks 90 days authority.

MC 148388 (Sub-1TA), filed September 25, 1979. Applicant: R.I.C. FREIGHT FORWARDERS, INC., 42 Sycamore Road, Jersey City, NJ 07305.

Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk; and those requiring special equipment, from the facilities of LAWI/CSA Consolidators, Inc. in Jersey City, NJ and New York, NY to the facilities of LAWI/CSA Consolidators, Inc. in Vernon and Oakland, CA and Phoenix and Tucson, AZ for 180 days. Supporting*

shipper(s): LAWI/CSA Consolidators, Inc., P.O. Box 10100, Glendale, CA 91209. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148399 (Sub-1TA), filed October 3, 1979. Applicant: C. M. KILLION D/B/A C. M. KILLION TRUCKING CO., 4001 Dumont, Odessa, TX 79762. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, Lubbock, TX 79408. *Oilfield equipment and supplies pursuant to the Mercer description* between points in Ector, Andrews, Midland, Crane, Winkler, Ward, Reeves, Pecos, Gaines, Upton and Reagan Counties, TX, and points in NM, OK and LA for 180 days. Underlying ETA filed. Supporting shipper(s): There are seven (7) supporting shippers. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 148588, filed October 4, 1979. Applicant: LEROY COTTON d.b.a., RED CARPET BUS (CHARTER) LINES, 278 Regent Circle, Inglewood, CA 90301. Representative: Leroy Cotton (same address as above). *Passengers and baggage of passengers in same vehicle. Special and charter operations are both proposed*, Los Angeles, Orange, Ventura, Riverside, San Diego, San Bernardino and Kern Counties to or between: WA, OR, AZ, NM, TX, OK, NV, CT, ID, UT, for 180 days. Supporting shipper(s): There are approximately 10 supporting shippers. Send protests to: Irene Carlos, TA, ICC, Room 1321—Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148589, filed October 3, 1979. Applicant: STOREY TRUCKING COMPANY, INC., P.O. Box 126, Henegar, AL 35978. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. Contract, Irregular: (1) *Synthetic yarn* from Stevenson, AL and Jackson, GA to all points in CA; (2) *Synthetic yarn* from Carroll, Floyd, and Polk counties, GA to points in CA and NC; (3) *Carpet* from Catoosa County, GA to all points in the U.S. (except AK and HI) west of the States of MS, TN; VA, WV, and PA; (4) *Synthetic yarn* from Boaz and Guntersville, AL to points in CA; (5) *Paper, plastic and textile bags and materials and supplies used in the manufacture and distribution of paper, plastic, and textile bags*: (1) between the facilities of Chase Bag Company located at Crossett, AR; Goshen, IN; New Orleans, LA; Chagrin Falls, OH; and Toledo, OH; (2) from Crossett, AR; Nashville, GA; Goshen, IN; New Orleans, LA; Chagrin Falls, OH and Toledo, OH to points in CA, IA, OR, and

WA; for 180 days. Supporting shipper(s): There are "6" Supporting Shippers, all of which can be examined at the Washington, DC Office or, Birmingham, AL Field Office. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616-2121 Building, Birmingham, AL 35203.

MC 112049 (Sub-No. 21TA), filed July 5, published in the Federal Register September 7, 1979 and republished this issue. Applicant: McBride's Express, Inc., East Route 316, Mattoon, IL 61938. Representative: Guy H. Boles, 433 Thatcher Avenue, St. Louis, MO 63147. By order entered November 9, 1978, the Motor Carrier Board granted applicant 180 day temporary authority to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Clinton, IL and St. Louis, MO; and points in their respective commercial zones: From Clinton over Illinois Hwy 54 to junction Illinois Hwy 54 and Interstate Hwy 55 near Springfield, IL, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the intermediate points of Bissell, Barclay, Buffalo Hart, Cornland, Chestnut, Lake Fork and Mt. Pulaski. From Clinton over U.S. Hwy 51 to junction U.S. Hwy 51 and Illinois Hwy 16, then over Illinois Hwy 16 to junction Illinois Hwy 16 and Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the intermediate points of Osprey, Maroa, and Emery, IL, (2) Between Lincoln, IL and St. Louis, MO; and points in their respective commercial zones: From Lincoln over Interstate Hwy 55 to St. Louis and return over the route, serving the intermediate points of Middletown, Broadwell, Elkhart, Fancy Prairie, Williamsville, Sherman and Spaulding, IL. From Lincoln over Illinois Hwy 121 to junction Illinois Hwy 121 and Illinois Hwy 48 near Decatur, IL, then over Illinois Hwy 48 to junction Illinois Hwy 48 and Interstate Hwy 55, then over Interstate Hwy 55 to St. Louis, and return over the same route, serving the intermediate points of Warrensburg, Latham, and Mt. Pulaski. Applicant is authorized to interline at St. Louis, MO. Supporting shipper—50 supporting shippers. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto. Purpose of this republication is to show the

applicant's intent to interline at St. Louis, MO.

Notice No. 204

Nov. 16, 1979

MC 200 (Sub-405TA), filed October 3, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Ave., Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Rough castings*, Between Chattanooga, TN and Siloam Springs, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Webb Wheel Divn, P.O. Box 8, Lebanon, IN 46052. Send protests to: Vernon Coble D/S, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 2900 (Sub-404TA), filed October 12, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408-R, Jacksonville, FL 32203. Representative: Paul Dixon (same address as applicant). (1) *Raw or refined sugar in containers or trailers in bulk restricted to the transportation of shipments having prior or subsequent movement by water*, (2) *empty containers*, between Savannah, GA, and Jacksonville, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crowley Maritime Corporation, P.O. Box 2110, Jacksonville, FL 32203. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 3281 (Sub-15TA), filed November 2, 1979. Applicant: POWELL TRUCK LINE, INC., 800 S. Main St., Searcy, AR 72413. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Hydraulic pumps, hydraulic cylinders, and machinery and equipment related thereto, between Benton, AR on the one hand, and on the other, Memphis, TN, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to interline at Memphis, TN. Supporting shipper(s): Commercial Shearing, Inc., P.O. Box 239, Youngstown, OH 44501. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 4941 (Sub-83TA), filed October 11, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Paper and paper products* from the facilities of Lincoln Pulp & Paper Co., Inc. at Lincoln, ME to points in Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri, North Carolina, Ohio, Virginia, and Wisconsin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lincoln Pulp & Paper Co., Inc., P.O. Box

155, Lincoln, ME 04457. Send protests to: John B. Thomas, D/S, I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 4941 (Sub-84TA), filed October 2, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Wallboard, building board, insulation board, fiberboard, composition board and pulpboard*, from the facilities of the United States Gypsum Company at Auburn, ME to points in DE, IL, IN, MD, MI, NC, NJ, NY, OH, PA, SC, VT, VA, WV and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, 150 Causeway Street, Boston, MA 02114.

MC 5470 (Sub-204TA), filed September 24, 1979. Applicant: TAJON, INC., R.D. No. 5, Mercer, PA 16137. Representative: Mary-Chutz Eshenbaugh, R.D. No. 5, Mercer, PA 16137. *Decorative stone and landscaping materials in dump vehicles* between points in the U.S. except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Old Dutch Materials, 350 Pfingsten Road, Northbrook, IL 60062. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 5470 (Sub-207TA), filed October 19, 1979. Applicant: TAJON, INC., R.D. 5, Mercer, PA 16137. Representative: Richard W. Sanguigni, (same as applicant). *Scrap carbon, in dump vehicles* from Alcoa, TN and Florence, AL to New Castle, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. W. Elliott & Sons, Inc., R.D. 1 Box 242, Ellwood City, PA 16117. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 5881 (Sub-1TA), filed October 15, 1979. Applicant: UNDERFANGER MOVING & STORAGE, INC., White Oaks Business Park, 3601 W. Mayflower Blvd., R.R. #4, Springfield, IL 62707. Representative: Douglas G. Brown, P.C., The INB Center—Suite 555, Springfield, IL 62701. *Used household goods*, from IL on the one hand, and, on the other hand, IN, IA, MO, NJ, NY and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Illinois Bell Telephone Company, 225 W. Randolph St., 26B, Chicago, IL 60606. The Horace Mann Insurance Companies, 1 Horace Mann Plaza, Springfield, IL 62715. Send protests to:

Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 7840 (Sub-23TA), filed April 24, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper St., Watertown, NY 13601. Representative: Werner Steinaker, 650 Cooper St., Watertown, NY 13601. 1. *Paper and paper products and materials, equipment and supplies used and useful in the manufacture and shipping of paper and paper products, and 2. Plastic film and materials, equipment and supplies, used and useful in the manufacture and shipping of plastic film.* 1. Between Carthage, NY, South Glens Falls, NY, Florence, KY and Newark, DE, on the one hand, and, on the other, points in CT, DC, DE, IL, IN, IA, KY, MA, MD, ME, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, VA, VT and WV, and 2. Between Greensburg, IN and New Castle, DE on the one hand, and, on the other, points in the 23 states mentioned in 1 above, for 180 days. ETA for 30+2 granted under R-15 with effective date of April 5, 1979. Supporting shipper(s): Crown-Zellerbach Corp., Mr. Dan Pryor, Transportation Analyst, Eastern District Transportation Office, 8966 Latty Road, Berkeley, MO 63134. Send protests to: Interstate Commerce Commission, 87 State Street—Room 303, P.O. Box 548, Montpelier, VT 05602.

MC 7840 (Sub-24TA), filed October 1, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: Werner J. Steinaker, 650 Cooper Street, Watertown, NY 13601. Foundry sand and foundry sand additives from Columbus, OH to Watertown, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Colloids, Inc., 5100 Suffield Court, Skokie, IL. Send protests to: Interstate Commerce Commission, 87 State Street—Room 303, P.O. Box 548, Montpelier, VT 05602.

MC 7840 (Sub-25TA), filed October 18, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: Werner J. Steinaker, (same address as applicant). *Feed and feed ingredients, from Circleville, OH to points in NY for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company Milling Division, 327 East Mill Street, P.O. Box 380, Circleville, OH 43113. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 13651 (Sub-22TA), filed October 9, 1979. Applicant: PEOPLES TRANSFER, INC., 1430 West 11th Street, Long Beach,

CA 90813. Representative: James H. Gulseth, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Such commodities as are dealt in or used by (1) wholesale and retail grocers and food business houses, and (2) discount and variety stores, between points in California, Oregon, Washington, Arizona and Nevada, for 180 days.* An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): There are approximately 10 supporting shippers. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 19550 (Sub-6TA), filed October 10, 1979. Applicant: OBSERVER TRANSPORTATION COMPANY, INC., PO Box 34245, Charlotte, NC 28234. Representative: Joseph F. Radovanic, PO Box 34245, Charlotte, NC 28234. *General commodities in packages over 100 and 250 pounds between Charlotte, NC and points in North and South Carolina, for 180 days.* An underlying ETA seeks 90 days authority. Supporting shipper(s): There are seven supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 22311 (Sub-25TA), filed October 1, 1979. Applicant: A. LINE, INC., P.O. Box 765, Hammond, IN 46325. Representative: Marvin Mickow (same address as applicant). *Railway track equipment, materials and supplies and iron and steel articles, between points in IL, MN, MI, TN, GA, IN, WI, OH, KY, PA, MO, IA, TX, OK, WV and VA:* Restricted to shipments originating at or destined to the facilities of Hyman Michaels Company, A Division of Azcon Corporation for 180 days. Supporting shipper(s): Hyman Michaels Company, A Division of Azcon Corporation, 180 North LaSalle Street, Chicago, IL 60601. Send protests to Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 35320 (Sub-360TA), filed September 19, 1979. Applicant: T.I.M.E.—DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as above). Common, regular route, *General Commodities (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between Minneapolis/St. Paul, MN and San Antonio, TX. From Minneapolis over I-35 to San Antonio serving the intermediate points of Kansas City, KS; Kansas City, MO; Oklahoma City, OK;

Dallas, TX; and Fort Worth, TX and return over the same route for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to tack its authority. It intends to interline with other carriers at points on regular route it is authorized to serve. Supporting shipper(s): Alternate route for the elimination of needless miles as well as fuel savings. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 60430 (Sub-29TA), filed September 20, 1979. Applicant: FRIEDMAN'S EXPRESS, INC., P. O. Box 480, Wilkes-Barre, PA 18773. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW, Washington, DC 20005. *Common; regular General Commodities, Except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading.* Between Northumberland, PA and Williamsport, PA serving all intermediate points and the off route points of Hughesville, Montgomery, Turbotville, and Watsonstown, PA. From Northumberland, PA over PA Hwy. 147 to Junction U.S. Hwy. 220, then over U.S. Hwy 220 to Williamsport, PA and return over the same route. Between Williamsport, PA and Northumberland, PA serving all intermediate points. From Williamsport, PA over U.S. Hwy. 15, then over U.S. Hwy. 11 to Northumberland, PA and return over the same route. Between Schuylkill Haven, PA and Pine Grove, PA serving all intermediate points. From Schuylkill Haven, PA over PA Hwy. 443, to Pine Grove, PA and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under docket number MC 60430. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 78400 (Sub-77TA), filed November 2, 1979. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg. St. Louis, MO 63101. (1) *Milking machines, peening machines, tanks, and industrial cleaning equipment (except commodities requiring special equipment), from Washington and Berger, MO to points in and east of ND, SD, NE, KS, OK, and TX: and, (2)*

Materials and supplies used in the manufacture and distribution of commodities in (1) above, in the reverse direction, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zero Manufacturing Company, 811 Duncan Ave., Washington, MO 63090. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 93840 (Sub-53TA), filed October 15, 1979. Applicant: GLESS BROS., INC., P. O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. *Salt* from the facilities of International Salt Company at Chicago, IL, to points in IA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Salt Company, 1414 Rockefeller Bldg., 614 Superior Ave., Cleveland, OH 44113. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 93980 (Sub-83TA), filed October 9, 1979. Applicant: VANCE TRUCKING CO., INC., P.O. Box 1119, Henderson, NC 27536. Representative: Jim K. Wyatt, P.O. Box 1119, Henderson, NC 27536. *Lumber and building materials* from Henniker, NH to GA, FL and AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Log Systems, Inc., Box 101, West Chesterfield, NH 03466. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.

MC 93980 (Sub-84TA), filed October 9, 1979. Applicant: VANCE TRUCKING CO., INC., P.O. Box 119, Henderson, NC 27536. Representative: Jim K. Wyatt (Same as above). *Lumber and lumber products* from facilities utilized by Lawrence R. McCoy Co., in VA to points in NJ, DC, MD, PA, NY, OH, DE, CT, MA, RI, NH, VT and ME, for 180 days. A corresponding ETA has been filed. Supporting shipper(s): Lawrence R. McCoy Company, 120 Front St., Worcester, MA. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.

MC 94201 (Sub-185TA), filed October 26, 1979. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chattanooga, TN and Chicago, IL (a) from Chattanooga over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over Alternate U.S. Hwy. 41 to

Hopkinsville, KY, then over U.S. Hwy. 41 to Chicago, and return over the same route, (b) From Chattanooga over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over Alternate U.S. Hwy. 41 to Hopkinsville, KY, then over U.S. Hwy. 41 to junction Interstate Hwy. 64 (also over U.S. Hwy. 41 to junction U.S. Hwy. 660), then over Interstate Hwy. 64 (also over Hwy. 460) to junction U.S. Hwy. 51, then over U.S. Hwy. 51 to Bloomington, IL, then over U.S. Hwy. 66 to Chicago, and return over the same route, (c) from Chattanooga over U.S. Hwy. 41 (also over Interstate Hwy 24) to Nashville, TN, then over Alternate U.S. Hwy. 41 to Hopkinsville, KY, then over U.S. Hwy. 41 to junction Interstate Hwy. 64 (also over U.S. Hwy. 41 to junction U.S. Hwy. 460), then over Interstate Hwy. 64 (also over U.S. Hwy. 460) to junction Interstate Hwy. 57, then over Interstate 57 to Chicago, and return over the same route; (2) between Chattanooga, TN, and Indianapolis, IN, from Chattanooga, TN, over U.S. Hwy. 41 (also over Interstate Hwy. 24) to Nashville, TN, then over U.S. Hwy. 31-W to junction U.S. Hwy. 31 then over U.S. Hwy. 31 to Indianapolis (also over Interstate Hwy 65 to Indianapolis), and return over the same route; (See attached), (3) between Chattanooga, TN, and Cincinnati, OH, from Chattanooga to Nashville, TN, as specified above, then over U.S. Hwy. 31-W (also over Interstate Hwy. 65) to Louisville, KY, then over Interstate Hwy. 71 (also over U.S. Hwy. 42) to Cincinnati, and return over the same route; (4) between Chattanooga, TN, and Louisville, KY, (A) from Chattanooga to Louisville as specified above and return over the same route, (b) from Chattanooga over U.S. Hwy. 27 (also over Interstate Hwy. 75) to Lexington, KY, then over U.S. Hwy. 60 (also over Interstate Hwy. 64) to Louisville, and return over the same route, (c) from Chattanooga over U.S. Hwy. 27 to junction U.S. Hwy. 150 at Stanford, KY, then over U.S. Hwy. 150 to Danville, KY, then over U.S. Hwy. 127 to junction Interstate Hwy. 64 to Louisville, and return over the same route; (5) between Chattanooga, TN, and Cleveland, OH, from Chattanooga over U.S. Hwy. 27 (also over Interstate Hwy. 75) to Lexington, KY, then over U.S. Hwy 25 (also over Interstate Hwy 75) to Cincinnati, then over U.S. Hwy 42 (also over Interstate Hwy 71) to Cleveland, OH, and return over the same route; (6) between Jackson, TN, and Chicago, IL, (a) from Jackson over U.S. Hwy 45 to intersection U.S. Hwy 45E and 45W approximately 6 miles southeast of Humboldt, TN, then over U.S. Hwy 45W to junction U.S. Hwy 51, then over U.S.

Hwy 51 to Bloomington, IL, then over U.S. Hwy 66 to Chicago, and return over the same route, (b) from Jackson over U.S. Hwy 45 to intersection U.S. Hwy 45E and 45W, approximately 6 miles southeast of Humboldt, TN then over U.S. Hwy 45W to junction U.S. Hwy 51, then over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route; (7) between Jackson, TN and Evansville, IN, from Jackson over U.S. Hwy 45 to Intersection U.S. Hwy 45E and 45W, approximately 6 miles southeast of Humboldt, TN, then over U.S. Hwy 45E to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction U.S. Hwy 60, then over U.S. Hwy 60, at or near Paducah, KY, then over U.S. Hwy 60 to junction U.S. Hwy 41, at or near Evansville, IN, then over U.S. Hwy 41 to Evansville, and return over the same route; (8) between Memphis, TN, and Chicago, IL, (a) from Memphis over U.S. Hwy 51 to Bloomington, IL, then over U.S. Hwy 68 to Chicago, and return over the same route, (b) from Memphis over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route, (c) from Memphis over Interstate Hwy 55 to Chicago, and return over the same route, (d) from Memphis over Interstate Hwy 55 to junction Interstate Hwy 57, at or near Sikeston, MO, then over Interstate Hwy 57 to Chicago, and return over the same route; (9) between Memphis, TN, and Indianapolis, IN from Memphis over Interstate Hwy 55 to junction Interstate Hwy 57, at or near Sikeston, MO, then over Interstate Hwy 57 to junction Interstate Hwy 70, at or near Effingham, IL, then over Interstate Hwy 70 to Indianapolis, and return over the same route; (10) between Knoxville, TN and Chicago, IL, from Knoxville over Interstate Hwy 75 to Lexington, KY, then over Interstate Hwy 64 to Louisville, KY then over Interstate Hwy 65 to Chicago, and return over the same route; (11) between Knoxville, TN, and Louisville, KY, from Knoxville over Interstate Hwy 75 to Lexington, KY, then via Interstate Hwy 64 to Louisville, and return over the same route; (12) between Knoxville, TN, and Cleveland, OH, from Knoxville over Interstate Hwy 75 to Cincinnati, OH, then via Interstate Hwy 71 to Cleveland, and return over the same route; (13) between Bristol, TN, and Louisville, KY, from Bristol over U.S. Hwy 421 to Lexington, KY, then via Interstate Hwy 64 to Louisville, and return over the same route; (14) between Bristol, TN, and Chicago, IL, from Bristol over U.S. Hwy 421 to Lexington, KY, then over Interstate Hwy 64 to Louisville, KY, then over Interstate Hwy 65 to Chicago, and return over the same

route; (15) between Bristol, TN, and Toledo, OH, from Bristol over U.S. Hwy 11W to Kingsport, TN, then over U.S. Hwy 23 to Toledo, and return over the same route; (16) between Bristol, TN, and Cleveland, OH, from Bristol over Interstate Hwy 81 to junction Interstate Hwy 77, at or near Wytheville, VA, then over Interstate Hwy 77 to Cleveland, and return over the same route; (17) between Bristol, TN, and Cincinnati, OH, from Bristol over U.S. Hwy 421 to junction U.S. Hwy 23, at or near Gate City, VA, then via U.S. Hwy 23 to Portsmouth, OH, then over U.S. Hwy 52 to Cincinnati, and return over the same route; (18) between Memphis, TN, and Bristol, TN, (a) from Memphis over Interstate Hwy 40 to junction Interstate Hwy 81, at or near Jefferson City then via Interstate Hwy 81 to Bristol, and return over the same route, (b) from Memphis over U.S. Hwy 64 to junction U.S. Hwy 411, near Ocoee, TN, then over U.S. Hwy 411 to junction U.S. Hwy 11E, near Johnson City, TN, then over U.S. Hwy 11E to Bristol, and return over the same route; (19) between Decatur, IL, and Indianapolis, IN, from Decatur over U.S. Hwy 36 to Indianapolis, and return over the same route; (20) between Decatur, IL, and Chicago, IL, from Decatur over U.S. Hwy 51 to Mendota, IL, then over U.S. Hwy 34 to Chicago, and return over the same route; (21) between Evansville, IN and Decatur, IL, from Evansville over U.S. Hwy 460 to junction U.S. Hwy 45, at or near Crossville, IL, then over U.S. Hwy 45 to junction IL Hwy 130, at or near Grayville, IL, then over IL Hwy 130 to junction IL Hwy 33, at or near Newton, IL, then over IL Hwy 33 to junction IL Hwy 32, at or near Effingham, IL, then over IL Hwy 32 to junction IL Hwy 121, at or near Sullivan, IL, then over IL Hwy 121 to Decatur, and return over the same route; (22) between Louisville, KY, and Decatur, IL, from Louisville over U.S. Hwy 150 to junction U.S. Hwy 50, at or near Shoals, IN, then over U.S. Hwy 50 to junction IL Hwy 130 at or near Olney, IL, then over IL Hwy 130 to junction IL Hwy 33, at or near Newton, IL, then over IL Hwy 33 to junction IL Hwy 32, at or near Effingham, IL, then over IL Hwy 32 to junction IL Hwy 121, at or near Sullivan, IL, then over IL Hwy 121 to Decatur and return over the same route; (23) between Fort Wayne, IN, and Chicago, IL, from Fort Wayne over U.S. Hwy 33 to South Bend, IN, then over IN Hwy 2 to junction U.S. Hwy 20 at or near Rolling Prairie, IN, then over U.S. Hwy 20 to Chicago (also over IN Hwy 2 to junction combined Interstate Hwys 80 and 90, at or near Rolling Prairie, IN, then over combined Interstate Hwys 80 and

90 to Chicago), and return over the same route; (24) between Indianapolis, IN, and Chicago, IL, from Indianapolis over Interstate Hwy 65 to Gary, IN, then over Interstate Hwy 94 to Chicago, and return over the same route; (25) between Indianapolis, IN, and Fort Wayne, IN, from Indianapolis over Interstate Hwy 69 (also over IN Hwy 37) to Fort Wayne, and return over the same route; (26) between Indianapolis, IN, and junction U.S. Hwy 41 and 52 near Gravel Hill, IN, from Indianapolis over U.S. Hwy 52 to junction U.S. Hwy 41 near Gravel Hill, IN, and return over the same route; (27) between South Bend, IN, and Indianapolis, IN, from South Bend over U.S. Hwy 31 to Indianapolis, and return over the same route; (28) between Indianapolis, IN, and Cincinnati, OH, from Indianapolis over U.S. Hwy 52 route; (29) between Columbus, OH, and Indianapolis, IN from Columbus over U.S. Hwy 40 (also Interstate Hwy, 70) to Indianapolis, and return the same route; (30) between Chicago, IL, and Cleveland, OH, from Chicago over combined Interstate Hwys 80 and 90 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Cleveland, and return over the same route; (31) between Cincinnati, OH, and Fort Wayne, IN, from Cincinnati over U.S. Hwy 27 to Fort Wayne, and return over the same route; (32) between Cincinnati, OH, and Cleveland, OH, from Cincinnati over U.S. Hwy 22 to Washington Court House, OH, then over U.S. Hwy 62 to Canton, OH, then over OH Hwy 800 to Akron, OH, then over OH Hwy 8 to Cleveland, and return over the same route; (33) between Cincinnati, OH, and Toledo, OH, from Cincinnati over combined U.S. Hwy 25 and Interstate Hwy 75 to junction Interstate Hwy 75, then over Interstate Hwy 75 (also over U.S. Hwy (25) to Toledo, and return over the same route; (34) between Columbus, OH, and Toledo, OH, from Columbus over U.S. Hwy 23 to Toledo, and return over the same route; (35) between Junction Interstate Hwys 76 and 71 approximately 13 miles south of Medina, OH, and Youngstown, OH, from junction Interstate Hwys 76 and 71 over Interstate Hwy 76 to junction OH Hwy 18, then over OH Hwy 18 (also over Interstate Hwy 76) to Youngstown, and return over the same route; service is authorized in the above routes to and from the following intermediate and offroute points: (a) points in TN; (b) points within 10 miles of Louisville, KY; (c) points in IN; (d) points in the part of IL on and bounded by a line beginning at the IL-IN state line and extending along U.S. Hwy 36 to Springfield, IL, then along IL Hwy 29 to Peoria, IL, then

along IL Hwy 116 to Metamore, IL, then along IL Hwy 89 to junction U.S. Hwy 34, then along U.S. Hwy 34 to junction IL Hwy 31, then along IL Hwy 31 to unnumbered hwy (Aurora Ave.), then along said unnumbered hwy to junction U.S. Hwy 34, then along U.S. Hwy 34 to Chicago, IL, then along Lake Michigan to the IL-IN state line, and then along IL-IN state line to points of beginning; and (e) points in that part of OH on, west, and north of a line beginning at a point on the OH-PA state line, near Sharon, PA, and extending along U.S. Hwy 82 to Columbus, OH, then along U.S. Hwy 23 to Circleville, OH, and then along U.S. Hwy 22 to Cincinnati, OH.
RESTRICTION: The Service is restricted to service at terminal and intermediate and off-route points in the transportation of traffic moving from, to or through points in Tennessee. Applicant proposes to tack the authority herein granted with applicant's existing authority at Chattanooga, Jackson, Memphis, Nashville and Union City, TN to provide service between applicant's presently authorized regular, intermediate and off-route points in NC, SC, GA, FL, AL, MS, LA, AR, and TX, and by tacking the authority sought with existing authority at Evansville, Vincennes, Bedford, New Albany, Princeton, Shoals, Sullivan, Jasper, and Terre Haute, IN, which authorizes transportation between points in NC, SC, GA, FL, TN, AL, MS, LA, AR, and TX, on the one hand, and, on the other, Henderson and Louisville, KY, St. Louis, MO, Cincinnati, OH and points in IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are no statements of support. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 110410 (Sub-25TA), filed _____ Applicant: BENTON BROS. FILM EXPRESS, INC., 723 Forrest Road, N.E., Atlanta, GA 30308. Representative: Warren A. Goff, 2008 Clark Tower, Memphis, TN 38137. *Distilled spirits* between Jacksonville, FL, and Atlanta, GA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dixie Bottle & Beverage Co., 600 Worchester Drive, N.E., Atlanta, GA 30306. Send protests to: Sara K. Davis T/A, ICC, 1252-W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 110420 (Sub-843TA), filed October 17, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: Michael V. Kaney (same address as applicant). *Packinghouse products*, in bulk, in tank vehicles from the facilities

of Lauridsen Foods, Inc. at or near Britt, IA to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 113751 (Sub-32TA), filed October 1, 1979. Applicant: HAROLD F. DUSHEK, INC., 10th and Columbia Streets, Waupaca, WI 54981. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. *Foodstuffs (except commodities in bulk), moving in vehicles equipped with mechanical refrigeration units*, from the Chicago, IL Commercial Zone to points in IN, KY, MI, MO & WI. Restriction: restricted to traffic originating at the facilities of U.S. Cold Storage Division, American Consumer Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Consumer Industries, Inc., U.S. Cold Storage Division, 8424 W. 47th St., Lyons, IL 60534. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 113760 (Sub-18TA), filed October 10, 1979. Applicant: PETCO INC., INTERSTATE, 7627 Dahlia St., P.O. Box 478, Commerce City, CO 80037. Representative: Robert D. McAlister (same address as applicant). *Petroleum products* in bulk, in tank vehicles, between points in WY on the one hand, and on the other, points in CO for 180 days. Supporting shipper(s): Flatiron Paving Company of Greeley, P.O. Box 1137, Greeley, CO 80631. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 113861 (Sub-79TA), filed October 29, 1979. Applicant: Wooten Transports, Inc., 153 Gaston Avenue, Memphis, TN 38106. Representative: James N. Clay, 2700 Sterick Building, Memphis, TN 38103. *Cement*, from the plantsite of Marquette Cement Manufacturing Company at Memphis, TN to points in AR, LA, MS, and AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marquette Co., 2200 First American Center, Nashville, TN 37238. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 115311 (Sub-381TA), filed October 1, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim E. Meyer, P.O. Box 56387, Atlanta, GA 30343. *Cement* from the facilities of Marquette Cement Co., at or near Rockmart, GA to points in

NC, SC, AL, FL and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Marquette Co., A wholly-owned Subsidiary of Gulf & Western Ind., 2200 First American Center, Nashville, TN 37238. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 115311 (Sub-382TA), filed September 19, 1979. Applicant: J. & M. TRANSPORTATION CO., INC., a Georgia corporation, P.O. Box 488, Milledgeville, GA 31061. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *Lime, cement and mortar mix* from the facilities of Martin-Marietta Corporation at or near Roberta AL to points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Martin-Marietta Corporation, 18th Floor, Daniel Building, 15 South 20th Street, Birmingham, AL 35233. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 115331 (Sub-524TA), filed October 4, 1979. Applicant: TRUCK TRANSPORT, INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Rd., St. Louis, MO 63122. *Flint sand*, in bulk, from Webb City, MO to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): F. & S. Abrasive Co., Inc., P.O. Box 2012, Birmingham, AL 35201. Send protests to: P. E. Binder, TS, ICC, Room 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115841 (Sub-741TA), filed October 10, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Drugs, medicines, health care products, toilet preparations, alumina calcined, and magnesium hydroxide (except in bulk) in vehicles equipped with mechanical refrigeration*, from Philadelphia, PA and its commercial zone and from Greensboro, NC and its commercial zone to points in GA, CA, OH, IN, IL, MI, PA, NY, TX, KS, TN, OK, NE, MO, IA, NM, and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vicks Health Care Division, Richardson-Merrill Inc., P.O. Box 8155, Philadelphia, PA 19101. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-742TA), filed October 12, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Dr., Suite 110,

Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Drug, toilet preparations, health care products, magnesium hydroxide, and alumina calcined*, from Philadelphia, PA and its commercial zone and from Lewes, DL to points in AL, FL, GA, IL, CA, LA, MO, NC, SC, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): William H. Rorer, Inc., Fort Washington, PA 19034; McNeil Laboratoriers, 500 Office Center Dr., Fort Washington, PA 10943. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115931 (Sub-102TA), filed November 5, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Farm machinery* from Racine, WI to points in NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case, 700 State Street, Racine, WI 53404. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 116300 (Sub-67TA), filed October 29, 1979. Applicant: NANCE & COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Animal and Poultry Feed* from the facilities of Allied Mills, Inc. located at or near Memphis, TN to points in AL, LA and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Mills, Inc., 5050 Poplar, Suite 1708, Memphis, TN 38157. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, Jackson, MS 39201.

MC 117370 (Sub-40TA), filed November 6, 1979. Applicant: STAFFORD TRUCKING, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Wet spent brewers grains* from facilities of G. Heileman Brewing Co. at LaCrosse, WI to points in IL, IA & MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Miracle Feeds, Inc., P.O. Box 1715, LaCrosse, WI 54601. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 118130 (Sub-116TA), filed September 17, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. (1) *Such merchandise dealt in by wholesale, retail, chair*

grocery and food business houses and agricultural feed business houses; soy products; paste; flour products; dairy base products; and (2) materials, ingredients, equipment and supplies used in the development, manufacture, distribution, and sale of the items in (1) above (except commodities in bulk); (1) from the facilities of Ralston Purina Co., at or near Oklahoma City, OK to points in AR, AL, CO, LA, MS, TN, and TX, and from the facilities of Ralston Purina Co., at or near Denver, CO to points in NM and TX; and (2) from points in AR, AL, CO, LA, MS, TN, and TX to the facilities of Ralston Purina Co., at or near Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 118431 (Sub-32TA), filed October 29, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam St., Omaha, NE 68102. Contract carrier over irregular routes: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and articles which because of size or weight require the use of special equipment), between the facilities of SCM Corporation at or near Jackson, AL; Brisbane, Buena Park, City of Commerce, San Francisco and San Jose, CA; Jacksonville and Port Saint Joe, FL; Atlanta, Colonel's Island, Flowery Branch and Oakwood, GA; Hammond and Marion, IN; Salem, MA; Kalamazoo, MI; Minneapolis, MN; Maplewood and North Bergen, NJ; Brooklyn, Cortland, Rockville Centre, Syracuse and Wolcott, NY; Charlotte, Durham, Mount Airy and Southern Pines, NC; Ashtabula, Cleveland, Columbus, Leipsic, Sharonville and Wickliffe, OH; Portland, OR; Altoona, Johnstown, Parkesburg, Phoenixville and Reading, PA; Denison and El Paso, TX; and Petersburg, WV, on the one hand, and on the other, points in the U.S. (except AK and HI), restricted to services to be performed under a continuing contract or contracts with SCM Corporation, for 180 days. Supporting shipper(s): SCM Corporation, 900 Union Commerce Bldg., Cleveland, OH 44115. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 118831 (Sub-187TA), filed November 2, 1979. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III (same as above). *Liquid dye in bulk, in tank vehicles*, from Damascus, VA to Charlotte, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Wayne, NJ 08470. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Room CC516, Charlotte, NC 28205.

MC 119390 (Sub-19TA), filed July 9, 1979. Applicant: MAIRS TRANSPORT LTD., 976 Adair Avenue, P.O. Box 1188, Coquitlam, B.C., Canada V3J 6Z9. Representative: Wallace Aiken, 1215 Norton Bldg., Seattle, WA 98104. *Lumber and lumber products*, between points on the International Border between the United States and Canada in WA and points in the State of WA on and west of U.S. 97, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doubletree Forest Products, Ltd., Ste. 1, 4649 East Hastings, Burnaby, B.C., Canada V5C 2K6; Ralph S. Plant Ltd., P.O. Box 2089 M.P.O., Vancouver, B.C., Canada, V6B 3T2. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 119670 (Sub-51TA), filed September 6, 1979. Applicant: THE VICTOR TRANSIT CORP., 5250 Este Ave., P.O. Box 32115, Cincinnati, OH 45232. Representative: William R. Dally (same as applicant). *Such commodities as are used or dealt in by manufacturers of glass, plastic, chinaware and metal products* (except commodities in bulk), between points in IL, IN, KY, MI, MO, OH, WV, WI and all points on and west of U.S. Hwy. 219 in PA, restricted to traffic originating at or destined to the facilities used by Anchor Hocking Corp. and/or its subsidiaries for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking, 109 N. Broad St., Lancaster, OH 43130. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 121470 (Sub-43TA), filed November 2, 1979. Applicant: TANKSLEY TRANSFER CO., 80 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Iron and steel articles*, between the plantsites and warehouse facilities of Bristol Steel and Iron Works, Inc., located at or near Bristol, VA and points in AL and TN, for 180 days. Restriction: Restricted to traffic originating and destined to facilities of Bristol Steel and Iron Works, Inc. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Bristol Steel &

Iron Works, Inc., P.O. Box 471, Bristol, VA 24201. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121470 (Sub-44TA), filed November 2, 1979. Applicant: TANKSLEY TRANSFER CO., 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Steel footwalks, aluminum footwalks, and fiberglass footwalks*, from the facilities of IKG Industries, located at or near Nashville, TN to Kansas City, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): IKG Industrlos, P.O. Box 479, Nashville, TN 37202. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 121661 (Sub-6TA), filed October 24, 1979. Applicant: VAN WYK FREIGHT LINES, INC., Box 70, Route 1, Grinnell, IA 50112. Representative: Russell H. Wilson, Suite 200, 3839 Merle Hay Rd., Des Moines, IA 50310. *General commodities (except those of unusual value, class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment)* between Moline, IL, and Grinnell, IA, for 180 days. Applicant intends to tack with its presently held authority and interline with other carriers at Moline, IL, and Grinnell, IA. An underlying ETA seeks 90 days authority. Application will be filed for conversion of applicant's Certificate of Registration. Supporting Shipper(s): There are 30 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 124121 (Sub-13TA), filed November 2, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Lumber and dimensional hardwoods* from facilities of Ah-No-Pee Dimensional Hardwood, Inc. at or near Ogema, WI to Brownsville, TX; Tuscaloosa, AL; Akron, OH; Asheboro, NC; Sante Fe Springs, CA; and Chicago, IL and Minneapolis, MN and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ah-No-Pee Dimensional Hardwood, Inc., Rt. 2, Box 155, Ogema, WI 54559. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124141 (Sub-31TA), filed October 1, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Malt beverages and materials and supplies* used in the sales and distribution thereof, from points in IN, and WI to AR for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Beasley Distributing Co., Inc., 301 Winona St., Hot Springs, AR 71901. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124141 (Sub-32TA), filed October 31, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, Virginia 22101. *Confectionery and confectionery products* from Bethlehem, PA to points in the United States in and west of WI, IL, KY, TN and MS, for 180 days. Supporting Shipper(s): Just Born, Inc., 1300 Stefcow Blvd., Bethlehem, PA. Send protests to: William H. Land, DS, 3108 Federal Building, Little Rock, AR 72201.

MC 124151 (Sub-14TA), filed November 2, 1979. Applicant: VANGUARD TRANSPORTATION, INC., Lafayette Street, Carteret, NJ 07008. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, D.C. 20001. Liquid chemicals, in bulk, in tank vehicles from Philadelphia, PA and points in its commercial zone to New York, NY and points in its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rohm and Hass Company, Independence Mall West, Philadelphia, PA 19105; Shell Oil Company, Two Shell Plaza, P.O. Box 2099, Houston, TX 77001. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 124821 (Sub-68TA), filed October 5, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *Cleaning compounds, bleach, mops and brooms, and mop parts* from Chicago, IL to Syracuse, NY; Elizabeth, NJ; Hanover, PA; Philadelphia, PA; Pittsburgh, PA; East Stroudsburg, PA; Richmond, VA; Saylesville, RI and Wilmington, MA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Drackett Co., 5020 Spring Grove Ave., Cincinnati, OH 45232. Send protests to: L.C.C., Fed. Res. Bank Bldg. 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 124951 (Sub-44TA), filed October 12, 1979. Applicant: WATHEN TRANSPORT, INC., P.O. Box 237, Henderson, KY 42420. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. *Malt Beverages*, in containers, (1) from the plantsite of Olympia Brewing Company, St. Paul, MN, to Owensboro, KY, and (2) from the plantsite of G. Heileman Brewing Company, Evansville, IN, to Bowling Green, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marilyn L. Schneller, Bowling Green Beer Distributors, Inc., P.O. Box 2250, Bowling Green, KY 42101; John A. Medley, Jr., Quality Beer Dist. Co., Inc., 1010 E. Sixth St., Owensboro, KY 42301. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 125470 (Sub-56TA), filed September 26, 1979. Applicant: MOORE'S TRANSFER, INC. P.O. Box 1151, Norfolk, NE 68701. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Canned and prepared foodstuffs* from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to points in AR, MO on and west of U.S. Highway 63 and points in Memphis, TN and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic originating at the named facilities and destined to the named states. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, William L. Reeder, Coordinator-Transportation Planning, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 127840 (Sub-144TA), filed September 28, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Corn syrup, in bulk, in tank vehicles*, from Keokuk, IA to points in AR, AZ, CO, FL, KS, LA, MS, NM, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hubinger Company, 601 Main Street, Keokuk, IA 52632. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-145TA), filed October 11, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Packaginghouse commodities, in bulk, in tank vehicles*, from the plantsite and storage facilities of Lauridsen Foods, Inc. at or near Britt, IA to points in IL, IN, CO, KY, MI, MO,

MN, OK, OH, KS, NE, SD, ND, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Armour & Company, Greyhound Tower, Phoenix, AZ 85077. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 127840 (Sub-146TA), filed October 10, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. *Animal fats, products and blends thereof, in bulk, in tank vehicles*, (1) From Guymon, OK to points in AZ, CA, CO, KS, LA, NM, and TX and (2) From Clovis, NM to points in AZ, CA, CO, KS, LA, LK, and TX for 180 days. Supporting shipper(s): Swift Edible Oil Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 133591 (Sub-82TA), filed October 31, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, 300 S. Thompson Ave. (P.O. Box 1103), Sioux Falls, SD 57101. *Canned goods*, from points in OR to points in KS, MO, AR, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Truitt Bros., Inc., 1105 Front St. NE, Salem, OR 97308. Send protests to: Vernon V. Coble, DS, 600 Fed. Bldg., ICC, 911 Walnut St., Kansas City, MO 64106.

MC 133630 (Sub-10TA), filed October 9, 1979. Applicant: KING BROS. TRUCKING, INC., Rural Route No. 2, Ashkum, IL 60911. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. *Phosphate, feed grade*, from the Hooker Chemical Company facilities at or near Montpelier, IA to Ashkum, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hooker Chemical Company, P.O. Box 4289, Houston, TX 77210. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 134300 (Sub-45TA), filed October 11, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First St. NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 N. 5th St., Minneapolis, MN 55403. *Records and tapes, sound recording*, from the facilities utilized by K-Tel International, Inc. at Hauppauge, Ronkonkoma, and Rye, NY to the facilities of K-Tel International, Inc. at Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K-Tel International, Inc., 11311 K-Tel Dr., Minnetonka, MN 55343. Send protests

to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 134501 (Sub-69TA), filed October 24, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture*, from the facilities of InterRoyal Corporation at or near Plainfield, CT, to points in ME, VT, MA, NH, RI, NY, PA, OH, WV, VA, MD, DC, NC, SC, GA, FL, AL, TN (except Shelby County), KY, IN, MI, WS, IL, MO, IA, MN, ND, SD, NE, WY, MT, CO (on and north of U.S. Hwy. 24), ID (on and north of U.S. Hwy. 12), KS (on and north of U.S. Hwy. 54), and WA (on and north of U.S. Hwy. 2) for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): InterRoyal Corporation, P.O. Box 91, Plainfield, CT 06374. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 134501 (Sub-70TA), filed October 30, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. *New furniture* from the facilities of InterRoyal Corporation at or near Michigan City, IN to points in CA, AZ, NM, WY, NE, KS, IA, MO, LA, MS, TN (except Shelby County), AL, GA, FL, SC, NC, VA, DC, MD, DE, WV, OH, PA, NJ, NY, MA, CT, RI, VT, NH, and ME, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): InterRoyal Corporation, Royal Road, Michigan City, IN 46360. Send protests to: Opal M. Jones, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-110TA), filed September 12, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Garsen, P.O. Box 82816, Lincoln, NE 68501. *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Chicago, IL; Los Angeles, CA; Boston, MA; Philadelphia, PA and Jersey City, NJ and points in their respective commercial zones and points in NC and SC, to the facilities of Houston Merchant Shippers Assn., at or near Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Houston Merchant Shippers Association, 2410 Commerce St., P.O. Box 2241, Houston, TX 77001. Send protests to: Opal M.

Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-111TA), filed September 12, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs*, (except frozen foods and commodities in bulk), from the facilities of Vlastic Foods, Inc., at or near Greenville, MS to points in TX, OK, KS, AR, and MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlastic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-114TA), filed September 27, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. (A) *Rubber articles, plastic articles, and rubber materials*, and (B) *equipment, materials, and supplies used in the manufacture and distribution of commodities in (A) between the facilities of ENTEK Corporation of America, at or near Irving, TX on the one hand, and, on the other, points in the US (except AK and HI) for 180 days.* Supporting shipper(s): Entek Corporation of America, P.O. Box 61048, Dallas, TX 75261. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-115TA), filed September 28, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs* from San Francisco, CA and points in its commercial zone, to Florence, KY for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Sambo's Restaurants, Inc., 1000 North Cindy Lane, Carpinteria, CA 93013. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-116TA), filed September 28, 1979. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Artificial Christmas Trees and stands, Christmas decorations and lighting* from Los Angeles, CA to points in MN, OK, TX, KS, CO, NE, and IA for 180 days. Underlying ETA filed. Supporting shipper(s): Mr. Christmas, Inc., North Street, East Douglas, MA 01516. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-117TA), filed September 28, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE. *Coffee, green* from New Orleans, LA and points in its commercial zone to the facilities of The Folger Coffee Company, at or near Sherman, TX for 180 days. Underlying ETA filed. Supporting shipper(s): The Folger Coffee Company, P.O. Box 599, Cincinnati, OH 45201. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-118TA), filed September 20, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. (1) *Bananas*, and (2) *agricultural commodities, the transportation of which is otherwise exempt from economic regulation, in mixed loads with bananas* from Port Heuneme, CA to points in the U.S. in and west of IA, MN, MO, TX, and WI for 180 days. Supporting Shippers(s): Del Monte Banana Company, P.O. Box 011940, Miami, FL 33101. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135410 (Sub-95TA), filed October 10, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Chemicals, toilet preparations and buffing and polishing compounds (except in bulk)*, from the facilities of John H. Break, Inc. at Ft. Madison, IA to Chicago, IL; Ft. Wayne and Indianapolis, IN; Coldwater, Detroit and Plymouth, MI; Cincinnati, Columbus and Dayton, OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Berdan Avenue, Wayne, New Jersey 07470. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 135861 (Sub-60TA), filed November 1, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 8335, Fort Worth, TX 76112. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, Irregular, *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, except hides and commodities in bulk, in tank vehicles, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Monfort of Colorado, Inc., Box G,

Greeley, CO 80631. Send protests to: Marianne Minnich, TCS, ICC, Rm. 9A27, Fed. Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 136720 (Sub-9TA), filed October 10, 1979. Applicant: APEX BULK COMMODITIES, 11902 E. Washington Blvd., Santa Fe Springs, CA, P.O. Box 872, Whittier, CA 90608. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Cement*, from points in CA (except Colton, Creal, Crestmore, Monolith, Oro Grande, San Diego, Victorville, and the facilities of General Portland, Inc. at or near Gorman), to points in AZ, CA, and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Pyramid Stucco Products, Vice President and General Manager, 5004 East 59th Place, Maywood, CA. Send protests to: Irene Carlos, TA, ICC, 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 138000 (Sub-55TA), filed September 10, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, CA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave., Hagerstown, MD 21740. 1. *Malt beverages and related advertising material* from Albany, GA to all points in and east of WI, IL, KY, TN, and MS. 2. *Materials, supplies and equipment used in the manufacture of malt beverages* from all points in and east of WI, IL, KY, TN, and MS, to Albany, GA for 180 days. Supporting shipper(s): Miller Brewing Co., 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138090 (Sub-3TA), filed September 25, 1979. Applicant: LOUIS MOLNAR d.b.a. L & M PRODUCE AND TRUCK LINES, 51 Luverne Avenue, Downsview, Ontario. Representative: Robert D. Gunderman, Esq., 710 Statler Bldg., Buffalo, NY 14202. *Doors, frames, jamba and related materials and supplies*, from the ports of entry on the International Boundary line between the U.S. and Canada on the Niagara River to Hallandale, FL, restricted to the transportation of traffic originating at the facilities of Premium Forest Products Ltd. at or near Scarborough, Ontario, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Premium Forest Products Ltd., 426 Ellesmere Rd., Scarborough, Ontario M1R 4E7. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 138420 (Sub-43TA) filed October 2, 1979. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Rt. 1, P.O. Box 147, Cleveland, WI 53063.

Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. (1) *Malt beverages, advertising materials, malt beverage dispensing equipment* when shipped therewith from Pittsburgh, PA to points in IL on and south of U.S. Hwy. 136 and MO. (2) *Used empty malt beverage containers* from MO and points in IL on and south of U.S. Hwy. 136 to Pittsburgh, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pittsburgh Brewing Co., 3340 Liberty Avenue, Pittsburgh, PA 15201. Send protests to: John E. Ryden, DS ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 139360 (Sub-12TA) filed September 28 1979. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53403 Representative: Wm. D. Brejcha, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. *Contract carrier; irregular routes; (1) Such commodities as are dealt in by wholesale and retail, chain, grocery and hardware and drug stores*, from the facilities of S.C. Johnson & Son, Inc. at or near Waxdale, WI to points in MN and (2) *Materials, equipment and supplies used in the manufacture and distribution of the commodities described in (1) above*, from points in MN to the facilities of S.C. Johnson & Son, Inc. at or near Waxdale, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): S.C. Johnson & Son, Inc., 1525 Howe St., Racine, WI 53403. Send protests to: John E. Ryden, DS, ICC 517 E. Wisconsin Ave., Rm. 619, Milwaukee 53202.

MC 140061 (Sub-10TA), filed October 26, 1979. Applicant: DONALD MULDER, d.b.a. DON MULDER TRUCKING, 1735 North 50th Street, Lincoln, NE 68504. Representative: Lavern R. Holdeman, 521 S. 14th St., P.O. Box 81849, Lincoln, NE 68501. *Contract carrier, irregular routes; Sawdust and waximpregnated fireplace logs (except in bulk)* from Trenton, NJ and Fairless Hills, PA and points in their respective commercial zones to points in IL, IN, IA, KY, MI, MN, MO, OH and WI under contract with the Kingsford Company for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kingsford Company, Richard A. Parks, Distribution Manager, P.O. Box 1033, Louisville, KY 40201. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140800 (Sub-3TA), filed October 30, 1979. Applicant: COLONIAL TRANSPORTATION, INC., P.O. Box 448, McMinnville, TN 37110. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier; irregular*

routes; Electric motors, generators, brake drums, disk brakes and parts thereto, and parts, materials & equipment and supplies used in the manufacture of above commodities (except commodities in bulk), between points in TN and Watertown, NY, on the one hand, and, on the other, points in CT, DE, FL, KS, KY, MD, MA, MS, NE, OK and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gould, Inc., 1831 Chestnut St., St. Louis, MO 63168. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 141871 (Sub-20TA), filed October 11, 1979. Applicant: WNI, INC., 8560 S.W. Salish Lane, Wilsonville, OR 97070. Representative: Neil A. Dujardin, P.O. Box 2298, Green Bay, WI 54306. *Foodstuffs*, from Portland, OR and points in its commercial zone to Santa Cruz and San Jose, CA, for 180 days. A corresponding ETA has been approved and a permanent will be filed. Supporting shipper(s): Grandma's Foods, 6220 S.W. 112th, Beaverton, OR 97005. Send protests to: A. E. Odoms, D/S, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 142461 (Sub-6TA), filed November 2, 1979. Applicant: H & W TRUCKING CO., INC., P.O. Box 1545, Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW, Washington, DC 20005. *Contract carrier; irregular routes; Fiberboard (1)* from Lenoir and Greensboro, NC to Henry County, VA and Macon and Dublin, GA and (2) from Waverly, VA to Macon and Dublin, GA, under a continuing contract(s) with Bassett Furniture Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bassett Furniture Industries, Inc., Box 626, Bassett, VA 24055. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.

MC 142640 (Sub-3TA), filed October 10, 1979. Applicant: P.W.K. TERMINALS, INC., 6 Highgate Course, St. Charles, IL 60174. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Contract Carrier; Irregular routes; Insulation and materials, equipment parts and supplies used in the manufacture, sale or distribution of insulation*, between Gilberts, IL on the one hand, and, on the other, points in IA, IN, MI, MN, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mono-Therm of Illinois, P.O. Box 2, Gilberts, IL 60136. Send protests to:

Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142680 (Sub-12TA), filed October 23, 1979. Applicant: SUMTER TIMBER COMPANY, INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Lumber and lumber mill products*, from Tuscaloosa County, AL to Baldwin and Mobile Counties, AL, for subsequent movement by water, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Stringfellow Lumber Co., Inc., P.O. Box 1117, Birmingham, AL 35203. Send protests to: Mabel E. Holston, T/A, ICC, 1616 Suite—2121 Building, Birmingham, AL 35203.

MC 142920 (Sub-10TA), filed October 1, 1979. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46221. Representative: Morton E. Keil, Suite 1832—2 Wold Trade Center, New York, NY 10048. *Contract carrier: Irregular routes: (1) Such merchandise as is dealt in or used by retail department stores, and (2) equipment, materials and supplies used in the conduct of such business (except commodities in bulk and those which, because of size or weight, require the use of special equipment)*, from New York, NY and Philadelphia, PA and points in the commercial zones thereof, to Indianapolis, IN and its commercial zone, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Ayr-Way Stores, Inc., 8520 Zionsville Road, Indianapolis, IN 46268. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 142941 (Sub-54TA), filed October 12, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 N. 25th Ave., P.O. Box 6716, Phoenix, AZ 85005. Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. *Toilet preparations*, from the facilities of Roux Laboratories, Inc., located in Duval County, FL, to points in AL, LA, MS, OK, TX and Covington, KY and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roux Laboratories, Inc., 6831 Stuart Ave., Jacksonville, FL 32205. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 143061 (Sub-6TA), filed October 9, 1979. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, NC 27288. Representative: Archie W. Andrews (same as above). *Contract carrier—Irregular routes: (1) Electrical equipment, devices, and products (2)*

parts of the commodities in (1), and (3) commodities used by and dealt in by manufacturers of the commodities in (1), (except commodities in bulk, and those which because of size or weight, require special equipment between points in the US, except AK and HI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 1285 Boston Ave., Bridgeport, CT 06602. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.

MC 143331 (Sub-12TA), filed October 30, 1979. Applicant: FREIGHT TRAIN TRUCKING, INC., 4906 E. Compton Blvd., P.O. Box 817, Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract: Irregular: Plastic articles*, from Fort Worth, TX to points in CA, under a continuing contract(s) with Loma/Rubber Queen Corp., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Loma/Rubber Queen Corp., 9651 U.S. Highway 81 South, Fort Worth, TX 76140. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Bldg., 300 No. Los Angeles St., Los Angeles, CA 90012.

MC 144740 (Sub-20TA), filed October 4, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. *Contract carrier—Irregular routes; Candy and confectionery products and bakery products in vehicles equipped with mechanical refrigeration (1) from Brooklyn, NY and Philadelphia, PA to Atlanta, GA, Chicago, IL, Cleveland, OH, Dallas, TX, Detroit, MI, Hayward, CA, Jacksonville, FL, New Orleans, LA, Pennsauken, NJ, and Vernon, CA; and (2) from Chicago, IL to Atlanta, GA, Brooklyn, NY, Cleveland, OH, Dallas, TX, Detroit, MI, Hayward, CA, Jacksonville, FL, New Orleans, LA, Pennsauken, NJ, Philadelphia, PA, and Vernon, CA, under a continuing contract or contracts with Ward Johnston, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ward Johnston, Inc., 2 Pennsylvania Plaza, 250 W. 34th St., New York, NY 10001. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.*

MC 144740 (Sub-21TA), filed October 31, 1979. Applicant: L. G. DE WITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Terrence D. Jones, 2033 K Street NW., Washington, DC 20006. *Contract carrier—Irregular routes; Candy and confectionery products, chewing gum, beverage preparations, and bakery products, in vehicles*

equipped with mechanical refrigeration from Brooklyn, NY, Linden, North Bergen, Edison, New Brunswick, and Cranford, NJ and Philadelphia, Reading and Duryea, PA to points in CA, OR, WA, NC, SC, GA, FL, TX, LA, UT, AZ, IL, MN, WI, and MO, under a continuing contract or contracts with Confectionary Consolidators, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Confectionery Consolidators, 797 Hillside Rd., Rahway, NJ 07065. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd.—Rm CC516, Charlotte, NC 28205.

MC 144810 (Sub-4TA), filed October 30, 1979. Applicant: FLOYD M. CROSS, 62911 Lopez Street, Espanola, NM 87532. Representative: ROGER EATON, P.O. Drawer 965, Albuquerque, NM 87103. *Contract carrier: irregular routes: Plastic containers, materials and supplies used or useful in the production and marketing, thereof*, from Denver, CO to points in NM and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hoover Universal, Inc., 4990 Ironton Street, Denver, CO 80239. Send protests to: Joyce E. Abbott, TA, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 145120 (Sub-6TA), filed November 5, 1979. Applicant: HOLMDEL TRUCKING CORPORATION, 3 Scout Avenue, South Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, D.C. 20036. *Contract carrier, irregular routes for 180 days. Such commodities as are dealt in or used by department stores (except foodstuffs and commodities in bulk) from the facilities of Lady Rose Division located at or near New York, NY to points in MI, IN, OH, TX, MN, PA, NJ, and NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): Master's, Inc., 215 Summa Avenue, Westbury, LI, NY 11590. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.*

MC 145120 (Sub-7TA), filed November 5, 1979. Applicant: HOLMDEL TRUCKING COMPANY, 3 Scout Avenue, South Kearny, NJ 07032. Representative: Edward J. Kiley, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. *Contract carrier, irregular routes for 180 days. Such commodities as are dealt in or used by department stores (except foodstuffs and commodities in bulk) between the facilities of Unishops, Inc., located at points in the New York, NY commercial zone as defined by the Commission, on the one hand, and, on the other, points in the United States (except AK and HI) under a continuing*

contract(s) with Unishops, Inc. An underlying ETA seeks 90 days authority. Supporting shipper(s): Unishops, Incorporated, 21 Caven Pt. Avenue, Jersey City, NJ 07305. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145381 (Sub-6TA), filed October 3, 1979. Applicant: S & P TRUCKING CO., INC., P.O. Box 1058, Fletcher, NC 28732. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. *Contract carrier*—irregular routes; *Dialysis supplies and equipment (except in bulk)* between points in the US (except AK and HI) under a continuing contact or contracts with Erika, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Erika, Inc., 1 Erika Place, Rockleigh, NJ 07647. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 145441 (Sub-75TA), filed October 1, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). *Plastic materials (except in bulk)* from Lovelady, TX to all points in the U.S. (except AK, HI and TX), for 180 days. Supporting Shipper(s): Phillips Petroleum Company, 154 Phillips Bldg. Annex, Bartlesville, OK 74004. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145701 (Sub-7TA), filed October 10, 1979. Applicant: D. C. TRANSPORT, INC., 916 South Riverside Avenue, St. Clair, MI 48079. Representative: John W. Bryant, 900 Guardian Building, Detroit, MI 48226. (1) *Salt and salt products, except in bulk*, from facilities of Diamond Crystal Salt Company at or near Akron, OH, and St. Clair, MI to points in NC, SC, and VA, and (2) *Fabrics, textiles, urethane foam, and laminations of such items* from the facilities of Guilford Mills at or near Greensboro, NC, to facilities of Inmont Corporation at or near Port Huron, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inmont Corporation, 1905 Beard St., Port Huron, MI 48060; Diamond Crystal Salt Company, 916 S. Riverside, Ave., St. Clair, MI 48079. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145980 (Sub-3TA), filed October 10, 1979. Applicant: H. C. COOK & BOBBY JOE COOK, A Partnership d.b.a., Cook Trucking, 2200 Willow Creek Road, Casper, WY 82601. Representative: Bobby Joe Cook (same address as applicant). (1) *Machinery, equipment and supplies* used in, or in connection with, the discovery,

development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in WY, CO, UT, NV, ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are ten (10) shippers. Their statements may be examined at the office shown below or at Headquarters office. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 145981 (Sub-19TA), filed November 6, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Chemicals and cleaning compounds (except commodities in bulk)*, between points in NJ, on the one hand, and, on the other, points in the States of CA, FL, GA, IL, OH, NC, SC, TN, TX and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Oakite Products, Inc., 50 Valley Road, Berkeley Heights, NJ 07922. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146880 (Sub-3TA), filed October 4, 1979. Applicant: LOWELL DENTON, d.b.a. DENTON CARTAGE COMPANY, 7322 West 90th Street, Bridgeview, IL 60455. Representative: Lowell E. Denton, P.O. Box 40, Palos Park, IL 60464. *Steel tubing*, from the facilities of the National Metalware, Inc., located at or near Aurora, LaSalle and Chicago, IL to points in IL, IN, MI, MN, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): National Metalware, Inc., 900 N. Russell Ave., Aurora, IL 60506. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 146910 (Sub-2TA), filed October 31, 1979. Applicant: MOTOR CARGO TRANSPORT CORP., 21 D'Shibe Terrace, Vineland, NJ 08360. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, NW, Washington, DC 20036. *Glass containers*. From Vineland, NJ to Gardners and Biglerville, Pa for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Kerr Glass Manufacturing Corporation, P.O. Box 97, Sand Springs, OK 74063. Send

protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147941 (Sub-3TA), filed November 1, 1979. Applicant: WAYNE MOLES TRUCKING COMPANY, 1313 Southwest 3rd Street, Oklahoma City, OK 73108. Representative: Wayne Moles (same address as applicant). *Contract Carrier: Irregular Route: adhesives and paint*, (except in bulk, in tank vehicles), from the facilities of Chemicals Products Development Corp., at or near Oklahoma City, OK, to points in IL, IN, NY, OH, PA, AL, FL, GA, NC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Chemical Products Development, Inc., 5001 So. MacArthur, Oklahoma City, OK 73119. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 148200 (Sub-1TA), filed October 24, 1979. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, In 46222. Representative: Mark E. Bell, 229 Merchants Bank Bldg., Indianapolis, IN 46204. *Contract carrier: Irregular routes: (1) Plastics bottles or containers in all stages of manufacturing or production, (2) fibre board boxes or shipping material, pallets or skids, (3) production or manufacturing tools, equipment used in the manufacture of plastic bottles or containers, (4) scrap material related to the manufacturing process of plastic bottles or containers*, between the plantsite of Hoover Universal, Inc., at Franklin, IN on the one hand, and, on the other points in IL, OH, KY, MI, TX, OK, KS, NE, SD, ND, LA, AR, MO, IA, MN, MS, AL, TN, WI, FL, GA, NC, SC, VA, WV, DE, MD, DC, NJ, PA, CT, RI, MA, NH, NY and VT, for 180 days. An underlying ETA seeks 90 days. SUPPORTING SHIPPER: Hoover Universal, Inc., 1100 Early Wood Drive, Franklin, IN. Under contract with Hoover Universal, Inc. at Franklin, IN. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN.

MC 148291 (Sub-1TA), filed October 26, 1979. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *General commodities (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment): (1) Between Springfield, MO and Little Rock, AR and points in their commercial zones, serving all intermediate points in AR and points in their respective commercial zones; from*

Springfield over U.S. Hwy. 65 to Conway, AR, then over Interstate Hwy. 40 to junction Interstate Hwy. 30, then over Interstate Hwy. 30 to Little Rock and return over the same route; and (2) between Gateway, AR and Mountain Home, AR and points in their commercial zones, serving all intermediate points and points in their respective commercial zones, from Gateway over U.S. Hwy. 62 to Mountain Home and return over the same route, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to interline with other carriers. Supporting shipper(s): Approximately 69 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148291 (Sub-2TA), filed October 26, 1979. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common carrier over regular routes: *General commodities*, (except commodities in bulk, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment); (1) between Harrison, AR and Ft. Worth, TX and points in their commercial zones, serving all intermediate points in AR between Harrison and Little Rock, AR, including Little Rock and points in their respective commercial zones and the intermediate point of Dallas, TX and points in its commercial zone; from Harrison over U.S. Hwy. 65 to Conway, AR, then over Interstate Hwy. 40 to junction Interstate Hwy. 30, then over Interstate Hwy. 30 to Dallas, TX, then over U.S. Hwy. 80 to Ft. Worth and return over the same route; (2) between Mountain Home, AR and Gateway, AR and points in their commercial zones, serving all intermediate points and points in their respective commercial zones; from Mountain Home over U.S. Hwy. 62 to Gateway and return over the same route, restricted to transportation of shipments originating at, destined to, or passing through, points in the Dallas-Ft. Worth, TX commercial zones, for 180 days. Underlying ETA seeks 90 days authority. Carrier intends to interline with other carriers. Supporting shipper(s): Approximately 101 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148291 (Sub-3TA), filed October 26, 1979. Applicant: RAZORBACK EXPRESS, INC., P.O. Box 1773, Harrison, AR 72601. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. Common carrier over regular routes:

General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Memphis, TN and Gateway, AR and points in their commercial zones, serving all intermediate points between Mountain Home and Gateway, AR, including Mountain Home and points in their respective commercial zones; from Memphis over Int. Hwy. 55 to junction U.S. Hwy. 63, then over U.S. Hwy. 63 to junction U.S. Hwy. 62, then over U.S. Hwy. 62 to Gateway and return over the same route; and (2) between Memphis, TN and Harrison, AR and points in their commercial zones, serving all intermediate points between Conway and Harrison, including Conway and points in their respective commercial zones; from Memphis over Int. Hwy. 40 to Conway, AR, then over U.S. Hwy. 65 to Harrison and return over the same route, restricted against transportation of shipments moving between Memphis, TN and Little Rock, AR and points in their commercial zones, for 180 days. Underlying ETA seeks 90 days authority. Applicant intends to interline with other carriers at Memphis, TN and Conway and Harrison, AR. Supporting shipper(s): Approximately 81 shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 148311 (Sub-1TA), filed September 14, 1979. Applicant: DELIVERY SERVICES, INC., 2044 S. Don Carlos, Mesa, AZ 85202. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Such merchandise, equipment and supplies as are sold, used or distributed by manufacturer of cosmetics*, having a prior or subsequent movement in interstate commerce, between points in AZ, restricted to transportation for Avon Products, Inc., only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 2949 E. Foothill Blvd., Pasadena, CA 91121. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Applicant intends to interline with another carrier at Phoenix and Tucson, Arizona.

MC 1458381 (Sub-4TA), filed November 1, 1979. Applicant: PETER HOLMAN TRUCKING, INC., 3504 South Federal Hwy., Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. Contract Carrier—Irregular Route: *Adhesives, in containers*, (1) between Bloomfield, NJ and Hammond, IN; and (2) from Hammond, IN and Bloomfield,

NJ to points in NC, SC, GA, FL, WA, OR, and CA for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Roman Adhesives, Inc., 5 Lawrence St., Bloomfield, NJ 07003. Send protests to: Donna M. Jones, T/A, ICC-BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 148401 (Sub-1TA), filed October 5, 1979. Applicant: HENRY F. JOHNSON, d.b.a., GREENLEAF TRANSPORTATION, 1150 Sunny Hill Avenue, Brea, California 92621. Representative: Henry F. Johnson, (same address as applicant). *Contract; Irregular: Such commodities as are dealt in by wholesale and retail grocery, food business, discount or variety houses*, between the facilities of Lever Brothers Company in California and Tucson, Arizona, including all points within 25 miles thereof, for 180 days. An underlying ETA seeks 90 days operating authority. Supporting Shipper(s): Lever Brothers Company, Traffic Manager, 6300 E. Sheila Street, Los Angeles, CA 90022. Send protests to: Irene Carlos, TA, ICC, 1321—Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148420 (Sub-1TA), filed October 25, 1979. Applicant: R. J. PRODUCE, INC., 2810 South Ellis, Elk Grove Village, IL 60007. Representative: John T. O'Connell, 521 South LaGrange Road, LaGrange, IL 60525. *Contract carrier; irregular routes: Steel shelving, for the account of Par Steel Products & Services Company, Inc., at Chicago Heights, IL*, from the facilities of Par Steel Products Service Company, Inc., at Chicago Heights, IL, to points in CA for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Par Steel Product & Services Company, Inc., 383 E. 16th, Chicago Heights, IL 60411. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604

MC 148440 (Sub-1TA), filed October 15, 1979. Applicant: LEIBY S. HALL, d.b.a. TCF INDUSTRIES, 525 North Franklin Street, Decatur, IL 62523. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Contract carrier; irregular routes: Raw materials, parts and supplies for use in the manufacture of heavy machinery and equipment, and commodities for use in plant maintenance, for the account of Caterpillar Tractor Co.*, (a) Between the facilities of Caterpillar Tractor Co. in Scott County, IA, Burlington, IA, LaFayette, IN and Milwaukee, WI on the one hand, and on the other, points in IL and St. Louis, MO and (b) Between the facilities of Caterpillar Tractor Co. in Aurora, East Peoria, Joliet, Mapleton,

Morton, Mossville, Peoria and Pontiac, IL on the one hand, and on the other, Chicago, IL and St. Louis, MO; and (c) Between the facilities of Caterpillar Tractor Co. in Scott County and Burlington, IA on the one hand; and on the other, LaFayette, IN and Milwaukee, WI; and (d) Between the facilities of Caterpillar Tractor Co. in LaFayette, IN on the one hand, and on the other, Milwaukee, WI (Restricted to vehicles having a capacity of 2,000 pounds or less) for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Caterpillar Tractor Co., 100 North Adams Street, Peoria, IL 61629. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148461 (Sub-1TA), filed October 24, 1979. Applicant: JOSEPH E. COBB d/b/a JEC TRUCKING, 202 Highway 3 South, Yerington, NV 89447. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Meats, meat products, meat by-products, and articles distributed by meat packing houses*, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, excluding hides and excluding commodities in bulk. Restricted to service performed in vehicles equipped with mechanical refrigeration, between points in CA, NV, ID, CO, UT, and AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): "There are 7 shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: W. J. Huetig, ICC, 705 N. Plaza Street, Carson City, NV 89701.

MC 148480 (Sub-1TA), filed October 25, 1979. Applicant: WILSON TRUCKING COMPANY, P.O. Box 231, Wabasha, MN 55981. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Garage door sections* from Wabasha, MN to points in CO, IL, IN, IA, KS, MI, MO, MT, NE, ND, OH, SD, WI, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Star Door Mfg. Co., Inc., Vice Pres., 4509 Minnetonka Blvd., Mpls., MN 55416. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Mpls., MN 55401.

MC 148481 (Sub-1TA), filed November 1, 1979. Applicant: CARTER FREIGHT LINES, INC., P.O. Box 1128, 2205 Myers Rd., Albert Lea, MN 56007. Representative: Michael L. Carter (same address as applicant). *Raw rubber, rubber chemicals and materials, equipment and supplies used in the manufacture and repair of pollution*

control equipment (except commodities in bulk) between the facilities of Rubber Engineering, Div. Envirotech Corp., in AZ, CA, CO, ID, LA, MT, NV, NM, OR, TX, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rubber Engineering, Molded Products Div. of Envirotech Corp., 3459 S. 700 W., Salt Lake City, UT 84125. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 148490 (Sub-1TA), filed October 31, 1979. Applicant: C & N EVANS TRUCKING CO., INC., Rt. 2, Box 39E, Stoneville, NC 27048. Representative: Clarence B. Evans, Rt. 2, Box 39E, Stoneville, NC 27048. (1) *Copper tubing (2) wearing apparel*; (1) from facilities of Halstead Metal Products Co. at or near Pine Hall, NC to points in GA, FL, MD, MI, MA, NC, NJ, NY, PA, AR, and VA; (2) from Alexander City, AL, Griffen, GA, Asheboro, Madison, Mayaden and Statesville, NC and Martinsville, VA to Appleton, WI and Dallas, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Downers, Inc., P.O. Box 535, Appleton, WI; Cambridge-Lee Industries, Inc., 14 Perimeter Park, Atlanta, GA 3031. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd. Room CC516, Charlotte, NC 28205.

MC 148500 (Sub-1TA), filed October 23, 1979. Applicant: BULK HAULERS, INC., P.O. Box 4186, Macon, GA 31208. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. (1) *Basic slag, in bulk, in dump vehicles vehicles, and (2) dolomite limestone, in bulk, in dump vehicles*; (1) from points in Jefferson County, AL, to points in FL, GA, and SC; and (2) from points in Lee County, AL, to points in GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Agri-Business Supply, Inc., 1102 Third Ave., Albany, GA 31709. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St. NW., Room 300, Atlanta, GA 30309.

MC 148620 (Sub- TA), filed October 31, 1979. Applicant: K.G.L. CONTRACTING SERVICES, INC., 2270 S.W. 36 St., Ft. Lauderdale, FL 33312. Representative: John T. Bond, Suite 410, 909 S. State Rd. 7, Hollywood, FL 33023. *Contract Carrier—Irregular Route: Material and supplies (1) used in the operation and maintenance of clinical diagnostic laboratory instruments, and/or (2) used in the collection, preservation, and analysis of human laboratory specimens, and (3) material, supplies and equipment used in the production and distribution of the commodities as described in (1) and (2) above (except commodities in bulk) in*

vehicles equipped with mechanical refrigeration between Coulter Diagnostics facility at Hialeah, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI) under a contract with Coulter Diagnostics for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Coulter Diagnostics, 740 West 83rd St., Hialeah, FL 33014. Send protests to: Donna M. Jones, T/A, ICC—BOP, Suite 101, Monterey Bldg., 8410 N.W. 53rd Ter., Miami, FL 33166.

Passengers

MC 56810 (Sub-2TA), filed September 7, 1979. Applicant: TEXAS MOTOR COACHES, INC., 710 E. Davis St., Grand Prairie, TX 75051. Representative: M. S. Rasins, Sr. (same as above). *Passengers and baggage in special operation* from Dallas, Grand Prairie, Arlington and Fort Worth, TX to all points in the US excluding AK and HI for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Funseekers, USA, Inc. P.O. Box 5484, Arlington, TX 76011, Serendipity Travel Agency, Inc., Suite No. 132, Ryan Plaza Dr., Arlington, Anthony Tour Service, Inc., 6060 N. Central Expressway, Suite No. 672, Dallas, TX 75206. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119961 (Sub-9TA), filed October 22, 1979. Applicant: MARSHALL MOTOR COACH, INC., P.O. Box 428, Marshalltown, IA 50158. Representative: James M. Hodge, 1980 Financial Ctr., Des Moines, IA 50309. *Passengers and their baggage, in round-trip charter operations*, beginning and ending at points in Mahaska County, IA, and extending to points in the United States (except HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Marva Place, 1001 1st Ave., East, Oskaloosa, IA 52577; BPOE No. 340 (Elks), P.O. Box 1, Oskaloosa, IA 52577; Mahaska Shrine Club, Route 3, Oskaloosa, IA 52577. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 123481 (Sub-8TA), filed October 30, 1979. Applicant: BROWN LINES, INC., 22 First Street West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800 South, 1800 M Street NW, Washington, DC 20036. *Passengers and their baggage and express and newspapers in the same vehicle with passengers* from Sandpoint, ID, southwest on U.S. Hwy. 2 to Spokane, WA, and return over the same route, serving all intermediate points, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PUB

No. 1 of Pend Orielle City, Box 190, Newport, WA 99156; Newport Miner, P.O. Box 349, Newport, WA 99156. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

Notice No. 215

Nov. 21, 1979.

MC 720 (Sub-72TA), filed November 13, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: James A. Spiegel, 6425 Odana Road, Madison, WI 53719. (a) *Foodstuffs and (b) materials, equipment and supplies used in the manufacture, sale and distribution of foodstuffs (except commodities in bulk)*, between Battle Creek, MI, on the one hand, and, on the other hand, various points in IL, IN & WI. Restricted to transportation performed to and from the facilities of The Kellogg Company, Battle Creek, MI, for 180 days. Supporting shipper(s): The Kellogg Company, 225 Porter, Battle Creek, MI 49016. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 730 (Sub-480TA), filed August 23, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 N. Via Monte, Walnut Creek, CA 94598. Representative: R. N. Cooledge (same address as applicant). *Petroleum crude oil*, in bulk, in tank vehicles, from Trapp Springs, NV to Fruita, CO. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Husky Oil Company, 600 S. Cherry Street, Denver, CO 80222. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 2900 (Sub-405TA), filed November 8, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408-R, Jacksonville, FL 32203. Representative: Paul Dixon (same address as applicant). *Machines, equipment and supplies used in the manufacturing of mining equipment*, from Candler, FL to Eloy, AZ for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Townley Engineering & Mfg., Co., Inc., P.O. Box 221, Candler, FL 32624. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 38921 (Sub-12TA), filed October 2, 1979. Applicant: KMA LEASING, INC., 1345 N. Mascher St., Philadelphia, PA 19122. Representative: James Rutherford (same as applicant). *Such merchandise as is dealt in by Wholesale or Retail Department Stores* between the facilities of Lionel Leisure, Inc., in Baltimore, MD, Brookpark, OH, and Philadelphia, PA, and points in CT, DE,

MA, MD, NJ, NY, OH, PA, RI and VA, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under docket MC38921. Supporting shipper(s): Lionel Leisure, Inc., 2951 Grant Ave., Philadelphia, PA 19114. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm., 620, Philadelphia, PA 19106.

MC 52460 (Sub-269TA), filed November 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Michael A. Calvert (same address as applicant). *Foodstuffs*, from the facilities of Ashley's of Texas at El Paso, TX, to points in AL, AR, FL, GA, IL, IA, KS, LA, MS, MO, NC, OK, SC, & TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ashley's of Texas, 6590 Montana, El Paso, TX 79925. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 96881 (Sub-25TA), filed November 6, 1979. Applicant: FINE TRUCK LINE, INC., 801 W. Dodson Ave., Ft. Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. *Glass containers and container accessories*, between the facilities of Kerr Glass Manufacturing Corporation at or near Sand Springs, OK and all points in AR, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Manufacturing Corporation, Box 97, Sand Springs, OK 74063. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 103051 (Sub-482TA), filed November 14, 1979. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave. North, Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Synthetic resins, in bulk, in tank vehicles*, from Birmingham, AL to points in AL, for 180 days. RESTRICTION: Restricted to traffic having a prior movement by rail. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Calgon Corp., P.O. Box 1346, Pittsburgh, PA 15230. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 108520 (Sub-3TA), filed November 13, 1979. Applicant: DON WALDRON d.b.a. DONALD WALDRON TRUCKING, Route 1, Box 197, Franksville, WI 53126. Representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. *Feed ingredients*, from the facilities of Cargill, Inc., at Chicago, IL to points in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee,

Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago Counties, WI, for 180 days. Supporting Shipper(s): Cargill, Inc., 120th & Torrence, Chicago, IL 60617. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111170 (Sub-266TA), filed November 5, 1979. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, AR 71730. Representative: Fred Worsham (same address as applicant). *Feed supplements*, in bulk, in tank vehicles, from Van Buren, AR to Cullman, AL, for 180 days. Underlying ETA seeks 90 days authority. Supporting Shipper(s): Diamond Shamrock Corporation, 1100 Superior Ave., Cleveland, OH 44114. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 111401 (Sub-593TA), filed November 2, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Petroleum products*, in containers, from Tulsa, OK, to points in KS and TX, for 180 days. Supporting Shipper(s): Champlin Petroleum Company, P.O. Box 552, Enid, OK 73701. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112520 (Sub-378TA), filed November 6, 1979. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *JP-5 (Jet Fuel) in bulk, in tank vehicles*, from points in Escambia County, FL to Greenville, TX for 180 days. Supporting Shipper(s): Department of the Army, Headquarters, Military Traffic Management Command, Washington, DC 20315. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 114290 (Sub-93TA), filed November 8, 1979. Applicant: EXLEY EXPRESS, INC., 2610 S.E. 8th Avenue, Portland, OR 98202. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Malt Beverages* from the facilities of Blitz Weinhard at Portland, OR to points in CA and WA for 180 days. A permanent will be filed. Supporting Shipper(s): Blitz Weinhard Co., 1133 W. Burnside, Portland, OR. Send protests to: D. Merine Galbraith, T/A, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 115651 (Sub-67TA), filed October 25, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222

Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: E. Stephen Heisley, 666 11th Street, N.W., Washington, D.C. 20001. *Industrial Sand*, in bulk, and in packages, from Oregon, IL to points in the Continental U.S. on and east of Highway U.S. 85 for 180 days. Supporting shipper(s): Acme Resin Corporation, Oregon, IL. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 115821 (Sub-49TA), filed October 23, 1979. Applicant: FRANK BEELMAN, d.b.a. BEELMAN TRUCK CO., St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Coke, in bulk, in dump vehicles*, from points in AL, to the facilities of ASARCO, Incorporated, at Glover, MO for 180 days. Supporting shipper(s): ASARCO, Incorporated, 611 Olive St., Suite 1755, St. Louis, MO 63101. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 121470 (Sub-45TA), filed November 7, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Building materials (except in bulk)* from the facilities of U.S. Gypsum Company at Chamblee and Morrow, GA to KY and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 53 Permieter Center East, Atlanta, GA 30346. Send protests to: Glenda Kuss, TA, ICC, Suite A, 422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 121470 (Sub-46TA), filed November 9, 1979. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Iron and Steel articles* from Chicago, IL and its commercial zone to points in AL, KY and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are thirteen (13) supporting shippers. Their statements may be examined at the office listed below and at Headquarters. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 126930 (Sub-29TA), filed September 14, 1979. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. *Petroleum products and lubricating oils, except in bulk, in containers* from the facilities of Mobil Oil Corporation located at or near

Omaha, NE to all points in IA and WY for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Mobil Oil Corp., 8350 N. Central Expressway, Suite 522, Campbell Centre, Dallas, TX 75206. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 128021 (Sub-45TA), filed October 26, 1979. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. (1) *Popcorn not popped, and popcorn not popped in oil (except in bulk, in tank vehicles)* from Wall Lake, IA to points in the United States (except AK and HI); and (2) *Equipment, materials and supplies used in the manufacture and distribution of popcorn not popped and popcorn not popped in oil (except commodities in bulk, in tank vehicles)*, from point in the United States (except AK and HI) to Wall Lake, IA, for 180 days. Supporting shipper(s): National Oats Company, Inc., 1515 H Avenue, NE., Cedar Rapids, IA 52402. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 129480 (Sub-45TA), filed November 7, 1979. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550-71st Avenue S.E., Calgary, AB, Canada T2H 0S6. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Bldg., Denver, CO 80264. (1)(A) *Such commodities as are manufactured or distributed by steel mills and metal fabricators, and (B) equipment, materials and supplies used in (A) above (except commodities in bulk, in tank vehicles)*, between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in AL [except Anniston, Birmingham, Decatur, Gadsden and Tuscaloosa or points within ten miles thereof], AR, IL, IA, KY, LA, MS, MO and TN; (2) *Fabricated steel articles* between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IN, the Lower Peninsula of MI, and points in WI on and south of U.S. Hwy 8 (except Kenosha, Milwaukee and Racine), and points in PA and OH; and (3) *Farm machinery and parts* between points on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in IL, IA, KS, MN, MO, NE and SD; Restriction: The authority in (1), (2) and (3) above is restricted to the transportation of commodities which because of size or weight require special handling or

special equipment, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 133591 (Sub-83TA), filed November 8, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, MO 65712. Representative: Charles A. Daniel, same as applicant. Such commodities as are dealt in by wholesale, retail and food business houses (except commodities in bulk in tank vehicles). From the facilities of and used by Lever Brothers Co. located at or near St. Louis, MO. To Dallas and Houston, TX, Los Angeles and Richmond, CA, and Portland, OR. Supporting shipper(s): Lever Brothers Company, 390 Park Ave., New York, NY 10022. Send protests to: Vernon Coble, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 135070 (Sub-120TA), filed November 5, 1979. Applicant: JAY LINES, INC., 720 North Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, 137 NW 17th, P.O. Box 82816, Lincoln, NE 68501. *Tires*, from Buffalo, NY, Frazer, PA, and Huntsville, AL to Amarillo, TX for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): York Tire Company, P.O. Box 663, Amarillo, TX 79109. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-121TA), filed November 9, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Foodstuffs*, from the facilities of Fearn International, Inc., at or near Chicago, IL to points in the United States in and east of MT, WY, CO, and NM (except AL, GA, FL, KY, MS, NC, SC, and TN) for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Fearn International, Inc., 9353 Belmont Ave., Franklin Park, IL. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 135070 (Sub-122TA), filed November 9, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Appliances, air conditioners, and parts and accessories thereof*, from the facilities of Gulf Atlantic Distribution Services, at or near Memphis, TN, to

points in AZ, NM, OK, and TX, for 180 days. Underlying ETA for 90 days has been filed. Supporting shipper(s): Gulf Atlantic Distribution Services, Marketing & Distribution, P.O. Box 2588, Houston, TX 77001. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135861 (Sub-61TA), filed November 9, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, Texas 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract carrier, irregular routes; *Candy, confectionery, chewing gum, drugs and toilet preparations*, in temperature controlled vehicles, from Brooklyn, NY; Duryea, Philadelphia and Reading, PA; and points in NJ; to points in AR, AZ, CA, CO, KS, LA, MO, NM, OK and TX, under continuing contract(s) with Non Profit Shippers Assoc., Rahway, NJ. Supporting shipper(s): Non Profit Shippers Assoc., 797 Hillside Road, Rahway, NJ 07065. Send protests to: Marianne Minnich, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 138741 (Sub-101TA), filed October 29, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Lumber and lumber products*, between the facilities of Thomas & Proetz Lumber Co. at or near Nashville, IL on the one hand and on the other points in IN, KS, MI, MO, NE, OK and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thomas & Proetz Lumber Co., 3400 Hall St., St. Louis, MO. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1388, Chicago, IL 60604.

MC 140511 (Sub-11TA), filed November 7, 1979. Applicant: AUTOLOG CORPORATION, 319 W. 101 St., New York, N.Y. 10025. Representative: Larsh B. Mewhinney, 555 Madison Avenue, New York, NY 10022. *New motor vehicles, in secondary movements, in truckaway service*, between points in FL, on the one hand, and, on the other, points in NY; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Polkowitz Motors, 233 New Brunswick Ave., Perth Amboy, NJ 08862; Universal Chevrolet Corp., 170 Ridgedale Ave., Morristown, NJ. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 142181 (Sub-15TA), filed November 9, 1979. Applicant: LIBERTY

CONTRACT CARRIER, INC., P.O. Box 1104; 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract carrier: irregular routes; Metal containers*, from Chicago, IL to Nashville, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bix Manufacturing Co., 1116 Fowler St., Old Hickory, TN 37138. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 142920 (Sub-11TA), filed October 25, 1979. Applicant: OLIVER TRUCKING CORP., 2203 West Oliver Street, Indianapolis, IN 46231. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Contract carrier: Irregular routes: *Such commodities as are sold by a printer or converter of paper products, and materials, supplies and equipment used in the conduct of such business (except in bulk)* from Terre Haute, IN to New York, Gloversville, NY, and Pinkneyville, IL from Philadelphia, PA to Terre Haute, IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arco Press, Inc., 1330 Beech Street, Terre Haute, IN 47804. Send protests to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 1433311 (Sub-6TA), filed April 17, 1979. Applicant: FAMCO TRANSPORT, INC., P.O. Box 80007, Seattle, WA 98101. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Contract carrier: irregular routes: Materials, supplies and equipment used by medical laboratories and hospitals*, from Edison, NJ and Chicago and Gurnee, IL to the facilities of American Hospital Supply Corporation at Redmond, WA., and Portland, OR, for the account of American Hospital Supply Corporation, for 180 days. Supporting shipper(s): American Hospital Supply Corporation, McGaw Park, IL 60085. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 143311 (Sub-8TA), filed June 12, 1979. Applicant: FAMCO TRANSPORT, INC., 6640 Ellis Ave. S., Seattle, WA 98108. Representative: William J. Albright, President, P.O. Box 80007, Seattle, WA 98108. *Contract carrier: irregular routes: Wheat flour and related commodities*, from Seattle, WA, to points in OR and CA, for 180 days. Supporting shipper(s): Fisher Mills, Inc., 3235 16th Avenue SW., Seattle, WA 98134. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 144041 (Sub-40TA), filed September 13, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle, N.E., Atlanta GA 30345. Representative: Mark S. Gray, P.O. Box 56387, Atlanta, GA 30343. *Automobile parts and accessories, materials and supplies used in the manufacturing, sale and installation thereof (except in bulk)* from Goldsboro, NC to Dayton, NJ, Mansfield, MA, Atlanta, GA, Toledo, OH, Grand Haven, MI, Pinola, IN, Chicago, IL, Arlington, TX, Carson, CA and Hayward, CA, restricted to traffic originating at or terminating at the facilities of AP Parts Company, Division of Questor Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Questor Corporation, One John Goerlich Square, Toledo, OH. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309.

MC 144630 (Sub-38TA), filed October 11, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Such merchandise as is dealt in by wholesale and retail grocery and food business houses and equipment, materials and supplies used in the conduct of wholesale and retail grocery and food business houses*, from Kansas City, KS, Kansas City, MO, Chicago, IL, Baltimore, MD, and St. Louis, MO to the facilities utilized by Marsh Super Markets located at Indianapolis, Richmond, Yorktown and Anderson, IN for 180 days. Supporting shipper(s): Marsh Supermarkets, Inc., Yorktown, IN 47396. Send protests to: Beverly J. Williams, Trans. Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204.

MC 145441 (Sub-76TA), filed November 6, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). *Canned or preserved foodstuffs*, from the facilities of Heinz USA at or near Holland, MI, to points in CA, restricted to traffic originating at named origins and destined to named destinations, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145950 (Sub-58TA), filed October 30, 1979. Applicant: BAYWOOD TRANSPORT, INC., Rt. 6, Box 2611, Waco, TX 76706. Representative:

Michael D. Bromley, 805 McLachen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. 20001. *Chemicals, in drums*, from the facilities of Jefferson Chemical Co., at or near Austin, Port Neches, and Youens, TX and *Proprietary anti-freeze, in drums or packages*, from the facilities of Jefferson Chemical Co. in the Houston, TX commercial zone, to all points in the United States (except AK and HI); for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jefferson Chemical Co. Inc., 4800 Fournace Place, Bellaire, TX 77001. Send protests to: Marianne Minnich, TCS, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-59TA), filed October 22, 1979. Applicant: BAYWOOD TRANSPORT, INC., Box 2611, Rt. 6, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachen Bank Bldg., 666 Eleventh St. NW., Washington, D.C. *Foodstuffs (except in bulk)* from the facilities of Anderson Clayton Foods Company at or near Jacksonville, IL to points in VA, NC, SC, GA, FL, AL, TN, MS, LA, AR, OK, and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Clayton Foods Company, P.O. Box 226165, Dallas, TX 75266. Send protests to: Marianne Minnich, Interstate Commerce Commission, Rm. 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146520 (Sub-5TA) (Republication), filed April 6, 1979. Previously noticed in the Federal Register issue of August 8, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 West Berbeau, Chicago, IL 60641. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. *Meat, meat products, meat by-products and articles distributed by meat packinghouses as described in Appendixes A, C and D of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, between the facilities of Lauridsen Foods, Inc. at or near Britt, IA and the facilities of Armour and Company at or near Mason City, IA, on the one hand, and, on the other, points in CT, DE, KY, IL, IN, MA, MD, ME, MI, NY, NH, NJ, OH, PA, RI, VA, VT, WV, and DC, for 180 days. Restricted to the transportation of traffic originating at or destined to the facilities of Lauridsen Foods, Inc. at or near Britt, IA and/or the facilities of Armour and Company at or near Mason City, IA. Supporting shipper(s): Armour Food Co., Greyhound Tower, Phoenix, AZ 85077. Send

protests to: Annie Booker, TA, ICC, 1386 Everett Dirksen Bldg., 219 So. Dearborn St., Chicago, IL 60604.

Note.—The purpose of this republication is to include NY in the territorial description.

MC 146880 (Sub-4TA), filed October 17, 1979. Applicant: LOWELL E. DENTON d.b.a. DENTON CARTAGE COMPANY, P.O. Box 40, Palos Park, IL 60464. Representative: Lowell E. Denton (same address as applicant). *General Commodities, (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment)*, between Chicago, IL, on the one hand, and, on the other, Fenton, MI, South Bend, IN and points in IL. Restricted to traffic originating at or destined to the facilities of Playskool, Inc. located at Chicago, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Playskool, Inc., 4501 West Augusta Boulevard, Chicago, IL 60651. Send protests to: Annie Booker, TA, ICC, 219 S. Dearborn, Room 1388, Chicago, IL 60604.

MC 147131 (Sub-3TA), filed September 25, 1979. Applicant: KENNAMER BROTHERS, INC., Route 2, Box 866, Grant, AL 35747. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Meat, meat products, meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, except hides and commodities in bulk. From the facilities of or used by George A. Hormel and Company at or near Austin, MN and the facilities of Hormel Foods at or near Albert Lee, MN to points in AL, TN, and GA. Supporting shipper(s): George A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

Note.—Applicant intends to interline with other carriers at principal gateways in the destination states.

MC 147841 (Sub-2TA), filed August 3, 1979. Applicant: CENTENNIAL TRUCK LINES, INC., 301 Broadway, Jersey City, NJ 07306. Representative: Thomas F. X. Foley, State Highway #34, Colts Neck, NJ 07722. Coffee, roasted and instant, from the facilities of Chock Full O'Nuts at or near Brooklyn, and Jamaica, NY and St. Louis, MO to points in the states of AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, MD, MI, MO, MS, NE, NV, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, UT, VI, WV, and WY; Coffee beans, from New

Orleans, Louisiana and points in TX located along the international boundary line between the U.S. and Mexico to the facilities of Chock Full O'Nuts at or near Brooklyn and Jamaica, NY and St. Louis, MO; Frozen bakery goods, from Secaucus to points in the states of AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, MD, MI, MO, MS, NE, NV, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, UT, VI, WV, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chock Full O'Nuts, 425 Lexington Avenue, New York, NY 10017. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 147891 (Sub-1TA), filed October 5, 1979. Applicant: W. E. FERGUSON, d.b.a. FERGUSON TRUCKING, 720 Brownell, Joplin, MO 64801. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Contract, irregular: Containers and/or container ends, sheet steel and accessories* for the above commodities, between Fenton, MO, on the one hand, and, on the other, Ft. Smith, Jacksonville, West Helen and West Memphis, AR; Atlanta, GA; Jacksonville, Mapleton, Marion, Des Moines, and Sioux City, IA; Coffeyville, Kansas City and Wichita, KS; Calver City, Carrollton, Elizabethtown, Henderson, Louisville, and Murray, KY; Ponca City and Tulsa, OK; Charleston, Chattanooga, Collierville, Kingsport, Memphis, and Mount Pleasant, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): USS Products Division, United States Steel Corporation, 600 Grant St. Pittsburgh, PA 15230. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 148060 (Sub-2TA), filed October 16, 1979. Applicant: STOVER LINES, INC., 5636 NW 17th, Topeka, KS 66618. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. *Feed ingredients* from Kansas City and St. Joseph, MO to Topeka, KS; Supporting shipper: General Foods Corporation, 250 North St., White Plains, NY 10625; 180 days, common, irregular; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 148200 (Sub-2TA), filed October 9, 1979. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, IN 46222. Representative: Mark E. Bell, 220 Merchants Bank Bldg., Indianapolis, IN 46204. *Contract Carrier; Irregular Routes: (1) Plastic bottles or containers in all stages of manufacturing or production; (2) Fiberboard boxes or shipping material, pallets or skids; (3)*

Production or manufacturing tools, equipment, machinery or molds related to the manufacturing of plastic bottles or containers; (4) Scrap material, plastic or otherwise, related to the manufacturing process of plastic bottles or containers between Franklin, IN on the one hand, and on the other hand, all points in IL, KY, MI and OH, for 180 days. Under contract with Hoover Universal, Inc. Supporting shipper(s): Hoover Universal, Inc., 1100 Early Wood Drive, Franklin, IN 46131. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 148271 (Sub-1TA) filed November 2, 1979. Applicant: ENTERPRISE SERVICE COMPANY, INC., 2210 S. Olden Avenue, Trenton, NJ 08610. Representative: Arthur J. Diskin, Esq., 806 Frick Building, Pittsburgh, PA 15219. Contract, irregular. *Cleaning compounds, toilet preparations, jewelry, food supplements, cooking utensils, and other merchandise, equipment and supplies sold, used, or distributed by Amway Corporation*, from the facilities of Amway Corporation located in Somerville, NJ and Dayton, NJ to points in NY, MA, RI, and VT and vice versa; under continuing contract with Amway Corporation for 180 days. Supporting shipper(s): Amway Corporation, Monmouth, Junction Rd., P.O. Box 900, Dayton, NJ 08810. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 148340 (Sub-1TA), filed November 7, 1979. Applicant: CITIZENS CARPET SERVICE, INC., 652 South Lipan, Denver, CO 80223. Representative: Verlin R. Snider, 3587 South Hudson, Denver, CO 80010. *Floorcovering, carpet, rugs and/or samples in rolls or boxes*, from points in the counties of Bartow, Catoosa, Floyd, Gordon, Murray and Whitfield, all in the State of Georgia to the assembly point in Dalton, GA. Such commodities to have prior or subsequent movement in Interstate Commerce, for 180 days. An underlying ETA seeks identical authority. Carrier does intend to interline with other carriers. Supporting shipper(s): (52 supporting shippers). Send protests to: Herbert C. Ruoff, ICC, 492 U.S. Customs House, 721-19th Street, Denver, CO 80202.

MC 148510 (Sub-1TA), filed November 1, 1979. Applicant: THOMPSON TRUCK SERVICE, INC., 4714 Primm St., St. Louis, MO 63116. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Commodities as dealt in by retail department stores*, between Vandalia, IL on the one hand,

and, on the other, points in St. Louis and St. Louis County, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): P. N. Hirsch & Co. Stores, Inc., 2001 Walton Rd., St. Louis, MO 63114. Send protests to: P. E. Binder, DS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 148511 (Sub-1TA), filed October 30, 1979. Applicant: FOB TRANSPORTATION GROUP INC., 127 Davidson Avenue, Somerset, NJ 08873. Representative: W. G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Electrical components, machinery, electrical generators and components* used in the manufacture thereof between facilities of Bogue Electric, Paterson, NJ on the one hand, and, on the other, U.S. Government installations in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bogue Electric Mfg., Co., 100 Pennsylvania Avenue, Paterson, NJ 07509. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148690 (Sub-1TA), filed November 5, 1979. Applicant: GARY G. BUNDAY d.b.a. GARY BUNDAY TRUCKING, 35660 Frontage Road, Bozeman, MT 59715. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver CO 80202. *Beer and wine* from points in CA to Bozeman, MT, restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract(s) with Bronkin's and Bronkin's Good Time Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bronkin's Good Time Co., 707 East Peach, Bozeman, MT 59715. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 148700 (Sub-1TA), filed November 7, 1979. Applicant: JERICHO TRUCKING CO., INC., S9 W26422 Windsor Place, Waukesha, WI 53186. Representative: Richard Alexander, 710 N. Plankinton Ave., Milwaukee, WI 53203. Contract carrier; irregular routes; (1) *Concrete blocks and mortar, mortar coloring, and cement, in mixed loads with concrete blocks*, from facilities of Best Block Co., at Butler, WI; Best Block South, Inc., Milwaukee, WI; and Best Block Racine, Inc., at Racine, WI to points in IL, IN, & MI; (2) *Brick and brick products*, from facilities of American Brick Co., at Chicago, IL and Munster, IN to origins named in (1) above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Block Co.,

Best Block South, Inc., and Best Block Racine, Inc., W 140 N5998 Lilly Rd., Butler, WI 53007. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-37791 Filed 12-7-79; 8:45 am]
BILLING CODE 7035-01-M

[Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Thirty-Fifth Revised Exemption No. 129]

Car Service Orders

To all railroads: It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC-RER 6410-C, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
*Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
St. Louis Southern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP

*Addition.

Effective November 16, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., November 16, 1979.

Interstate Commerce Commission.

Robert S. Turkington,

Agent.

[FR Doc. 79-37797 Filed 12-7-79; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 53-A Under Service Order No. 1344]

Rerouting Traffic

To: All Railroads: Upon further consideration of I.C.C. Order No. 53, and good cause appearing therefor:

It is ordered: I.C.C. Order No. 53 is vacated.

This order shall become effective November 19, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 19, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-37798 Filed 12-7-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION.

Revised Agenda¹

TIME AND DATE: Commission Meeting, Friday, November 30, 1979, 9:30 a.m.

LOCATION: Eighth Floor Conference Room, 1111 18th St., NW., Washington, DC.

STATUS: Open to the Public.

PRIORITY ITEMS: The Commission will discuss several items which it may include on CPSC's list of priorities for Fiscal Year 1980. The Commission originally scheduled this discussion for November 29, 1979.

FOR ADDITIONAL INFORMATION: Richard A. Danca, Office of the Secretary, Suite 300, 1111 18th St., NW., Washington, DC 20207, (202) 634-7700.

[S-2389-79 Filed 12-5-79; 5:01 pm]
BILLING CODE 6355-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, December 12, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Common Carrier—1—Report and Recommendations on Docket 20778,

¹ Agenda revised November 29, 1979. The Commission decided to consider this matter November 30, 1979, rather than November 29, 1979, as previously scheduled. In deciding to revise the schedule, the Commission determined that agency business required consideration of this matter without the normal seven-day advance notice.

Preliminary Investigation and Audit of International Carriers and other International Communications Matters. The Commission is considering what action it should take in light of the Staff Report in Docket 20778, Audit of the International Carriers, and whether to release the Staff Report to the public.

Common Carrier—2—Title: International Record Carriers' Scope of Operations in the Continental United States. Summary: The Commission will consider applications to permit international record carriers (IRCs) to establish gateways in additional cities in the continental United States. Also being considered are requests for geographical expansion of existing and future gateways, requests for limited purpose gateway authority at INTELSAT earth station sites, and to permit IRCs to interconnect with domestic affiliates. The Commission will also consider free direct access proposals submitted by the IRCs.

Common Carrier—3—Title: Application by American Telephone Telegraph Company to modify existing Section 214 authorizations to permit use of MTS network for overseas Dataphone service. Summary: The Commission will consider the Application of American Telephone and Telegraph Company to modify its existing Section 214 certificate of authority so as to allow as a permissive use only, Dataphone transmission over the overseas MTS network between the U.S. and those foreign countries who agree to the removal of existing restrictions against such use. The issues to be considered are the application of the Commission's policy statements in Docket No. 19558, whether interconnection requirements relating to IRC facilities should be imposed as a condition to such authorizations, and if so, the scope and kinds of interconnections which should be provided.

Common Carrier—4—Title: Applications of Western Union International, ITT Worldcom and RCA Globcom for modification of Section 214 Authorizations. Western Union International Petition for Interconnection and Evidentiary hearing. Summary: The Commission will consider the applications of WUI, ITT Worldcom and RCA Globcom seeking modification of their Section 214 authorizations so as to remove the voice use restrictions and provide for expansion of their switched alternate voice-data services such as Datel. Issues which will be considered include the applicability of Commission Policy statements in Docket 19558, the scope and kinds of interconnection which are appropriate to the type of service expansion being considered, the need for modification of existing operating agreements, and whether or not an evidentiary hearing is required before the Commission may act on these applications.

Common Carrier—5—Report, Order and Further Notice of Proposed Rulemaking in

Docket 21005, Interconnection of International Telex. The Commission is considering whether to require that International Record Carriers interconnect with one another; whether the rate structure for international telex services should be unbundled in whole or in part; whether carriers providing domestic telex and telex-like services should be interconnected with all International Record carriers.

Common Carrier—6—Title: Complaint of ITT World Communications Inc. alleging that Western Union is providing an unauthorized international telex service. Summary: ITT has alleged that Western Union has offered international telex service by routing telex calls destined for overseas points through Mexico and Canada. The question is raised whether the Western Union service in question violates Sections 203, 214 and 222 of the Act.

Common Carrier—7—Title: ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), and Western Union International, Inc. (WUI) v. Consortium Communications International, Inc. (CCI); File Nos. TS 9-78, 10-78, and 78-1945. Summary: ITT, RCA, and WUI filed complaints against CCI alleging violation of the Communications Act by offering a common carrier service to the public without prior authorization from the FCC and without a proper tariff on file. The issues raised are whether CCI offers a communications service subject to FCC regulation.

Common Carrier—8—Title: Memorandum Opinion and Order, CC Docket No. 78-96, Regulatory Policies Concerning the Provision of Domestic Public Message Services by Entities other than the Western Union Telegraph Company and Proposed Amendment to Parts 63 and 64 of the Commission's Rules. Summary: The Commission will take up the issues designated in the *Notice of Inquiry and Proposed Rulemaking* in this proceeding which was released on July 23, 1979 (FCC 79-442). Those issues include the application of the international formula for the distribution of unrouted outbound international message traffic, a proposed definition of "public message service" and changes to Parts 63 and 64 of the FCC rules dealing with telegraph office and agency changes and telegraph speed of service studies.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7200.

Issued: December 5, 1979.

[S-2395-79 Filed 12-6-79; 2:57 pm]
BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, December 12, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Closed Commission Meeting following the Special Open Meeting which commences at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Proposed 9 kHz Channel Spacing for AM Broadcast Service.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: December 5, 1979.

[S-6712-01-79 Filed 12-6-79; 2:57 pm]
BILLING CODE 6712-01-M

4

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER NO. 2336.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, December 6, 1979 at 10 a.m.

CHANGE IN MEETING: The Commission determined by a vote of 6-0 to hold an Executive Session for the purposes of discussing a personnel matter at the conclusion of the regular open meeting for this date.

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2393-79 Filed 12-6-79; 10:35 am]
BILLING CODE 6715-01-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., December 13, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin D. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Bank Membership—York County Savings Bank, Biddeford, Maine

Application for Bank Membership—Bethel Savings Bank, Bethel, Maine

Application for Bank Membership—Sanford Institution for Savings, Sanford, Maine

Application for Bank Membership and Insurance of Accounts—Golden Coin Savings and Loan Association, San Francisco, California

Request for a Commitment to Insure Accounts—Parish Building and Loan Association, Jennings, Louisiana

Request for Extension of Time and Relief From Condition of Insurance—Madison County Building and Loan Association, Madison, Nebraska

Application for Insurance of Accounts—Village Savings Association, West University Place, Texas

Designation of Supervisory Agent Amendment of Charter—Change of Name—First Federal Savings and Loan Association, Brunswick, Georgia

Merger—Home Savings and Loan Association, Manhattan, Kansas INTO Northwestern Federal Savings and Loan Association, Clay Center, Kansas

Application to Convert From the Federal Mutual to the Federal Stock Form of Organization—Citizens Federal Savings and Loan Association of Matteson, Matteson, Illinois

EFTS—RSU Application, Request to Waive a Condition—Portland Federal Savings and Loan Association, Louisville, Kentucky

Service Corporation Activity—Gibraltar Savings and Loan Association, Beverly Hills, California

Petition for Reconsideration of Branch Office Approval—Metropolitan Federal Savings and Loan Association, Fargo, North Dakota

Branch Office Applications to be Considered Concurrently—Central Federal Savings and Loan Association, San Diego, California AND First Federal Savings and Loan Association of South Pasadena, South Pasadena, California

No. 298, December 6, 1979.

[S-2396 Filed 12-6-79; 3:26 pm]
BILLING CODE 6720-01-M

6

FEDERAL RESERVE SYSTEM: (Committee on Employee Benefits of the Board of Governors).

TIME AND DATE: 4 p.m., Wednesday, December 12, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions involving an individual Federal Reserve System employee.

2. Proposed administrative procedures relating to the Committee on Appeals and to Thrift Plan contributions.

Proposed amendment to the Life and Survivor Income Insurance Plan.

4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Theodore E. Allison, Secretary of the Board; (202) 452-3257.

Dated: December 5, 1979.

Mr. Theodore E. Allison,
Secretary of the Board.

[S-2390-79 Filed 12-6-79; 3:30 pm]
BILLING CODE 6210-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of December 3 (Changes).

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Wednesday, December 5

10:30 a.m.—Discussion and Vote on Proposed Amendments to 10 CFR Part 50; Plans for Coping With Emergencies at Production 7 Utilization Facilities (continued from 12/3) (approximately 1½ hours, public meeting).

2 p.m.—Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed—Ex. 2 and 6) rescheduled from 12/7.

Thursday, December 6

9:30 a.m.—Discussion of Commission's Decision-Making Role in Emergency Response (approximately 1½ hours, public meeting) additional item.

1:30 p.m.—Briefing on Policy, Planning and Program Guide (approximately 2 hours, public meeting) as announced.

Friday, December 7

9:30 a.m.—Discussion of Management-Organization and Internal Personnel Matters (continued from 12/5) (approximately 1½ hours, closed—Ex. 2 and 6).

1:30 p.m.—Discussion of Improving Commission Procedures (approximately 1½ hours, public meeting) as announced.

3:30 p.m.—Joint NRC/ACRS Meeting (approximately 1 hour, public meeting) as announced.

ADDITIONAL INFORMATION: The Discussion and Vote on UCS Petition, scheduled for December 7, was cancelled.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,
Office of the Secretary.

[S-2377 Filed 12-6-79; 3:28 pm]
BILLING CODE 7590-01-M

8

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 69413 12/3/79].

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, December 3, 1979.

CHANGES IN THE MEETING: Additional meeting.

The following additional closed meeting will be held on Thursday, December 6, 1979 at 1:30 p.m.

The subject matter of the closed meeting will be:

Institution of injunctive action.

Chairman Williams and Commissioners Loomis, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

December 5, 1979.

[S-2392-79 Filed 12-6-79; 10:34 am]

BILLING CODE 8010-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of December 10, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, December 11, 1979, at 10 a.m., and immediately following a 2:30 p.m. open meeting, and on Wednesday, December 12, 1979, immediately following a 10 a.m. open meeting.

Open meetings will be held on Tuesday, December 11, 1979, at 2:30 p.m., and on Wednesday, December 12, 1979, at 10 a.m. and 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack,

and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 11, 1979, at 10 a.m., will be:

Amendment of formal order of investigation.

Litigation matters.

Freedom of Information Act appeals.

Formal orders of investigation.

Institution of injunctive action and administrative proceeding.

Regulatory matters regarding financial institution.

The subject matter of the closed meeting scheduled for Tuesday, December 11, 1979, immediately following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the closed meeting scheduled for Wednesday, December 12, 1979, immediately following the 10 a.m. open meeting, will be:

Litigation matter.

Consideration of *amicus* participation.
Legislation matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Tuesday, December 11, 1979, at 2:30 p.m., will be:

Oral argument in proceedings under Rule 2(e) of the Commission's Rules of Practice on an application by attorneys William R. Carter and Charles J. Johnson, Jr. for review of the adverse decision of an administrative law judge.

The subject matter of the open meeting scheduled for Wednesday, December 12, 1979, at 10 a.m., will be:

1. Consideration of an application by Ronald R. Michno, who is the subject of a bar from association with any broker or dealer, to become reassociated in the securities business with H. A. Brandt & Associated, Inc., an exchange-listed options market maker, as a supervised person in a nonsupervisory capacity. For further information, please contact David Tennant at (202) 272-2947.

2. Consideration of whether to affirm action, taken by the duty officer, authorizing the transmittal of a letter and memorandum commenting on Section 303 of S. 1946, the "Railroad Transportation Policy Act of 1979," to the Senate Committee on Commerce, Science and Transportation. For further information, please contact Alan Rosenblat at (202) 272-2428.

3. Consideration of whether to authorize the publication of a release which provides interpretive views of the Division of Corporation Finance concerning the management remuneration disclosure requirements embodied in Item 4 of Regulation S-K. Among other things, such release would cover the mechanics of the remuneration table, bonus plans, personal benefits, pension information, and proposed

remuneration. For further information, please contact Bruce S. Mendelsohn at (202) 272-2589.

4. Consideration of whether to issue a release in connection with the preparation of a report to Congress, pursuant to Section 13(h) of the Securities Exchange Act of 1934, requesting public comment on the effectiveness of the ownership reporting requirements contained in that Act and on the desirability and feasibility of reducing or otherwise modifying the five percent reporting thresholds in Sections 13(d) and 13(g). For further information, please contact John A. Granda or W. Scott Cooper at (202) 272-2589.

5. Consideration of whether to issue: (1) a release announcing the adoption of technical amendments to Securities Exchange Act Rules 12f-1 and 12f-3 governing the information required in applications for the extension or termination of unlisted trading privileges; and (2) an order approving applications of the Midwest Stock Exchange for unlisted trading privileges in a large number of securities listed on the New York Stock Exchange. For further information, please contact Douglas Scarff at (202) 272-2866.

6. Discussion of the expansion of the options markets following the termination of the options moratorium. For further information, please contact Douglas Scarff at (202) 272-2866.

7. Consideration of whether to authorize the issuance of bonds by Middle South Energy, Inc., a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company. For further information, please contact William C. Weedon at (202) 523-5679 or Kenneth D. Israel at (202) 523-5686.

8. Consideration of whether to: (1) grant an application of Bondstock Corporation ("Bondstock"), et al., for an order of the Commission, pursuant to Sections 11(a), 17(d), and 26(b) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, approving certain transactions proposed to be effected in connection with the acquisition of substantially all of the assets of Bondstock by Security Equity Fund, Inc., each registered as an open-end, diversified, management investment company; and (2) amend the Commission's rule delegating authority to the Director of the Division of Investment Management to authorize the Director to issue notices and orders on applications pursuant to Section 26(b) of the Act. For further information, please contact Cathy G. Douglas at (202) 272-3921.

9. Consideration of two related releases which would: (1) announce the adoption of a rule having the effect of excluding accountants issuing reports on unaudited *interim* financial information from Section 11(a) liability under the Securities Act of 1933; and (2) propose for comment a similar rule for reports by accountants on unaudited supplemental information required by the Financial Accounting Standards Board. For further information, please contact James J. Doyle at (202) 272-2130.

The subject matter of the open meeting scheduled for Wednesday, December 12, 1979, at 2:30 p.m., will be:

Discussion with former members of the Advisory Committee on Corporate Disclosure of the Commission's response to the Committee's recommendations contained in its Report to the Commission dated November 3, 1977. For further information, please contact Michael P. Rogan at (202) 272-2091.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George G. Yearsich at (202) 272-2178.

December 5, 1979.

[S-2391-79 Filed 12-6-79; 10:33 am]

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Federal Register

Vol. 44, No. 238

Monday, December 10, 1979

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- CIVIL AERONAUTICS BOARD**
- 65398 11-13-79 / Automatic market entry procedures
- FEDERAL COMMUNICATIONS COMMISSION**
- 64409 11-7-79 / FM broadcast station in Homasassa Springs, Fla.; Changes made in table of assignments
- FEDERAL EMERGENCY MANAGEMENT AGENCY**
- 64808 11-8-79 / Disaster Response and Recovery Regulations; evaluation and mitigation of natural hazards
- HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
Public Health Service—
- 65072 11-9-79 / Consolidation of grants to the Insular Areas
- HOUSING AND URBAN DEVELOPMENT**
Office of Assistant Secretary for Housing—Federal Housing Commissioner—
- 65060 11-9-79 / Existing housing; special procedures for moderate rehabilitation program
- 65360 11-9-79 / Section 8 housing assistance; special assistance on behalf of mobile homeowners
- 65368 11-9-79 / PHA-owned public housing projects; demolition of buildings or disposition of real property
- INTERIOR DEPARTMENT**
Fish and Wildlife Service—
- 65002 11-8-79 / Endangered and threatened wildlife and plant determination that *Abies guatemalensis* is a threatened species
- PERSONNEL MANAGEMENT OFFICE**
- 65025 11-9-79 / Administrative Claims Under Federal Tort Claims Act
- 65031 11-9-79 / Personnel records and files; protection of privacy in personnel records

TRANSPORTATION DEPARTMENT

Coast Guard—

- 64836 11-8-79 / Great Lakes Pilotage Regulations; pilot qualification standards

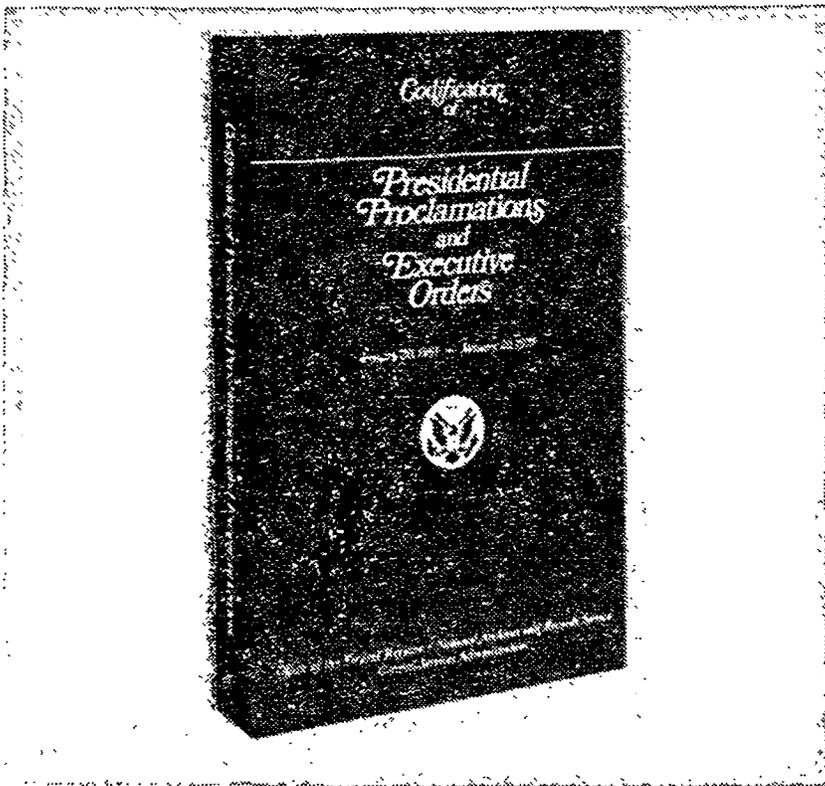
List of Public Laws

Last Listing December 7, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

- H.R. 1885 / Pub. L. 96-135 To amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies. (Dec. 5, 1979; 93 Stat. 1056). Price \$.75.

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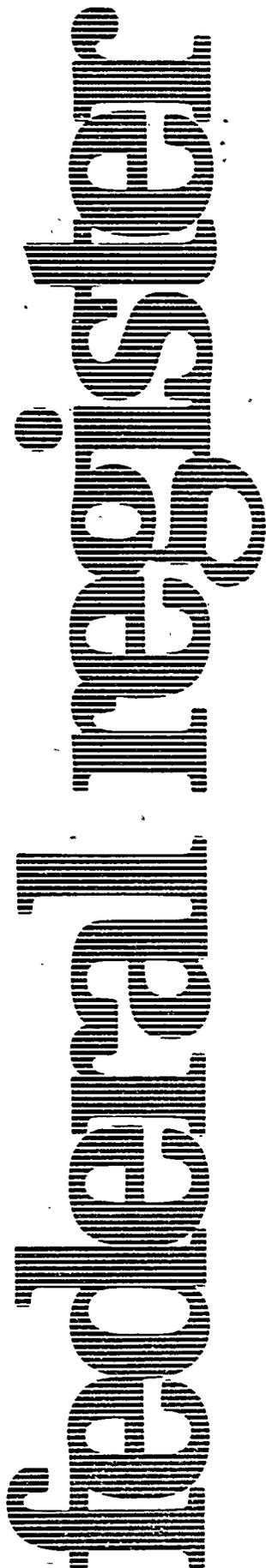
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**Consumer Affairs
Council**

Draft Consumer Programs

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CONSUMER AFFAIRS COUNCIL

Open Letter to the American Consumer

THE WHITE HOUSE
WASHINGTON

December 10, 1979

Dear Consumer:

Do you ever feel there is a lack of information on food and drug labels? Does the absence of safety features in your automobile ever worry you? Do you think long distance railroad and trucking rates are set artificially high so you are paying more transportation costs than you should? Perhaps a better question would be, "How often do you get concerned about these kinds of problems?

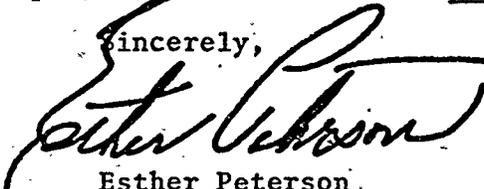
Agencies of the Federal government make decisions every day that affect the health, safety, and pocketbooks of consumers. You are a consumer. For that reason, what the Federal government decides to do (or not to do) about food and drug labeling, automobile safety, freight rates and a host of other consumer-related issues, should be of direct and vital concern to you.

You probably think that there is little, if anything, you can do to make your government listen to you, and that nothing you say can change what government does. Not any more. We have been working long and hard over the past three years to make your government more responsive to your wants, needs and concerns.

The culmination of our efforts came in September 1979, when President Carter issued an Executive Order to change the way citizens can work with their government. The President ordered Federal agencies to take steps to improve dramatically the effectiveness of Federal consumer programs. The voice of the consumer must and will be heard and considered by agencies in making regulations and policy. Agencies will be responsive to you. Now, you can talk to us and we will listen.

This publication outlines programs Federal agencies have proposed to improve their consumer programs. I do hope you will read and think about the programs of the agencies that concern you. And just as importantly, I hope you will tell the agencies what you think about their programs. Only through your comments and suggestions will Federal agencies be able to fulfill the promise of the President's Executive Order and establish consumer programs that are useful to the people who matter most: you.

Sincerely,



Esther Peterson
Chairperson, Consumer Affairs Council

CONSUMER AFFAIRS COUNCIL**Draft Consumer Programs****AGENCY:** Consumer Affairs Council.**ACTION:** Draft consumer programs.

SUMMARY: In cooperation with the Consumer Affairs Council, agencies of the Federal government are proposing new or revised consumer programs. (These programs follow this introductory preamble.) We are taking this action in response to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs." We expect this action to result in improved and more effective Federal consumer programs, consumer programs more responsive to the needs and wishes of the public.

DATES: We are asking for comments on the consumer programs described in this publication. Any comments submitted must be received no later than March 10, 1980.

ADDRESSES: Send your comments to the agency or agencies proposing the consumer programs in which you are interested.

FOR FURTHER INFORMATION CONTACT: 1. For information on the consumer program of a particular agency, contact the person or persons listed in that agency's draft consumer program.

2. For general information on the Consumer Affairs Council or Executive Order 12160, contact Belle O'Brien, Mark Goldberg, or Gregory Jones at the Consumer Affairs Council, 495 Old Executive Office Building, Washington, DC 20500, 202/456-6226 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**HERE'S WHAT'S COMING**

- I. Tried To Talk With Your Government Lately?
- II. Have We Listened? (We Know We've Got Problems.)
- III. Why An Executive Order? (What's In It For You?)
- IV. What's Happened So Far?
- V. Want To Talk With Your Government? Here's How.
- VI. What's Next?
- VII. You Can Help Us Do More.

Appendices

1. Executive Order 12160.
2. Guidelines for Implementation of Executive Order 12160.
3. Consumer Response Form for Executive Order 12160.
4. Executive Order 12160 Compliance Checklist.
5. Documents Concerning Exemption from and Implementation of Executive Order 12160.

I. TRIED TO TALK WITH YOUR GOVERNMENT LATELY?

Are you worried about the high cost of food, health care, or fuel? Do you travel on interstate highways? Do

you ever visit national parks? Do you sometimes think about how much you pay in Social Security taxes? The chances are good that you answered "yes" to at least one of these questions. More than that, you probably answered "yes" to most, or all, of them. But whether your answers were mostly "yes" or mostly "no," you know that each of these areas is important to you, the consumer. As a result, your feelings are important to the Federal Government.

Unfortunately, Government programs, policies, and regulations often seem remote to consumers. It is sometimes hard to get answers to simple questions. Filing a complaint with a Federal agency and getting a satisfactory response can be a struggle. Making your voice heard in a meaningful way in regulatory and policymaking decisions, which may have a substantial effect on you, can be a formidable barrier. Unless you are an attorney, or are represented before Government agencies by an attorney, you may not be able to present your side of the story as persuasively as others. In the past, average consumers lacking legal counsel or an intimate understanding of how government agencies work were far too frequently at a disadvantage.

In September 1979, President Carter signed an Executive order, which we will discuss at greater length later, designed to improve Government consumer programs. The Order says that Government consumer programs must be responsive to the needs of the consumer and requires that the voice of the consumer be heard and taken into account by agency decisionmakers.

This preamble discusses the background of the Executive order, the need for more effective consumer programs in government, and the consumer programs agencies have proposed under the Executive order. It outlines the content of the Executive order, and explains what we have done so far to implement the provisions of the Executive order. It asks for your thoughts on some of the consumer programs agencies are proposing and tells you how to let the Government know what you think. Finally, it talks about steps still to be taken to make the promise of the Executive order a reality; and, it then seeks your continuing support and cooperation in making the consumer programs of the Federal government more responsive to your needs.

In reading this preamble, as well as the proposed consumer programs of agencies that interest you, you should recognize that one of our principal objectives in publishing detailed explanations of Government consumer programs is to let you know how to make your voice heard in government. Although the Executive order concerns itself with a number of procedural matters, which may appear to be internal to Government agencies, these matters do in fact affect you. Integrating consumer concerns into agency decisionmaking is at the base of the Executive order. We want to consider your thoughts and ideas and take them into account in making decisions, but we realize that we can do so only if you know how Government operates and how to talk to us. Read this preamble.

Then read the draft consumer programs of the agencies in which you are interested. If, having read this preamble and various proposed agency consumer programs, you do not understand how the Government intends to safeguard your interests, or how Government agencies plan to consider your views in making decisions, let us know. If you have suggestions on how consumer programs in Government might be improved, let us know that, too. Talking with your Government is your right. But it is a right that is meaningful only if you exercise it. Exercise it!

II. HAVE WE LISTENED? (WE KNOW WE'VE GOT PROBLEMS)

There is no question that since the publication of Ralph Nader's "Unsafe at Any Speed," which is sometimes cited as the dawn of the age of the consumer, Government agencies have been more responsive to the needs of individual consumers than they were in the past. Over the past few years, many Government agencies have established programs designed to assist the consumer in dealing with those agencies. These programs have varied in their scope and ambitiousness. Some have been very successful and have resulted in substantial consumer participation in agency decisionmaking processes. Sometimes, however, agency consumer programs have been superficial attempts to deal with what agencies think are the needs of the consumer and have not actually considered the consumer's concerns.

President Carter recognized that there was much room for improvement in Federal consumer programs, and in April 1978, he asked his Special Assistant for Consumer Affairs to search for ways to bring about more meaningful consumer involvement in Government.

Specifically, the President asked the Special Assistant for Consumer Affairs to—

- Undertake a review of Federal agency consumer programs to determine if there was a meaningful consumer presence in each agency and whether existing programs were consistent with the consumer policies and goals of his Administration;
- Coordinate the activities of Federal agency consumer programs in order to avoid duplication and to ensure that they were efficiently administered;
- Make recommendations on how to improve consumer involvement in agency decisionmaking and advise him on the responsiveness of agencies to the needs of consumers.

To gather this information, the White House Consumer Affairs staff, with the cooperation of other Government agencies and consumer, farm, labor and business groups, began a comprehensive survey and review of Federal consumer programs. A consumer program review of this magnitude had never been conducted.

In late fall 1978, a final analysis of this review was submitted to the Special Assistant for Consumer Affairs. After reviewing all the pertinent material, the President's Special Assistant for Consumer Affairs

reached the following conclusions about Federal agency consumer activities:

1. Many consumer programs in Federal agencies are less effective now than they once were, and contain neither authority nor standards for their own maintenance. The decline in effectiveness of some agency consumer programs is a result, principally of the low priority some agency heads give these programs, the lack of skilled management attention to the operation of existing programs, and the failure to allocate existing agency resources in a manner consistent with the Administration's consumer concerns. It is clear in most cases that a management problem exists in which no one person or office within an agency has the authority to set standards for consumer involvement and representation.

2. All too often, "consumer representation" at an agency is taken to mean the dissemination of favorable information about the agency, its personnel, and its programs.

3. Effective consumer involvement in agency decisionmaking depends upon the existence of agency procedures for public involvement. To ensure effective consumer involvement in agency decisionmaking, sufficient opportunity for citizen participation in each and every agency activity must be provided.

4. There are five primary areas in which Federal consumer programs should be functioning:

- Consumer advocacy;
- Consumer participation;
- Training of agency personnel in consumer affairs and technical assistance to consumer groups;
- Consumer education and information; and,
- Complaint handling.

Very few Federal agencies measure up in all five areas, but some agencies have developed imaginative and successful programs for the performance of key consumer functions. Collectively, the agencies are weakest in advocacy; that is, few agencies have a regular method for ensuring that agency decisionmakers are informed of the potential impact on consumers of proposed or existing policies, programs, and legislation.

III. WHY AN EXECUTIVE ORDER? (WHAT'S IN IT FOR YOU?)

On the basis of the findings highlighted in Section II, the Special Assistant for Consumer Affairs recommended that the President issue an Executive order to improve Government consumer programs. (An Executive order is a directive from the President to executive branch Government agencies.) The order was drafted, and then reviewed by and circulated to the affected agencies and senior White House staff. The details of the order were worked out in discussions with the Office of Management and Budget (OMB), the Office of Personnel Management, and the Department of Justice. OMB worked closely with the Special Assistant for Consumer Affairs to ensure that agency comments were considered. President Carter signed the order on September 26, 1979.

The Executive order establishes a comprehensive Federal policy to guide agencies in responding to consumer issues. It also stimulates the growth of a more effective group of Federal employees responsible for consumer affairs by giving them additional tools with which to serve consumers. More specifically, the order, which is reprinted in Appendix 1 of this document, seeks to improve Government services to consumers by mandating changes and reforms in a number of areas. A summary of the more significant provisions of the order follows:

Consumer Affairs Council: The order establishes the Consumer Affairs Council to provide leadership and coordination for government consumer programs. The Council is composed of representatives of the twelve Cabinet-level Departments and is chaired by the President's Special Assistant for Consumer Affairs.

Consumer Program Reforms: By June 9, 1980, each agency must have a consumer program designed to satisfy the needs and interests of consumers. The order requires the consumer program of each agency to have at least five elements:

- **Consumer Affairs Perspective.** Agencies must have consumer staff, and agency consumer staff must participate in the formulation of agency rules, policies, programs, and legislation.

- **Consumer Participation.** Agencies must take steps to ensure that individual consumers and consumer organizations are able to participate in the development of agency rules, policies, and programs.

- **Informational materials.** Agencies must produce and distribute informational materials useful to consumers.

- **Education and training.** Agencies must educate and train their staffs in the principles underlying the Executive order, and in the skills needed to implement the order effectively.

- **Complaint Handling.** Agencies must establish systematic procedures for the efficient handling of consumer complaints. Consumer complaints must be taken into account in the formulation of agency policy.

Senior-level Oversight: Each agency must designate a senior-level official to coordinate that agency's consumer program. The designated official must report directly to the head of the agency. The official's consumer oversight responsibility must be his or her only responsibility.

Budget Review: Each year, each agency must provide OMB with data showing the resources the agency intends to devote to its consumer program. The Chairperson of the Consumer Affairs Council must report to OMB on the adequacy of the resources devoted to agency consumer programs.

Civil Service Initiatives: The Office of Personnel Management must consult with the Consumer Affairs Council on the need for revised job classification standards for Federal employees engaged in consumer-related activities.

Implementation of Consumer Program Reforms: Each agency is required to publish a draft consumer program for public comment within 60 days of the signing of the Executive order. Within 30 days of the

close of the public comment period, each agency must submit a revised program to the Chairperson of the Consumer Affairs Council, who is responsible for approving agency programs. Final programs must be published in the Federal Register no later than 90 days after the close of the public comment period, and agency programs must take effect no later than 30 days after their publication.

Agency Compliance Guidelines: On October 4, 1979, the Chairperson of the Consumer Affairs Council issued guidelines to assist agencies in designing programs to comply with the Executive order. These guidelines are reproduced in Appendix 2 of this document. They provide the affected agencies with what is essentially a checklist the Chairperson of the Consumer Affairs Council will use to evaluate compliance with the terms of the order.

Although not every agency is subject to the Executive order—independent agencies, among others, are exempt—the order will help us protect your interests in an effective manner. By combining the expertise of the Office of Consumer Affairs, the Office of Management and Budget, and the Office of Personnel Management, the order will bring needed resources to bear on the effective delivery of consumer services.

IV. WHAT'S HAPPENED SO FAR?

Since release of the Guidelines for Implementation of Executive Order 12160, the Office of the Special Assistant to the President for Consumer Affairs has been working with various Government agencies to implement the Executive order. That draft consumer programs appearing later in this document are the first tangible product of the Executive order and represent the first step in an attempt to make Federal consumer programs more responsive to the needs of consumers. (Publication of these proposals does not signify the approval or disapproval of any particular program by the Consumer Affairs Council.) You should know that not every Federal agency is required to comply with the Executive order; one or more agencies in which you are interested may not be participating directly in the implementation of the Executive order. The President has asked *all* independent agencies to take part on a voluntary basis, however.

Determining which agencies must comply with the requirements of the Executive order has been a concern of the Consumer Affairs Council. The order states that an agency is covered by the order if it is a "department or agency in the executive branch of the Federal government." Exempted, however, are:

- Independent regulatory agencies;
- Agencies to the extent their activities involve military or foreign affairs regulations, agency management or personnel regulations, procurement regulations, and regulations promulgated during an emergency; and,
- Agencies to the extent they are able to demonstrate to the satisfaction of the Chairperson of the Consumer Affairs Council that their activities have "no substantial impact" on consumers.

Requests from agencies which sought and were granted exemptions from the Executive order are reprinted in Appendix 5 of this document, as are copies of letters from agencies concerning other aspects of implementation of the Executive order. Several requests for exemption are pending. Moreover, several agencies, though entitled to exemptions from the Executive order, are complying, in whole or in part, on a voluntary basis. An exemption from the Executive order based on a finding that an agency has no substantial impact on consumers is not necessarily irrevocable. If an agency changes its programs at some point in the future, so that it begins to have a substantial impact on consumers, its status under the Order will be re-evaluated at that time.

V. WANT TO TALK WITH YOUR GOVERNMENT? HERE'S HOW

In Section I, we said that talking with your Government is your right, but that is a meaningless right unless you exercise it. The draft programs outlined here will guide agencies in the development and reform of their consumer programs for years to come. So if you wish to have an effect on the shape of consumer programs in the Federal agencies, this is your chance.

Keep in mind that agencies have had a very short time in which to prepare their proposals. Over the next five months, agencies will be revising and refining their programs, so programs not now in compliance with the order—and there are several—will be amended to comply with the Executive order before their final adoption.

To permit adequate time for comment, we will be providing 90 days for consumers to prepare and submit comments on the proposed consumer programs. In order to achieve maximum public participation, we have devised a number of ways in which you might make your views on particular agency consumer programs known. These include:

Written Comments: Traditionally, Government agencies have obtained much of their information from the public concerning proposed agency action from written comments. We encourage you to read and comment on the proposals of the agencies in which you are interested. We are *most* interested in receiving detailed analyses of proposed agency programs, containing concrete suggestions for ways in which proposed programs might be made more responsive to consumers; however, we welcome *all* comments, suggestions, and criticisms. Send your comments to the agency on whose program you are commenting. The correct address appears near the beginning of the agency's proposed program later in this document. If you have specific questions about the proposals an agency has made, contact the person listed at the beginning of the agency's proposed program. But whatever you do, comment. The deadline for the submission of comments is March 10, 1980. The following are two ways we are making it easier for you to submit written comments on agency consumer programs:

Guidelines Checklist: It would be very helpful for the agencies—and it might be easier for you—if your comments rate the agencies' proposed consumer programs against the specific requirements of the Executive order and the guidelines. To assist you in evaluating the proposed plans against the standards contained in the order and the guidelines, we have prepared a checklist that you may use as a tool for evaluating compliance with the Executive order. We have included three copies of this evaluative checklist for your use. If you wish to use the checklist to evaluate the proposed consumer programs of more than three agencies, you may make duplicate copies yourself, or you may write for additional copies. Send your request to: Checklist, Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500.

Questionnaire: If you do not have enough time to provide a detailed critique of an agency's proposal, we hope you will take a few moments to complete the brief questionnaire appearing in Appendix 3 of this document. The questionnaire is not detailed, but asks a few general questions concerning your thoughts about the proposed consumer programs of the Federal agencies that interest you.

Oral Comments: Frequent, Government agencies take particularly significant proposals directly to the public by organizing public hearings or workshops in various cities. To some degree, of course, it will be up to each agency to determine the amount of public participation it will encourage in this proceeding. But the Consumer Affairs Council is planning a workshop on the Executive order and consumer programs proposed under the order. The Workshop will be held in Washington, D.C. on February 6, 1980. This workshop will give consumers a chance to discuss the Executive order and to meet informally with representatives of the participating agencies. We will publish notice of all hearings or workshops in the Federal Register. We will also do our best to ensure widespread publicity for any workshops or hearings held. But please keep your eyes and ears open.

One last word on talking with the Government: Whether you submit written or oral comments, in reading an agency's proposal, there are a number of general questions you should bear in mind—questions which will help you prepare better comments than you otherwise might. For example, is an agency's proposal understandable? If you think a particular proposal is "gobbledygook," say so! Ask yourself whether the agency has made a conscious effort to take *your* needs and interests into account in designing its program. Is the program adequate; that is, does it achieve the goals of the Executive order effectively? Can you tell from the proposed program who is going to be responsible in the agency for providing decisionmakers with the consumer's perspective? Who will handle complaints, and how will complaints be handled? Unless an agency's proposal answers these and other related questions, it is deficient. And *you* should let the agency concerned know about it.

VI. WHAT'S NEXT?

As we indicated in the preceding section, publication of proposed agency consumer programs is only the first step in implementing Executive Order 12160. Over the next few weeks, agencies will be receiving and evaluating comments from consumers on the proposed programs under the Executive order. The Consumer Affairs Council will continue to work with Federal agencies to implement the Executive order and to design consumer programs that are truly responsive to the needs of consumers. The Consumer Affairs Council, which at present is in its infancy, will begin to evolve into the sort of organization contemplated by the Executive order. The Council will provide leadership and will do what it can to promote efficiency in Government consumer programs.

The following calendar outlines the things that still need to be done to implement Executive Order 12160 and gives the dates by which action needs to be taken:

December 10, 1979—Publication of proposal in the Federal Register.

March 10, 1980—Comments on proposed programs due.

April 9, 1980—Revised program due to Chairperson of Consumer Affairs Council.

June 9, 1980—Publication of final programs in the Federal Register.

In addition, non-exempt agencies failing to meet the established deadlines can be expected to publish their programs on a case-by-case basis.

VII. YOU CAN HELP US DO MORE

The Executive order on improving Government consumer programs is not a cure-all. It will not result in an overnight transformation of existing Government consumer programs into programs completely and perfectly responsive to the needs of consumers. But it is a much-needed first step towards bringing more accountability and responsibility to Federal consumer programs.

The Government has no monopoly on expertise in the area of consumer affairs. If we are to create useful and appropriate programs for the assistance of consumers, we will need your support and cooperation, both now and in the future. If you care about the activities of the Consumer Affairs Council and the activities of Federal agencies that affect consumers—and you should—please do what you can to assist us. Begin by commenting on the proposed consumer programs of the agency or agencies that interest you. But don't stop there. Continue to work with those agencies and with the Consumer Affairs Council. If you don't, Federal consumer programs will not be as effective as they should.

Esther Peterson,

Chairperson, Consumer Affairs Council.

APPENDIX 1**Executive Order 12160 Providing for Enhancement and Coordination of Federal Consumer Programs.**

Note.—Executive Order 12160 was originally published in the Federal Register on September 28, 1979 (44 FR 44787).

BILLING CODE 3195-01-M

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is ordered as follows:

1-1. Establishment of the Consumer Affairs Council.

1-101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1-102. The Council shall consist of representatives of the following agencies, and such other officers or employees of the United States as the President may designate as members:

- (a) Department of Agriculture.
- (b) Department of Commerce.
- (c) Department of Defense.
- (d) Department of Energy.
- (e) Department of Health, Education, and Welfare.
- (f) Department of Housing and Urban Development.
- (g) Department of the Interior.
- (h) Department of Justice.
- (i) Department of Labor.
- (j) Department of State.
- (k) Department of Transportation.
- (l) Department of the Treasury.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1-2. Functions of the Council.

1-201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1-3. Designation and Functions of the Chairperson.

1-301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1-302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1-303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1-4. *Consumer Program Reforms.*

1-401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective.* Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation.* Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials.* Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training.* Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling.* Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1-402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1-5. *Implementation of Consumer Program Reforms.*

1-501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1-4 above. Each agency shall publish its draft consumer program in the Federal Register and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1-502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the Federal Register. Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1-503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the Federal Register.

1-504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1-505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

1-6. *Budget Review.*

1-601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

1-7. *Civil Service Initiatives.*

1-701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

1-8. *Administrative Provisions.*

1-801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1-802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1-803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1-804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

1-9. *Definitions.*

1-901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1-902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

(a) independent regulatory agencies, except as noted in subsection 1-804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3), (4), and (6) of Executive Order No. 12044.

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

THE WHITE HOUSE.
September 26, 1979.

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the typed text from the White House.

BILLING CODE 3195-01-C

APPENDIX 2**Guidelines for Implementation
of Executive Order 12160**

October 4, 1979.

**Memorandum to the Heads of Executive Departments
and Agencies**

FROM: Esther Peterson, Special Assistant To the President for Consumer Affairs and Chairperson of the Consumer Affairs Council.

SUBJECT: Guidance Regarding the Development of Consumer Programs Required by Executive Order No. 12160.

On September 26, 1979, the President issued Executive Order No. 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs". He designated me Chairperson of the Consumer Affairs Council created by the order.

As Chairperson of the Council, I will be responsible, on behalf of the President, for reviewing and approving agency programs for compliance with the Order. Draft programs are to be completed, and published in the Federal Register for public comment, by November 25. (Section 1-5 of the Order sets out the timetable for development and implementation of these programs. A copy of the Order is attached.)

The Order requires each agency to develop and maintain a consumer program with, at a minimum, five elements:

(1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;

(2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;

(3) Development of informational materials for consumers;

(4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and

(5) Systematic procedures for complaint handling.

The Order requires that each agency revise its operating procedures to incorporate the consumer program developed under the Order. Each agency's program should indicate the mechanism (for example, Departmental order or rule) by which this will be accomplished.

The head of each agency is required to designate a senior-level official within the agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official is to report directly to the agency head.

The purpose of this memorandum is to indicate briefly what I will be looking for in reviewing agency programs for compliance with the Order. I hope that you will find this preliminary guidance useful. If you have any questions about this memorandum, or about the Order itself, feel free to call me at 456-6590, or Belle O'Brien of my staff at 456-6534.

I look forward to working with you to make this Order a success. Thanks to the President, we now have an unprecedented opportunity to build into the structures and processes of government an enhanced responsiveness to the needs and interests of consumers.

Consumer Affairs Perspective.

Requirement: Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation. (Subsection 1-401(a).)

Comment: Each agency's program for compliance with the Order should indicate:

- Where the consumer affairs staff will be located on the agency's organizational chart;

- How large it will be and what expertise and resources it will have;

- Whether the staff will have responsibilities in addition to those under 1-401(a);

- What its relationship will be to other staffs performing consumer affairs functions under the Order and to the principal operating components of the agency;

- How the consumer affairs staff will be apprised of opportunities for it to participate in the development and review of all rules, policies, programs, and legislation;

- At what stages of agency decisionmaking, in each of these four areas, participation by the consumer affairs staff will take place; and

- How the consumer affairs staff will participate (e.g., membership on agency task forces and working groups, meetings with key agency officials, written comments on proposals, and so forth).

Consumer Participation

Requirement: Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein. (Subsection 1-401(b).)

Comment: Each agency's program for compliance with the Order should indicate:

- At what stages of agency decisionmaking regarding rules, policies, and programs consumer participation will take place;

- What avenues of participation will be available to consumers in each of these types of processes (e.g., written comments, regional public hearings, membership in ad hoc working groups);

- What steps the agency will take to ensure that consumer concerns are adequately analyzed, and then considered, in decisionmaking;
- What staffs or officials in the agency will be responsible for implementing the agency's consumer participation responsibilities under the Order;
- The format, level of participating agency officials, geographical dispersion, and approximate number per year of forums the agency will hold to facilitate consumer interaction with agency officials; and
- What special efforts the agency will undertake to notify consumers of opportunities to participate in agency decisionmaking (e.g., publication of notices in periodicals other than the Federal Register).

Informational Materials

Requirement: Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them. (Subsection 1-401(c).)

Comment: Each agency should include in its consumer program a discussion of printed and audiovisual informational materials in each of the three areas identified in the Order (agency responsibilities and services, procedures for consumer participation, and marketplace information), including:

- An assessment of the currency, completeness, and utility of current informational materials in each area;
- Plans for additional or revised informational materials to rectify present inadequacies;
- The timetable for new informational materials;
- The manner in which the informational materials will be distributed; and
- The staffs or officials who will be responsible for planning and carrying out the agency's consumer information program.

With respect to the requirement that agencies make available explanatory materials regarding meetings open to the public, each agency should indicate:

- Which staffs or officials will be responsible for preparing these materials;
- The format of the materials; and
- The manner in which their availability is to be publicized and their distribution effected.

Education and Training

Requirement: Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations. (Subsection 1-401(d).)

Comment: Each agency should indicate in its consumer program:

- Which staffs or offices will be responsible for educating staff members about the Order and the agency's activities under it;
- How that educational process will be carried out (e.g., briefing sessions for policymaking personnel, circulation of the Order and related materials);
- What steps the agency will take to ensure that significant changes in the structure or procedures of its consumer program will be promptly communicated to agency staff members;
- Who will be responsible for providing specialized training to consumer affairs personnel;
- In what areas (e.g., complaint-handling, consumer participation procedures, preparation of informational materials for consumers) training will be provided, and on what basis decisions will be made as to which consumer affairs personnel will be offered training and on what topics.

Agencies that decide to provide technical assistance to consumers and their organizations should indicate:

- By whom such assistance will be provided;
- What sort of technical assistance will be made available (e.g., answering scientific, technical, or procedural questions, assisting consumers and groups in the preparation of applications, forms, and other documents); and
- How decisions will be made as to which consumers and organizations, from among those seeking technical assistance, will be provided such assistance.

Agencies that decide not to provide technical assistance should include in their consumer programs a discussion of why such assistance is not considered appropriate.

Complaint Handling

Requirement: Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. (Subsection 1-401(c).)

Comment: Each agency should develop procedures to govern each stage of the complaint-handling process. Thus, each agency should indicate what procedures will be followed, and which officials and staffs will be responsible, for:

- Heightening public awareness of the receptivity of the agency to complaints, and the manner in which, and offices with which, such complaints are to be filed;
- Logging in, in a standard format and in accordance with standard topical categories, all complaints received by the agency, including those received by telephone. (The format, and categories used in logging in complaints should be designed to facilitate subsequent performance of tracking and analysis functions);
- Routing complaints to appropriate agency offices for investigation and analysis;
- Tracking agency handling of complaints, from receipt forward, to ensure that they are investigated and responded to expeditiously and to permit

identification of key bottlenecks in the complaint-handling process;

- Responding to complaints (these procedures should include a format for acknowledgements and responses, and should establish a deadline for the transmittal of acknowledgement of complaints, outlining steps that will be taken by the agency, indicating who may be contacted for further information, and specifying an expected resolution date);
- Statistical reporting of complaints according to topical categories, and analysis of the patterns of issues raised and their implications for agency policymaking;
- Regular reports to key agency officials regarding the patterns and policy implications of the complaints received; and
- Evaluation of the agency's complaint-handling system to assess the promptness and quality of agency responses.

Oversight

Requirement: The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities: The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers or particular policy initiatives under development of review within the agency. (Subsection 1-402.)

Comment: Each agency should indicate the title, GS-level, and organizational placement of the designated official, and should describe with particularity the nature of the official's responsibilities and authority, and the ways in which the official will interact and interface with other agency offices and staff members, including those who are performing consumer affairs responsibilities under the Order.

Form Approved:
OMB No. 116579021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

Form Approved:
OMB No. 116S79021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING.

Form Approved:
OMB No. 116579021

APPENDIX 3

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

FORM APPROVED:
OMB No. 116S79021

APPENDIX 4

EXECUTIVE ORDER 12160 COMPLIANCE CHECKLIST

This checklist is based on the Guidelines for compliance with Executive Order 12160, issued on October 4, 1979 (Appendix 2 of this document). You may use this checklist, in conjunction with the Executive Order and the Guidelines, to study the consumer program of the agency that interests you. After you study the consumer program of an agency, send your comments directly to that agency.

AGENCY: _____	IS THE POINT COVERED?	WILL IT WORK?
<u>CONSUMER AFFAIRS PERSPECTIVE</u>		
Where is consumer staff on organization chart? _____		
Size, resources, expertise of staff? _____		
Staff have additional responsibility? _____		
What is relationship of consumer staff to other agency staff? _____		
How will consumer staff be told of opportunity to participate? _____		
When will consumer staff participate? _____		
How will consumer staff participate? _____		
<u>CONSUMER PARTICIPATION</u>		
At what stages will it occur? _____		
What avenues of participation are available? _____		
What steps will be taken to consider consumer concerns? _____		
What staff will be responsible for implementation? _____		
What about public forums? _____		
Any other special efforts? _____		
<u>INFORMATIONAL MATERIALS</u>		
Currency, completeness and utility of existing material? _____		
Plan to rectify inadequacy of existing material? _____		
Timetable for new material? _____		
How will it be distributed? _____		
What staff is responsible? _____		
For material concerning "open meetings"		
Who will prepare it? _____		
What format will be used? _____		
How about publicity/distribution? _____		

IS THE POINT COVERED?	WILL IT WORK?
<u>EDUCATION AND TRAINING OF AGENCY STAFF</u>	
Who is responsible for educating agency staff about the Order? _____	
How will it be done? _____	
How will changes in the consumer program be communicated to the staff? _____	
Who is responsible for special training of consumer staff? _____	
In what areas will training be offered? _____	
For technical assistance to consumers:	
Who will provide it? _____	
What kind will be provided? _____	
How will decisions about who gets it be made? _____	
<u>COMPLAINT HANDLING</u>	
Heighten public awareness? _____	
Log all complaints? _____	
Route complaints properly? _____	
Track complaints? _____	
Respond to complaints? _____	
Statistical reports on complaints? _____	
Regular reports to key officials? _____	
Evaluation program? _____	
<u>OVERSIGHT</u>	
Title? _____	
GS (grade) level? _____	
Organizational placement? _____	
Responsibilities? _____	
How will official interact with others? _____	

 your name

 street

 city, state, zip

FORM APPROVED:
OMB No. 116579021

APPENDIX-4

EXECUTIVE ORDER 12160 COMPLIANCE CHECKLIST

This checklist is based on the Guidelines for compliance with Executive Order 12160, issued on October 4, 1979 (Appendix 2 of this document). You may use this checklist, in conjunction with the Executive Order and the Guidelines, to study the consumer program of the agency that interests you. After you study the consumer program of an agency, send your comments directly to that agency.

AGENCY: _____	IS THE POINT COVERED?	WILL IT WORK?
<u>CONSUMER AFFAIRS PERSPECTIVE</u>		
Where is consumer staff on organization chart?		
Size, resources, expertise of staff?		
Staff have additional responsibility?		
What is relationship of consumer staff to other agency staff?		
How will consumer staff be told of opportunity to participate?		
When will consumer staff participate?		
How will consumer staff participate?		
<u>CONSUMER PARTICIPATION</u>		
At what stages will it occur?		
What avenues of participation are available?		
What steps will be taken to consider consumer concerns?		
What staff will be responsible for implementation?		
What about public forums?		
Any other special efforts?		
<u>INFORMATIONAL MATERIALS</u>		
Currency, completeness and utility of existing material?		
Plan to rectify inadequacy of existing material?		
Timetable for new material?		
How will it be distributed?		
What staff is responsible?		
For material concerning "open meetings"		
Who will prepare it?		
What format will be used?		
How about publicity/distribution?		

IS THE POINT COVERED?	WILL IT WORK?
<u>EDUCATION AND TRAINING OF AGENCY STAFF</u>	
Who is responsible for educating agency staff about the Order? _____	
How will it be done? _____	
How will changes in the consumer program be communicated to the staff? _____	
Who is responsible for special training of consumer staff? _____	
In what areas will training be offered? _____	
For technical assistance to consumers:	
Who will provide it? _____	
What kind will be provided? _____	
How will decisions about who gets it be made? _____	
<u>COMPLAINT HANDLING</u>	
Heighten public awareness? _____	
Log all complaints? _____	
Route complaints properly? _____	
Track complaints? _____	
Respond to complaints? _____	
Statistical reports on complaints? _____	
Regular reports to key officials? _____	
Evaluation program? _____	
<u>OVERSIGHT</u>	
Title? _____	
GS (grade) level? _____	
Organizational placement? _____	
Responsibilities? _____	
How will official interact with others? _____	

your name

street

city, state, zip

FORM APPROVED:
OMB No. 116S79021

APPENDIX 4

EXECUTIVE ORDER 12160 COMPLIANCE CHECKLIST

This checklist is based on the Guidelines for compliance with Executive Order 12160, issued on October 4, 1979 (Appendix 2 of this document). You may use this checklist, in conjunction with the Executive Order and the Guidelines, to study the consumer program of the agency that interests you. After you study the consumer program of an agency, send your comments directly to that agency.

AGENCY: _____	IS THE POINT COVERED?	WILL IT WORK?
<u>CONSUMER AFFAIRS PERSPECTIVE</u>		
Where is consumer staff on organization chart? _____		
Size, resources, expertise of staff? _____		
Staff have additional responsibility? _____		
What is relationship of consumer staff to other agency staff? _____		
How will consumer staff be told of opportunity to participate? _____		
When will consumer staff participate? _____		
How will consumer staff participate? _____		
<u>CONSUMER PARTICIPATION</u>		
At what stages will it occur? _____		
What avenues of participation are available? _____		
What steps will be taken to consider consumer concerns? _____		
What staff will be responsible for implementation? _____		
What about public forums? _____		
Any other special efforts? _____		
<u>INFORMATIONAL MATERIALS</u>		
Currency, completeness and utility of existing material? _____		
Plan to rectify inadequacy of existing material? _____		
Timetable for new material? _____		
How will it be distributed? _____		
What staff is responsible? _____		
For material concerning "open meetings"		
Who will prepare it? _____		
What format will be used? _____		
How about publicity/distribution? _____		

IS THE POINT COVERED?	WILL IT WORK?
<u>EDUCATION AND TRAINING OF AGENCY STAFF</u>	
Who is responsible for educating agency staff about the Order?	
How will it be done?	
How will changes in the consumer program be communicated to the staff?	
Who is responsible for special training of consumer staff?	
In what areas will training be offered?	
For technical assistance to consumers:	
Who will provide it?	
What kind will be provided?	
How will decisions about who gets it be made?	
<u>COMPLAINT HANDLING</u>	
Heighten public awareness?	
Log all complaints?	
Route complaints properly?	
Track complaints?	
Respond to complaints?	
Statistical reports on complaints?	
Regular reports to key officials?	
Evaluation program?	
<u>OVERSIGHT</u>	
Title?	
GS (grade) level?	
Organizational placement?	
Responsibilities?	
How will official interact with others?	

your name

street

city, state, zip

APPENDIX 5**Documents Concerning Exemption From, and Implementation of, Executive Order 12160**

In implementing Executive Order 12160, the Consumer Affairs Council has been working with many government agencies. To assist in achieving government-wide compliance with the objectives of the Executive Order, the Consumer Affairs Council divided the agencies participating in the implementation of the Executive Order into five teams. These teams have met several times to discuss the Executive Order and to coordinate their proposed consumer programs. The table that follows outlines the composition of the teams:

PART DESIGNATIONS¹**Part III—Natural Resources**

- A Department of Agriculture
- B Department of Energy
- C Environmental Protection Agency
- D Department of Interior
- E Tennessee Valley Authority

Part IV—Human Services

- A Civil Rights Commission
- B Community Services Administration
- C General Services Administration
- D Department of Housing and Urban Development
- E Department of Labor
- F Merit Systems Protection Board
- G Veterans Administration
- H ACTION

Part V—Economics and Commerce

- A Department of Commerce
- B Commodity Futures Trading Commission
- C Consumer Product Safety Commission
- D Federal Communications Commission
- E Federal Deposit Insurance Corporation
- F Federal Reserve System
- G Federal Trade Commission
- H Securities & Exchange Commission
- I Department of Treasury

Part VI—Transportation and Postal Service

- A Civil Aeronautics Board
- B Interstate Commerce Commission
- C National Transportation Safety Board
- D Postal Rate Commission
- E U.S. Postal Service
- F Department of Transportation

Part VII—Legal, Military and International Affairs

- A Administrative Conference
- B Department of Justice
- C Department of State

¹ Some agencies not publishing programs in this issue of the Federal Register will publish programs in a later issue.

The proposed consumer programs that follow this Appendix are organized according to teams.

In preparing to implement Executive Order 12160, there has been considerable correspondence to and from the Chairperson of the Consumer Affairs Council concerning exemptions from, and implementation of, the Executive Order. To help you understand what has gone on so far in the implementation of the Executive Order, we are reprinting the relevant correspondence here.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY**Agency for International Development**

November 7, 1979.

Dear Mrs. Peterson: President Carter's Executive Order of September 26, 1979, which requires Executive agencies to establish a Consumer Program, provides for an exemption from its provisions for those agencies whose activities have no substantial impact upon consumers. We believe that A.I.D. is such an agency.

We have carefully reviewed the Executive Order and supplementary guidance provided by your office. In addition, Agency representatives attended your briefing session for all Executive agencies on October 16 and have discussed with your staff the application of the Consumer Program to our activities.

However, A.I.D. has no programs whose purpose is to provide services or benefits to U.S. consumers. Moreover, because the focus of our economic assistance programs is overseas, there are no U.S. consumers whom our programs directly impact. A.I.D.'s mission is to assist lesser-developed countries (LDC's) with their programs of development and, especially, in meeting the basic human needs of their populations.

In our programs, we use the skills from the U.S. private sector including universities, businesses, and private and voluntary organizations through both contract and grant arrangements. As we outlined in our letter to you of July 26, 1979 on public participation programs, we do have effective mechanisms in place for engaging their participation in the development of policies and procedures, specifically including the very few Agency regulations which apply to the private sector and which are for the purpose of guiding their involvement in our program or for providing information to the public in such areas as Freedom of Information and the Privacy Act.

There are, of course, potential long-term effects of the foreign economic assistance program on the American consumer. Success in fostering increased agricultural production overseas helps prevent food shortages that would be reflected in U.S. supermarket prices. Similarly, the program contributes to the capacity of many LDC's to participate actively in world trade through which we have gained important markets for both our agricultural and industrial products.

Nevertheless, the Agency neither provides services or benefits to the American consumer nor regulates in any manner the U.S. marketplace and, through it, the

consumer. Therefore, we request that A.I.D. be granted an exemption from the provisions of Executive Order 12160.

Sincerely,

Douglas J. Bennet, Jr.

[The Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 20, 1979.

Dear Mr. Bennet: I am writing in response to your request dated November 7 that the Agency for International Development be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that AID should be exempted from mandatory compliance with the Order. AID's activities do not appear at the present time to have a substantial impact on domestic consumers. Accordingly, AID qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of AID for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. I would encourage you to consult with James Tarrant, who is the State Department's liaison with my office, in this regard. If my staff or I can be of any help, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[The Honorable Douglas J. Bennet, Jr., Administrator, Agency for International Development, Washington, D.C. 20523]

AMERICAN RED CROSS

October 24, 1979.

Dear Mr. McCaughlin: As Mr. Walhay in our Public Affairs office explained in phone conversation today, the American Red Cross is most grateful for being regularly informed through the wide variety of White House communications.

The American Red Cross has in the past and will in the future contribute when appropriate and when so informed by communications to "departments and agencies in the executive branch of the federal government." I should note that while the American Red Cross is a unique federal instrumentality (*Department of Employment v. United States*, 385 U.S. 355 (1966)), it is not a department or agency in the executive branch of the federal government (*Irwin Memorial Blood Bank v. American National Red Cross*, F. Supp., U.S. D.C.N.D. Cal., No. C78 0624 RHS, Feb. 1, 1979). Additionally, it does not have the right to publish material in the Federal Register.

In view of the foregoing, we did not respond to Mrs. Peterson's letter of October 4 concerning the development of Federal Consumer Affairs Programs under Executive Order No. 12160.

Thank you again for your consideration and continuing interest in Red Cross involvement with White House endeavors.

Sincerely,

John E. Hendrickson, Jr.,

Executive Assistant to the President.

[Mr. Frank McCaughlin, The White House, Washington, D.C. 20500]

November 20, 1979.

Dear Mr. Hendrickson: I am writing in response to your letter dated October 24 regarding the status of the American Red Cross under Executive Order 12160 on Federal Consumer Programs.

Since the American Red Cross is not an executive agency, it is not required to comply with the Executive Order. I trust, however, that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the work of the Red Cross. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. John E. Hendrickson, Jr., Executive Assistant to the President, American Red Cross, National Headquarters, Washington, D.C. 20006]

CENTRAL INTELLIGENCE AGENCY

November 5, 1979.

Dear Madam Chairperson: I am writing to you on behalf of the Director of Central Intelligence with regard to Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," (September 26, 1979).

It is my considered opinion that all of the activities of the Central Intelligence Agency fall outside the purview of Executive Order 12160 due to the exemption established in that Order by Section 1-902(b). Section 1-902(b) provides that the definition of the term "Agency," as used in the Executive Order, shall not include any agency or department to the extent its ". . . activities fall within the categories excepted in Sections 6(b) (2), (3), (4) and (6) of Executive Order 12044." The most significant exception established by Section 6 of Executive Order 12044 is subsection (b)(2) which indicates that the "military and foreign affairs functions of the United States" are excluded. Since this exemption is incorporated into Executive Order 12160, the activities of this Agency are, on their face, outside the scope of the programs overseen by the Consumer Affairs Council. Not only do the activities of the Central Intelligence Agency fall within the "military and

foreign affairs functions" exception, but it is also apparent that the missions and statutory responsibilities of this Agency are not compatible with the concerns of consumers insofar as those concerns are addressed by the Executive Order. For example, the Order's reference, in Section 1-401(c), to those "aspects of the marketplace for which . . . [the agency] has responsibility" clearly reflects the Executive Order's orientation—consumer protection in the American marketplace. As you are aware, the CIA has no "marketplace" responsibilities, nor do its activities exert any influence upon the domestic marketplace which could affect consumers.

Since the missions and functions assigned to this Agency by law and Executive Order are not relevant to consumers, the budgetary, educational, informational, and managerial activities set forth in Executive Order 12160 should likewise not be undertaken by CIA, even if this Agency was required to comply with that Executive Order. Moreover, any voluntary compliance with the consumer program provisions of the Executive Order could conflict directly with the statutory responsibility of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure [Section 102(d)(3) of the National Security Act of 1947]. Similarly, even if this Agency was inclined to permit any consumer participation in its affairs, as specified in Section 1-401 of the Executive Order, it would be frustrated at the outset by the fact all the significant decisions made by CIA involve classified information and, accordingly, are not amenable to public disclosure.

From your note on your letter of 4 October to Admiral Turner, it appears that we both agree the activities of the CIA are outside the scope of the consumer affairs programs envisioned by the Executive Order and are not intended to be governed by that Order. Accordingly, it is my opinion no need exists for this Agency to request a formal exclusion from the consumer affairs provisions of the Executive Order. In the absence of any indications from you to the contrary, I will assume CIA compliance with Executive Order 12160 is not required nor is it necessary to submit a request for a formal exception in accordance with Section 1-902(c) of that Order.

If you have any questions regarding this request, please do not hesitate to call on me.

Yours truly,

Daniel B. Silver,
General Counsel.

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Silver: I am writing in response to your October 26 letter concerning the applicability to the Central Intelligence Agency of Executive Order 12160 on Federal Consumer Programs.

As I indicated in my note to Admiral Turner, I recognize that the CIA's activities fall within the exemption established by Section 1-902(b) of the Order for military and foreign affairs functions. I

appreciate your seeking a formal confirmation of that exemption, which is hereby granted.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Daniel B. Silver, General Counsel, Central Intelligence Agency, Washington, D.C. 20505]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

October 11, 1979.

Dear Ms. Peterson: This is to request that the Committee for Purchase from the Blind and Other Severely Handicapped be exempted from the provisions of Executive Order No. 12160.

This Committee was established by the Javits-Wagner-O'Day Act (Public Law 92-28, June 23, 1971). The purpose of the Committee is to determine which commodities and services the Government procures are suitable for provision by qualified nonprofit agencies for the blind or other severely handicapped. Thus, the Federal Government is the "consumer" of the commodities and services which the workshops provide under the Act. The Committee's activities have virtually no impact on consumers as they are defined in Section 1-901 of Executive Order No. 12160.

In view of the above, the Committee should be exempted from the provision of Executive Order No. 12160 since its activities have no impact on consumers.

Sincerely,

C. W. Fletcher,

Executive Director.

[Ms. Esther Peterson, Chairperson of the Consumer Affairs Council, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Fletcher: I am writing in response to your October 11 request that the Committee for Purchase From the Blind and Other Severely Handicapped be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Committee should be exempted from mandatory compliance with the Order. The activities of the Committee do not appear at the present time to have a substantial impact on consumers. Accordingly, the Committee qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Committee for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the Committee's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. C. W. Fletcher, Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped, Suite 610, 2009 14th Street North, Arlington, VA 22201]

DEPARTMENT OF DEFENSE**Washington, D.C. 20301**

November 30, 1979.

Dear Mrs. Peterson: In compliance with provisions of Executive Order 12160 on Federal Consumer Programs, the Department of Defense is preparing a draft consumer program. We anticipate its publication in the Federal Register in the near future. For information concerning the Department's program, contact Ms. Barbara E. Schoenberger, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), Telephone (202) 697-9525.

Sincerely,

Robert B. Pirie, Jr.,

Assistant Secretary of Defense (MRA&L).

[Honorable Esther Peterson, Chairperson of the Consumer Affairs Council; The White House, Washington, D.C. 20500]

FARM CREDIT ADMINISTRATION

October 26, 1979.

Dear Ms. Peterson: On September 26, 1979, President Carter issued Executive Order 12160, which established the Consumer Affairs Council, of which you are Chairperson. Under section 1-4 of the Executive Order, you are responsible for assuring that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Among other things, the Order provides for the agencies' consumer programs to include five elements. These are (1) consumer affairs perspective, (2) consumer participation, (3) informational materials, (4) education and training, and (5) compliant handling, all of which are specifically described in subsection 1-401 of the Order.

The term consumer is defined in subsection 1-901 as meaning: "any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes."

Subsection 1-902 of the Order defines the term "agency" or "agencies" as meaning:

"any department or agency in the executive branch of the Federal Government, except that the term shall not include:

"(a) independent regulatory agencies, except as noted in subsection 1-804.

"(b) * * *

"(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers."

It would appear that the Farm Credit Administration is one of the "independent regulatory agencies" which are not covered by the Executive Order. The Farm

Credit Administration is an independent agency in the Executive Branch of the Government. 12 U.S.C. 2241. It is composed of the Federal Farm Credit Board, the Governor of the Farm Credit Administration and such other personnel as necessary to carry out its functions. The function of the agency is to regulate, supervise, and examine the lending institutions of the Farm Credit System. The Federal Farm Credit Board is the policymaking body of the agency. There are 13 members on the Board; twelve of whom are appointed by the President with the advice and consent of the Senate for 6-year terms. The thirteenth member is appointed by, and serves at the pleasure of, the Secretary of Agriculture. 12 U.S.C. 2242. The Governor is the chief executive officer of the Agency and is appointed by, and serves at the pleasure of, the Federal Board. 12 U.S.C. 2244.

The institutions of the Farm Credit System which are regulated by this agency are the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, and the bank for cooperatives. These institutions are federally chartered and currently operate under the provisions of the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001 *et seq.* The Federal land banks make long-term loans secured by first liens on real estate primarily to farmers and ranchers through the local Federal land bank associations. The Federal intermediate credit banks provide financing through loans and discounts to the production credit associations and certain other financial institutions. The production credit associations makes short- and intermediate-term loans primarily to farmers, ranchers, and producers and harvesters of aquatic products. The banks for cooperatives provides financing to eligible agricultural and aquatic cooperative associations. These institutions are also authorized to provide technical and financially-related services to their member-borrowers.

Although we believe that the Farm Credit Administration is an "independent regulatory agency" and is not covered by the Executive Order except to the extent that you may invite us from time to time to participate in the functions of the Council pursuant to subsection 1-804, we would note the term "independent regulatory agency" is not defined in the Order. Therefore, if it is determined that the term is intended to include this agency within its meaning, we respectfully request that you exempt the Farm Credit Administration from coverage pursuant to section 1-901(c) on the basis that we regulate a group of lenders which primarily make agricultural loans and, therefore, our activities do not have a substantial impact upon consumers. If you require additional information in this regard, please do not hesitate to contact us.

Sincerely,

Donald E. Wilkinson,

Governor.

[Honorable Esther Peterson, Chairperson, Consumer Affairs Council, The White House, Washington, DC 20500]

November 6, 1979.

Dear Mr. Wilkinson: I am writing in response to your October 26 request that the Farm Credit Administration be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that it would be appropriate to treat the Farm Credit Administration as an independent agency for purposes of the Order. As you know, the President has requested that independent agencies comply voluntarily with the Order, and the response to that request has on the whole been heartening. I would urge you to develop a draft consumer program, for publication in the Federal Register, that covers those elements of the Order that you believe would be suitable for the Farm Credit Administration.

If my staff or I can be of any assistance in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[The Honorable Donald E. Wilkinson, Governor, Farm Credit Administration, 490 L'Enfant Plaza, Suite 4000, Washington, D.C. 20578]

FEDERAL EMERGENCY MANAGEMENT AGENCY

December 3, 1979.

Dear Ms. Peterson: I very much appreciate your kind consideration in assisting the Federal Emergency Management Agency to establish some flexible dates in the development of a Consumer Affairs program.

The Federal Emergency Management Agency was recently created to consolidate emergency management activities from several departments and agencies into a single independent agency. A variety of program activities are currently undergoing extensive review and the consumer affairs program development will be a part of the agency's overall program development.

A consumer affairs representative is being recruited to develop a consumer affairs program that will conform to Executive Order 12160 and operate as an integral part of FEMA's overall activities.

The FEMA Consumer Affairs program is expected to be developed on or before June 1, 1980 and published for public comment at that time.

Prior to the publication of the Consumer Affairs program, consumer complaints or requests for additional information should be directed to: Consumer Affairs Representative, Office of the Director, Federal Emergency Management Agency, Washington, D.C. 20472.

Ms. Peterson, thank you very much for your cooperation and assistance and I look forward to working with you in the coming months.

Sincerely yours,

John W. Macy, Jr.,

Director.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.]

FEDERAL ENERGY REGULATORY COMMISSION

November 29, 1979.

Dear Mr. President: The Federal Energy Regulatory Commission (FERC) is committed to implementing a consumer affairs program along the lines outlined in Executive Order 12160. While, as an independent regulatory agency, the Commission is not required to comply with the Order, it intends to do so.

The Commission staff is currently reviewing the extent to which its structure and operations adequately meet the five major standards outlined in the Order. As part of that effort, the Commission staff is:

- Evaluating current Commission practices;
- Studying consumer affairs programs at other agencies;

- Soliciting recommendations from the public.

Preliminary evaluation of Commission practices in each of the five key areas identified in the Order indicates the following:

Consumer Affairs Perspective—The Commission's budget and structure provide for a professional consumer affairs staff to participate in the agency's work.

Consumer Participation—Based on its overall evaluation of its consumer affairs activity, the Commission is developing a variety of methods to encourage consumer participation. Earlier this year the Commission proposed and I testified for appropriations for funding public intervention in agency proceedings. I also wrote to you on May 24, 1979, asking assistance in our efforts to secure public participation funding. That letter is attached. Unfortunately, those appropriations were denied by Congress.

Informational Materials—The Commission maintains a list of interested consumer groups that are informed of relevant agency activities. Materials explaining agency proceedings are now being developed.

Education and Training—The Commission staff is reviewing with FERC Office Directors the federal consumer policy. Where appropriate, specialized consumer affairs training will be provided to personnel. Technical assistance to consumers and their organizations are provided as needed by the staff of the Commission.

Complaint Handling—Each Commission office logs, investigates, and responds to consumer complaints in its area of responsibility. As appropriate, analyses of complaints are used in the policy development process.

I support your efforts through Executive Order 12160 to establish effective consumer affairs programs throughout the federal government. As evidence of that support, the Commission is actively pursuing the

goal of implementing its own consumer affairs program and will be pleased to work with you and your staff in order to accomplish our objectives.

Sincerely,

Charles B. Curtis,
Chairman.

[The President, The White House, Washington, D.C. 20500]

FEDERAL MARITIME COMMISSION

November 2, 1979.

Dear Mrs. Peterson: This is in response to the September 26, 1979 issuance of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs." The Federal Maritime Commission is an independent regulatory agency. It therefore is exempt from Executive Order 12160. However, notwithstanding this exemption, I want you to know that, as the chief administrative officer of this Commission, I fully support the intent and the spirit of Executive Order 12160. Accordingly, you have my personal commitment to the future implementation of this Executive Order to the maximum extent practicable and subject, of course, to available resources.

We are currently exploring various strategies to enhance our Consumer Affairs Program, which focuses primarily on shippers and receivers of cargo in the U.S. ocean commerce. Our regulatory activities must serve the consumer of ocean transportation services.

In furtherance of this objective, our Special Task Force on Commission Organization, chaired by Vice Chairman Thomas Moakley, is currently addressing the subject of consumer advocacy. The Task Force is expected to submit its recommendations to the Chairman by the end of the calendar year.

We believe it is logical to defer implementation of Executive Order 12160 until the Task Force has completed its work. The Task Force is likely to recommend significant changes in our Consumer Affairs Program that will affect its functions as well as its organizational composition and placement within the Commission.

Mr. Norman Littlejohn, Special Assistant to the Managing Director and Coordinator for the Special Task Force on Commission Organization, attended your October 16, 1979 meeting of agency representatives, and I have asked him to continue to maintain liaison with your staff so that your office may be kept apprised of our progress. If we can be of any further assistance, please feel free to contact him.

Sincerely,

Richard J. Daschbach,
Chairman.

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

INTERNATIONAL COMMUNICATION AGENCY

October 26, 1979.

Dear Ms. Peterson: Thank you for your letter of October 4. We did not send a representative to your

October 16 meeting on agency consumer affairs activities because, since the International Communication Agency is a foreign affairs agency, it did not seem to pertain to us. If this is not the case and we can indeed be of help in any way, however, please let me know.

Sincerely,

John E. Reinhardt,
Director.

[The Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House]

November 6, 1979.

Dear Mr. Reinhardt: I am writing in response to your October 26 letter regarding the status of the International Communications Agency under Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and as Chairperson of the Council, I have concluded that it would be appropriate to treat the ICA as exempt from the Order on the grounds that its activities appear to have no substantial impact on American consumers.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.
[The Honorable John E. Reinhardt, Director, International Communication Agency, Washington, D.C. 20547]

NATIONAL ACADEMY OF SCIENCES

October 19, 1979.

Dear Ms. Peterson: This is in response to your letter of October 4, 1979, to the President of the National Academy of Sciences on the implementation of the Executive Order to improve the effectiveness, manpower and coordination of agency consumer affairs activities.

The National Academy of Sciences is a private, nonprofit organization established under Congressional charter and is not a Federal agency. Thus, it is not subject to the provisions of the Executive Order referenced in your letter and it would seem inappropriate that our representatives participate in its implementation.

If there are any further questions that we may answer concerning this response, please call me at 389-6661.

Sincerely yours,

Paul L. Sitton,

Assistant to the President.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

[Attn.: Ms. Belle O'Brien]

November 6, 1979.

Dear Mr. Sitton: I am writing in response to your October 19 letter regarding the status of the National Academy of Sciences under Executive Order 12160 on Federal Consumer Programs.

Since the National Academy of Sciences is not a Federal agency, it is not required to comply with the Executive Order. I am aware, however, of studies the NAS has sponsored on topics of considerable concern

to consumers, and I would urge the NAS to consider what steps it might take to ensure that consumers are better informed about the Academy's activities and more involved, where this would be appropriate, in the selection of research priorities. If my staff or I can be of any assistance in these matters, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Paul L. Sitton, Assistant to the President, National Academy of Sciences, 2101 Constitution Avenue, N.W., Washington, D.C. 20418]

November 9, 1979.

Dear Ms. Peterson: Thank you for your response concerning the status of the National Academy of Sciences under Executive Order 12160.

We are pleased to have your suggestion on increasing the availability of relevant Academy reports to consumers. I agree that due to our special relationship to the Federal government, it is incumbent upon us in carrying out the terms of our Congressional charter to be responsive to ways in which our reports can receive wider public distribution. For your further information, I am enclosing a list of current report publications of the National Academy of Sciences.

I will discuss your suggestion with the Director of our Office of Information and later we may call upon your staff for assistance. You may wish to include this further response with the information that you plan to place in the Federal Register.

Sincerely yours,

Paul L. Sitton,

Assistant to the President.

Enclosure.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

October 19, 1979.

Dear Mrs. Peterson: Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs" requires that agencies develop and implement consumer programs by reviewing and revising their operating procedures so that consumer needs and interests are adequately considered and addressed. This order, specifically Section 1-902, also provides that certain agencies can be excluded from these requirements.

Pursuant to Section 1-902, the National Aeronautics and Space Administration requests to be excluded from the provisions of this order on the basis that, (1) the Agency's activities have no substantial impact upon consumers, and (2) our extensive procurement activities meet the exception of Subsection 1-902(b).

The basic mission and purpose of this Agency in accordance with its charter, the "National Aeronautics and Space Act of 1958," as amended, 42 U.S.C. 2451, *et seq.*, is to do research and development primarily in the aeronautical and space activities area.

The term "aeronautical and space activities" is defined in Section 103(1) of the NAS Act as "(A) research into, and the solution of problems of flight within and outside the Earth's atmosphere, (B) the development, construction, testing, and operation for research purposes of aeronautical and space vehicles, and (C) such other activities as may be required for the exploration of space.

To leave no doubt as to the Congressional intent behind the creation of the National Aeronautics and Space Administration, the legislative history of the NAS Act states in part that, "The purpose is to make clear that the Act is concerned primarily with research, development, and exploration. The use of the word 'activities' is intended to be broad in the area of outer space because no one can predict with certainty what future requirements may be. ..."

Section 1-901 of the Executive order defines "Consumer" as any individual who uses, purchases, acquires, attempts to purchase or acquire or is offered any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes." It is apparent, based on this definition juxtaposed with the above stated purpose of NASA that the consumer definition is not applicable of the unique mission of this Agency or the clientele with which NASA interfaces.

Although there have been many instances in which a product of commercial utility has been developed from NASA research, in no case has NASA manufactured or marketed any such product for the general public. The development of any such product for commercial purposes is left to the manufacturer.

Additionally, Subsection 1-902(b) of this Executive order provides for an exception to agencies to the extent their activities fall within the category of Section 6(b)(4) of Executive Order No. 12044. The exact language of that section states: "This order does not apply to: regulations related to Federal Government procurement."

NASA's activities are closely intertwined and dependent upon the Federal Government procurement process, so much so that for the past three fiscal years, the Agency has spent approximately 83% of its total obligations on procurement obligations. In FY-78, NASA's procurement obligations were \$3,659,600,000, while its total obligations were \$4,388,500,000. The balance of obligations is primarily for the payment of Civil Service personnel and related costs.

Procurement is such an integral part of accomplishing our mission that we have promulgated an Agency set of procurement regulations, which we have used for numerous years and which are recognized Government-wide.

In sum, although I agree with the basic purpose of this Executive order, it is not relevant to this Agency. To impose this requirement on NASA would be contrary to the President's often stated intent of streamlining and simplifying the Federal Government and require the establishment of an office within NASA with little to do. Based on the above set forth reasons, we feel that an exemption from this Executive

order is appropriate and in keeping within the intent of this order.

Very truly yours,

Robert A. Frosch,
Administrator.

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, DC 20500]

November 6, 1979.

Dear Mr. Frosch: I am writing in response to your October 19 request that the National Aeronautics and Space Administration be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that NASA should be exempted from mandatory compliance with the Order. NASA's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, NASA qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of NASA for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Honorable Robert Frosch, Administrator, National Aeronautics and Space Administration, Washington, DC 20546]

NATIONAL CAPITAL PLANNING COMMISSION

October 26, 1979.

Dear Ms. Peterson: Our Chairman, David M. Childs, has asked me to respond to your letter of October 4, 1979, regarding the recent Executive Order issued by the President on October 16.

We are very much encouraged by the President's action and support fully this initiative. Although we are a very small agency of only 52 employees and have no consumer related activities, we feel our present Citizens Participation program can be strengthened in light of recent developments.

Due to the small size of our agency and the absence of any consumer related activities associated with our operations, we respectfully request an exception to the setting up of a formal program. We have discussed this with our OMB examiner and he concurs in our request. Many of the smaller agencies and commissions (those with under 100 employees and especially those with no consumer interface) may be asking for an exemption. I know, we have received similar exemptions in the past due to our small size.

This exemption would not in any way deter our Commission from carrying out any of the objectives of the Executive Order should a consumer related opportunity arise in our operations. We have

coordinated the information contained in this letter with our Team Leader, Mr. Charles R. Cavagnaro.

Sincerely yours,

Malcolm L. Trevor,
Asst. Executive Director for Administration.

Enclosure: Copy of NCPA's Citizen Participation Program.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 23, 1979.

Dear Mr. Trevor: I am writing in response to your October 19 request that the National Capital Planning Commission be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Commission should be exempted from mandatory compliance with the Order. The Commission's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, the Commission qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Commission for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Malcolm L. Trevor, Assistant Executive Director for Administration, National Capital Planning Commission, Washington, D.C. 20576]

NATIONAL ENDOWMENT FOR THE HUMANITIES

October 16, 1979.

Dear Ms. Peterson: In your letter to me dated October 4, 1979, you asked that a representative of the National Endowment for the Humanities attend a meeting to improve the consumer affairs activities of the agencies of the Government.

The functions of this Endowment are limited to support of progress and scholarship in the humanities, a field which includes the study of languages, linguistics, history, jurisprudence, philosophy, archeology, comparative religion, ethics, the history, criticism, theory and practice of the arts and the humanistic aspects of the social sciences (See 20 U.S. Code 952(a) and 956). Therefore we have no consumer programs of the type covered by Executive Order No. 12160.

Pursuant to Section 1-902(c) of that Executive Order I request that you, with the advice of the Consumer Affairs Council, exempt the National Endowment for the Humanities from the Executive Order on the ground that the Endowment's activities have no substantial impact upon consumers.

Sincerely,

Joseph Duffey,

Chairman.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

October 16, 1979.

Dear Ms. Peterson: On October 4, 1979, you wrote a letter to me as Chairman of the National Endowment for the Humanities, concerning Executive Order No. 12160, and I have written you a separate reply concerning the fact that that Endowment's activities have no substantial impact upon consumers.

I am also Chairman of the Federal Council on the Arts and the Humanities, an agency that advises Government agencies on humanistic and artistic matters (20 U.S.C. 958) and insures museum exhibits which are certified by the Secretary of State as being in the national interest (20 U.S.C. 972). The Federal Council has no programs of the type covered by Executive Order No. 12160.

Pursuant to Section 1-902(c) of that Executive Order I request that you, with the advice of the Consumer Affairs Council, exempt the Federal Council on the Arts and the Humanities from the Executive Order on the ground that its activities have no substantial impact upon consumers.

Sincerely,

Joseph Duffey,

Chairman, Federal Council on the Arts and Humanities.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Duffey: I am writing in response to your October 11 request that the National Foundation on the Arts and the Humanities be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Foundation should be exempted from mandatory compliance with the Order. The activities of the Foundation do not appear at the present time to have a substantial impact on consumers. Accordingly, the Foundation qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Foundation for exemption from the Order, I do hope that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the Foundation's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Joseph Duffey, Chairman, Federal Council on the Arts and Humanities, 2401 E Street, N.W., Washington, D.C. 20506]

November 13, 1979.

Dear Ms. Peterson: The National Endowment for the Humanities has no problem with the plan to publish our exemption requests in the Federal Register. Both the National Foundation on the Arts and the Humanities and the Federal Council on the Arts and the Humanities will pursue information on other activities consistent with Executive Order 12160 when the occasion arises.

Sincerely,

Joseph Duffey,

Chairman.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.]
[cc: Livingston Biddle, Chairman, NEA]

NATIONAL LABOR RELATIONS BOARD

November 15, 1979.

Dear Ms. Peterson: This is in response to President Carter's Executive Order 12160 dated September 26, 1979, establishing the Consumer Affairs Council.

The National Labor Relations Board is an independent regulatory agency created in 1935 by Congress to administer the basic law governing relations between labor unions and business enterprises engaged in interstate commerce. As such, the NLRB is exempted from the basic provisions of the Executive Order in accordance with paragraph 1-902(a).

We further request exemption from the implementing actions which are contemplated under paragraph 1-804.

On its statutory assignment, the NLRB has two principal functions: (1) to prevent and remedy unlawful acts, called unfair labor practices, by either employers or unions or both; and (2) to determine and implement, through secret-ballot elections, the free democratic choice by employees as to whether they wish to be represented by a union in dealing with their employers and, if so, by which union.

The NLRB does not act on its own motion in either function. It processes only those charges of unfair labor practices and petitions for employee elections which are filed in the NLRB's regional, subregional and resident offices. The Agency is not authorized to, and does not, have any consumer programs and functions.

Please contact me if you have any questions.

Sincerely yours,

John H. Fanning,

Chairman.

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, Old Executive Office Building, Room 495, Washington, D.C. 20500]

November 30, 1979.

Dear Mr. Fanning: I am writing in response to your request dated November 15, that the National Labor

Relations Board be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Board should be exempted from mandatory compliance with the Order. The Board's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, the Board qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Board for exemption from the Order, I trust that you will pursue informational and other activities consistent with the order. If my staff or I can be of any help, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Honorable John H. Fanning, Chairman, National Labor Relations Board, Washington, D.C. 20570]

NATIONAL MEDIATION BOARD

October 26, 1979.

Dear Ms. Peterson: The purpose of this letter is to request an exemption for the National Mediation Board from coverage under Executive Order 12160 providing for enhancement and coordination of federal consumer affairs programs.

By way of background the National Mediation Board, pursuant to the Railway Labor Act, 45 U.S.C. § 151, *et seq.*, regulated labor relations in the railroad and airline industries. The Board has two principal functions: the mediation of collective bargaining disputes between carriers and labor organizations and the resolution of disputes among employees of carriers as to whether those employees desire representation for purposes of collective bargaining and if so by what individual or organization. The Board's statutory mandate with respect to such disputes is to facilitate their peaceful settlement. Diminutive in size by comparison with other agencies (less than 50 total employees) the Board pursues its mission without adjudicatory power in the area of mediation and acting as a referee in representation disputes. See *United Transportation Union v. Detroit & Toledo Shore Line RR. Co.*, 396 U.S. 142 (1969) and *Switchmen's Union v. National Mediation Board*, 320 U.S. 297 (1943).

As an independent regulatory agency the National Mediation Board is excluded from the definition of "agency" or "agencies" as provided in Section 1-902(b) of the Executive Order. Established in 1934, the Board was created " * * * as an independent agency in the executive branch of the Government, * * * " 45 U.S.C. § 154, First.

The Board understands that the President has urged independent regulatory agencies to follow the provisions of the Executive Order in an effort to secure the broadest possible implementation of its provisions. However, the Board believes there are several

practical reasons, which would be equally compelling if the Board was not an independent regulatory agency, why the Board should not do so.

The Board is sensitive to the fact that its decisions and actions may have an indirect impact upon consumers in that the course of labor relations in the railroad and airline industries tend to affect the price of goods and services charged to the public by those industries.

Nevertheless, the Board's mission to facilitate labor peace in the railroad and airline industries simply does not comport with the aggressive program envisioned by the Executive Order for involving consumers in agency functions and affairs. More specifically, consumer participation in Board Mediation and representation proceedings would be at odds with such mission.

We hope the foregoing has demonstrated that the National Mediation Board should be exempt from the requirements of the Executive Order. If you wish additional information with respect to this matter or to discuss the matter personally, please do not hesitate to contact me.

Sincerely,

Robert O. Harris,

Chairman.

[Ms. Esther Peterson, Special Assistant to the President, for Consumer Affairs and Chairperson, of the Consumer Affairs Council, The White House, Washington, D.C. 20050]

November 6, 1979.

Dear Mr. Harris: I am writing in response to your October 16 request that the National Mediation Board be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that it would be appropriate to treat the National Mediation Board as an independent agency, and therefore exempt under Section 1-902(a).

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Honorable Robert O. Harris, Chairman, National Mediation Board, 1425 "K" Street, N.W., Washington, DC 20572]

NATIONAL SCIENCE FOUNDATION

October 26, 1979.

Dear Ms. Peterson: Thank you for your letter dated October 4, 1979, and the attached materials concerning the new Executive Order on Federal Consumer Programs.

We have carefully considered these materials in relation to the National Science Foundation and have determined that the mission and activities of our agency are outside the scope of the Executive Order. We are therefore requesting an exemption under Paragraph 1-902(c).

We base this decision on the nature of our mission and the way in which we carry it out. The mission of the Foundation is the support of scientific research and

science education improvement in a broad range of scientific disciplines, including the mathematical, physical, natural and engineering sciences.

The Foundation does not itself conduct laboratory research or carry out education projects. Rather, support is provided primarily through assistance awards to colleges, universities and nonprofit research institutions, most of which are made on the basis of unsolicited proposals. The foundation makes these awards to academic institutions rather than to individual researchers. The funds are not for "personal, family, or household purposes," and the awards have no direct impact on consumers.

The development of the Foundation's programs and policies is assisted by input from the various scientific and engineering communities. A 24-member National Science Board, composed of scientists and nonscientists from the community, establishes policies for the National Science Foundation within the framework of applicable policies made by the President and the Congress. The Board, the Director of the Foundation, the Deputy Director, and four Assistant Directors are appointed by the President with the advice and consent of the Senate. These officials are assisted by outside advisors, primarily from the scientific community, who serve on formal advisory committees in the various scientific disciplines within the Foundation, or on the NSF Advisory Council which provides advice and guidance on broad issues that transcend the interests of the individual advisory committees.

In addition to these formal mechanisms, we maintain close contact with professional societies and organizations (such as the National Academy of Sciences, the National Academy of Engineering, the American Council on Education, the American Association of Universities, the National Association of State Universities and Land-Grant Colleges, the American Association for the Advancement of Science, and many other scientific and educational organizations). Thus, the Foundation is already in very close touch with the organizations most directly affected by its programs, policies, and procedures. In making its decisions on individual research proposals, the Foundation also relies heavily on the advice and assistance of advisory committees, outside reviewers, and other experts to ensure that NSF is able to reach fair and knowledgeable judgments. These scientists and educators come from colleges and universities, nonprofit research and educational organizations, industry, and other Government agencies.

On the basis of the facts presented above, we conclude that the Foundation should be exempt from the provisions of Executive Order 12160. If you would like to discuss this with us further, please contact Bruce Darling, Special Assistant to the director, at 632-4384.

Sincerely yours,

Richard C. Atkinson,
Director.

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 20, 1979.

Dear Mr. Atkinson: I am writing in response to your request, dated October 26, that the National Science Foundation be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council, and in my capacity as Chairperson of the Council, I have concluded that it would not be appropriate to exempt NSF from the Order. I am not persuaded that NSF's activities have no substantial impact upon consumers. NSF has funded a good many studies on issues of considerable importance to consumers—on product safety and product liability, for example.

We recognize that because of NSF's unique mission and operating procedures, the agency may have special problems in complying with particular portions of the Order. We would like to discuss these with you. Please contact Belle O'Brien or Mark Goldberg of my staff in this regard. They can be reached at 456-6226.

As you proceed with the preparation of a draft program for compliance with the Order, please let me know if my staff or I can be of any assistance.

Sincerely,

Esther Peterson.

Special Assistant to the President for Consumer Affairs.

[Honorable Richard C. Atkinson, Director, National Science Foundation, Washington, DC 20550]

OFFICE OF PERSONNEL MANAGEMENT

October 26, 1979.

Subject: Executive Order 12160.

Dear Ms. Peterson: I am pleased that the President has designated you to chair the new Consumer Affairs Council, and I am certain the Council will play a vital and effective role in furthering the Government's commitment to the protection of consumer interests.

OPM fully supports the approach taken by Executive Order 12160, and we look forward to providing you with whatever assistance the Council may require in implementing the provisions concerning the consumer affairs staff. Further, although agencies like OPM are excluded from the specific requirements of the Order, we nonetheless, have taken a number of steps to implement the spirit and philosophy reflected in the Executive Order and will continue to be guided by the intent of the Order.

As you know, the responsibilities of OPM are exclusively those relating to the management of the federal personnel system. The primary function of the agency is to serve as an advisor to the President and to executive branch agencies regarding civil service matters; and to execute, administer, and enforce civil service laws, rules and regulations. 5 U.S.C. 1103(7), 1103(5). Accordingly, this agency does not have a substantial impact on consumers.

Section 1-902(c) of the Order excepts from the Order those agencies whose activities have no "substantial impact on consumers." The Order defines "consumer" as:

Any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services or credit for personal, family, or household use. E.O. 12160, section 1-901.

OPM affects federal employees only in their role as Government workers and its activities have no significant impact on a consumer's dealing with private suppliers of goods and services. OPM's activities are primarily concerned with the internal regulation of the Government. Thus, although OPM's actions have a significant effect on the federal personnel system, they do not have a substantial impact on those interests protected by the Order. Therefore, OPM falls within the exception set forth in section 1-902(c).

Although the Order does not apply to OPM, this agency intends to comply fully with the President's intent to increase the accessibility of the Federal Government. OPM is actively engaged in providing public access to federal employment information, in promoting broad-based participation in its regulatory decisions, and in responding to requests and complaints efficiently and completely. We intend to continue and strengthen our commitment to responsiveness and public participation in compliance with the philosophy and intent of Executive Order 12160. In this regard, I have asked Edward A. Schroer, Director of the Office of Planning and Evaluation, to serve as the contact person between the Council and OPM. Mr. Schroer can be reached at 632-4606.

OPM has already taken a number of steps to ensure public accessibility to employment information and assistance. We provide employment information nationwide through a large public information network administered by OPM's Staffing Services Group. OPM employees respond to over 12 million public information requests yearly at the 71 area and regional job information centers and at the Washington, D.C., central office. Three hundred job information brochures on specific topics are available upon request. All of this information clearly informs prospective employees of the steps they must follow and where they should turn for assistance.

Moreover, several OPM offices exist solely to respond to complaints related to federal employment. OPM's complaint-handling structure includes a large full-time staff in the retirement claims and compensation divisions who respond to complaints in those specific areas. In addition, a central office in Washington, the Federal Employees Advisory Service, responds to questions from federal employees throughout the nation. The full-time staff of the Advisory service handles over 12,000 complaints and questions every year, including requests from attorneys, union representatives, Members of Congress, federal employees or their survivors, and other interested members of the public. The staff of the

Advisory Service has a policy to answer questions directly whenever possible, rather than referring members of the public elsewhere. Thus, the office is more than simply a referral service, but is a place to which citizens and federal employees can turn for genuine assistance.

In addition to responding to general requests for information and complaints, OPM complies fully with specific information requests under the Freedom of Information and Privacy Acts. The Freedom of Information Act permits members of the public to request access to agency records, and these must be provided unless they fall within one or more of nine narrowly defined exceptions. The Privacy Act also allows individuals to request access to information on themselves contained in agency record systems. OPM is required to comply with tight statutory time deadlines in replying to such requests. Any person who believes information has been refused improperly may request a review of the refusal by our General Counsel. Each requestor is informed of this right to review as well as of the right to a court appeal.

OPM's rulemaking procedures provide for public involvement through general notice to the public, an opportunity for interested parties to participate in rulemaking proceedings, and the publication of rules and regulations in the Federal Register. 5 U.S.C. 553. Moreover, OPM prominently posts copies of its proposed rules and regulations in federal offices to facilitate comments from individual employees and agencies. OPM also has a statutory responsibility to ensure that employees have an opportunity to comment on our proposed regulations through consultation with their elected union representatives.

As you know, section 1-7 of the Order provides for OPM to consult with the Council regarding classification and qualification standards for consumer affairs positions, and the recruitment, selection and development of employees for those positions. We have already begun working with your staff on these matters and have given these tasks a high priority.

To ensure that these tasks are accomplished as quickly as possible, I have asked James W. Morrison, Assistant Director for Economics and Government, to serve as a central point of contact between OPM and the Council. He can be reached at 632-6806.

Again, I am very pleased that you will be heading the new Council, and I hope that you will feel free to contact me if I may be of assistance in any way.

Sincerely yours,

Alan K. Campbell,
Director.

[Ms. Esther Peterson, Chairperson, Consumer Affairs Council, The White House, Washington, D.C. 20500] November 6, 1979.

Dear Mr. Campbell: I am writing in response to your October 26 request that the Office of Personnel Management be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have

concluded that it would be appropriate to exempt OPM from mandatory compliance with the Order on the ground that its activities fall within the exemption established by Section 1-902(b) for matters related to agency management or personnel.

We will be contacting your staff shortly regarding the consumer affairs personnel initiatives called for by Section 1-7 of the Order. We look forward to working with OPM in an effort to improve the recruitment, training, and career potential of consumer affairs personnel.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Honorable Alan K. Campbell, Director, Office of Personnel Management, Washington, D.C. 20415]

RAILROAD RETIREMENT BOARD

Dear Ms. Peterson: In your letter dated October 4, 1979, you advised our agency of actions being taken to implement development of consumer programs required by Executive Order No. 12160. We are requesting that the U.S. Railroad Retirement Board be exempted from development of a consumer program as set forth in the Executive Order.

The consumers of the U.S. Railroad Retirement Board are those persons due benefits under the provisions of the Railroad Retirement and Railroad Unemployment Insurance Acts. The Railroad Retirement Act provides for the payment of retirement and disability benefits to railroad employees and their spouses and survivors. The Railroad Unemployment Insurance Act provides for the payment of unemployment and sickness benefits to qualified railroad workers.

Currently, there are over 550,000 active railroad employees in the railroad industry, over one million beneficiaries on the Board's annuity rolls, and over 900 covered employers. The Nation's railroad community has been represented in the U.S. Railroad Retirement Board's decision-making activities since its inception.

Such representation is fostered by the unique composition of the three-member Board responsible for administration of the Acts. The members of the Board are appointed by the President with the advice of the Senate—one upon recommendation of representatives of railroad employees, one upon recommendation of railroad management, and the chairman, as a public member.

To better serve the consumer interest groups with which our agency has liaison, the U.S. Railroad Retirement Board initiated in 1957 "Informational Conferences" for representatives of railroad labor unions. These conferences, which are held throughout the country, serve as a means to explain the Acts we administer and to gain feedback for policy development from our consumers. During calendar year 1978, over 3000 people attended the 79 conferences which were held in 72 different cities. Board representatives also appeared at 158 labor meetings and conventions, attended by nearly 14,000

railroad workers, to discuss Board programs and answer questions. Board representatives from district offices appeared at town meetings to discuss railroad retirement. Any covered employer with any question concerning railroad retirement may make direct contact with the office of the Management Member of the Board and receive a prompt answer to the question. The Board's information service publishes pamphlets which reach virtually everyone in the railroad community each year.

In addition, our field offices in over 80 cities throughout the United States have a strong and on-going public information role in the activities of the railroad community in their territories. They maintain close contact with railroad labor and management officials and act as the local source for information on the provisions and effectiveness of the programs administered by the Board. The Board has long recognized that the strong contacts and involvement with the segment of the public which the Board serves along with the promotion and adherence to a strong and responsive complaint handling program is vital for providing better service and maintaining good communications and relationships with our consumers.

We wish to assure you that should the U.S. Railroad Retirement Board be exempted from the consumer program directed under the Executive Order No. 12160, the Board will continue to expand the scope and effectiveness of its already established commitment to consumer affairs activities in the full spirit of the Executive Order.

Sincerely,

For the Board.

R. F. Butler,

Secretary.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Butler: I am writing in response to your October 26 request that the Railroad Retirement Board be exempted from Executive Order 12160 on Federal Consumer Programs.

In order for me to reach a determination regarding this request, I will need clarification on one point: Which of the three grounds for exemption established in Section 1-902 of the Order is the Board relying on in seeking an exemption?

Please provide me with this information as soon as possible so that this matter may be resolved expeditiously. As you know, if the Board does not obtain an exemption from the Order, its draft program for compliance will be due to me by November 23.

If you have any questions regarding the grounds for exemption, please call Mark Goldberg of my staff at 456-6226.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. R. F. Butler, Secretary, Railroad Retirement Board, 425 13th Street, N.W., Room 444, Washington, D.C. 20004]

November 16, 1979.

Dear Ms. Peterson: In reply to your letter of November 6, 1979, the U.S. Railroad Retirement Board is requesting exemption from Executive Order 12160 under Section 1-902(c) of the Order.

The laws and funds we administer apply only to and for the benefit of the railroad industry. Our clients are limited to the railroad workers and their families for whom we provide protection from loss of income due to the railroad worker's retirement, death, disability, unemployment or sickness. The conditions for the payments and the amounts are established by law.

Our activities have, at best, slight impact on consumers. Accordingly, it is on these grounds that we are seeking the exemption.

Sincerely,
For the Board.

R. F. Butler,
Secretary.

[Ms. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 30, 1979.

Dear Mr. Butler: I am writing in response to your request dated November 16, that the Railroad Retirement Board be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Board should be exempted from mandatory compliance with the Order. The Board's activities do not appear at the present time to have a substantial impact on consumers. Accordingly, the Board qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Board for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help, please let me know.

Sincerely,
Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611]

SELECTIVE SERVICE SYSTEM

October 15, 1979.

Dear Ms. Peterson: We request a determination, in accord with paragraph 1-902(c) of Executive Order 12160, that the activities of the Selective Service System ". . . have no substantial impact upon consumers."

The primary function of the Selective Service System is, in accord with the provisions of the Military Selective Service Act (50 U.S.C. App. 451 et seq.), to plan for the resumption of "the draft" in the event that should become necessary because of Department of Defense requirements for untrained military personnel.

The System's registration and induction activities have no significant impact upon consumers.

Sincerely,
Robert E. Shuck,
Acting Director.

[Honorable Esther Peterson, Chairperson, The Consumer Affairs Council, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Shuck: I am writing in response to your October 19 request that the Selective Service System be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Selective Service System should be exempted from mandatory compliance with the Order. The System's activities do not appear, at the present time, to have substantial impact on consumers. Accordingly, the System qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Selective Service System for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the agency's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Robert E. Shuck, Acting Director, Selective Service System, 600 "E" Street, N.W., Washington, D.C. 20435]

November 13, 1979.

Dear Mrs. Peterson: Thank you for your letter of November 6, 1979 and accompanying memorandum of the same date.

The proposal in your memorandum is entirely satisfactory to us.

We will continue to "pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in," the work of our agency.

Sincerely,

Robert E. Shuck,

Acting Director.

[The Honorable Esther Peterson, Chairperson, Consumer Affairs Council, The White House, Washington, D.C. 20500]

UNITED STATES GENERAL ACCOUNTING OFFICE

October 29, 1979.

Dear Mrs. Peterson: Executive Order No. 12160, dated September 26, 1979, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs" requires each agency of the executive branch to develop and maintain a consumer program. Such a program is to include: a professional consumer affairs staff that can help consumers and will receive needed training; the development of informational materials for consumers; procedures for assuring that

consumers participate in the development of agency rules, policies, and programs; and procedures for systematically investigating and responding to consumer complaints and for incorporating analysis of those complaints into the development of agency policies. The order also requires each agency head to appoint a senior-level official whose sole responsibility is to provide policy direction for, and coordination and oversight of, the agency's consumer affairs activities. As Chairperson of the Consumer Affairs Council, you are responsible for reviewing and approving agency programs for compliance with the Executive Order.

By letter dated October 4, 1979, you requested that the General Accounting Office (GAO) participate with the Executive agencies in discussions concerning the implementation of the Executive Order and establishing consumer programs. GAO representatives participated in meetings with your staff and the other Federal agencies on October 16 and 25, 1979. This letter is to advise you as to how we see the role of the General Accounting Office in relation to the objectives of the Executive Order.

As you know, the GAO is an agency in the legislative branch of the Federal Government and is not subject to the requirements of the Executive Order. Our work is not primarily directed toward the public as consumers.

Consequently, we do not plan to prepare a consumer program as defined in the Executive Order.

Although our activities generally do not result in rulemaking which affects consumers and do not involve the receipt of consumer complaints, we do respond to consumer concerns and interests. All inquiries received from the public regarding GAO studies, audits, or reports are answered either by telephone or correspondence. A monthly compilation and synopsis of reports issued by GAO is made available to the public, the media, and to colleges and universities, and includes information on how to obtain copies of our reports. We plan to review our distribution of this monthly status report to ensure that consumer groups and educators and others serving the consumers' interests are aware of and receive our reports on matters which affect consumers.

Much of our work is undertaken at the request of the Congress and its committees. However, when planning self-initiated studies in our consumer and worker protection issue area we give considerable attention to areas of consumer concern. For example, we are completing a study of the Government's role in helping consumers deal with auto-repair problems, the consumers' number one complaint. We will continue to keep abreast of the problems and issues of concern to consumers and will consider them when planning future studies. Our recent contacts with members of your staff have been most helpful in this regard. We look forward to continuing cooperation with them during the months ahead.

If you or your staff should have any questions about our efforts to assist consumers, please contact Andrew

Kulanko, our issue area coordinator for consumer and worker protection on 523-8666.

Sincerely yours,

Gregory J. Ahart,

Director.

[Esther Peterson, Special Assistant to the President for Consumer Affairs]

November 20, 1979.

Dear Mr. Ahart: I am writing in response to your letter dated October 29 regarding the status of the General Accounting Office under Executive Order 12160 on Federal Consumer Programs.

As a legislative agency, the GAO is not required to comply with the Order. However, I am glad to learn of the GAO's plans to participate actively in our effort to make government more responsive to and reflective of consumer concerns. I look forward to working with you and your staff in monitoring and encouraging agency compliance with the Order and in developing new initiatives to help consumers.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Gregory J. Ahart, Director, Division of Human Resources, United States General Accounting Office, Washington, D.C. 20548]

UNITED STATES GOVERNMENT PRINTING OFFICE

October 19, 1979.

Dear Mrs. Peterson: The United States Government Printing Office is not an Executive Branch agency and, accordingly, is excluded from Executive Order 12160 by definition as set forth in section 1-902 of that Order. Moreover, the Government Printing Office is an internal service organization for the Government and is not primarily engaged in consumer programs.

However, it is my desire that members of my staff continue to work toward the objectives of the Consumer Affairs Council and, although not formally a part of the program, we will be active in carrying out those objectives.

Sincerely,

John J. Boyle,

Public Printer.

[Mrs. Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 6, 1979.

Dear Mr. Boyle: I am writing in response to your October 19 letter regarding the status of the Government Printing Office under Executive Order 12160 on Federal Consumer Programs.

I agree that as a legislative agency, the GPO is not required to comply with the Order. However, I am glad to learn of the GPO's plans to participate actively in our effort to make government more responsive to and reflective of consumer concerns.

I would especially encourage you to consider what steps the GPO might take to facilitate the development and distribution of agency publications directed at consumers. I would very much like to work with you and your staff on this undertaking, and I am sure that

the other members of the Consumer Affairs Council would be pleased to offer their assistance as well.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[The Honorable John J. Boyle, Public Printer, United States Government Printing Office, Washington, D.C. 20401]

UNITED STATES INTERNATIONAL TRADE COMMISSION

October 26, 1979.

Dear Ms. Peterson: This is in response to your letter of October 4, 1979, concerning the implementation of Executive Order 12160.

This Commission conducts investigations concerning the impact of imports on the product markets of domestic manufacturers under several different statutory authorities. The character of the Commission's investigative responsibility depends upon the direction of the specific statute. In some cases, the Commission's investigation consists of a purely informational study, and no Government action is required as a result of its findings. In other cases, the executive branch is directed by statute to respond to Commission findings, recommendations, or determinations. Finally, the Commission is authorized to issue what are in effect final orders by statutory provisions requiring formal and informal adjudicative proceedings.

Some of these statutes direct the Commission to make an informal judgment concerning the impact of Government action on consumers and others preclude such considerations. Accordingly, the Commission has no consumer programs as such. Moreover, the Commission's outstanding regulations are procedural in nature and basically inform participants and other interested persons how they can bring information to the attention of the Commission in different types of investigations of the economic impact of imported products. The Commission's Assistant Secretary and Public Information Officer assists interested consumers and consumer organizations in their understanding of Commission investigations and their participation in them.

The definitions section of Executive Order No. 12160 exempts agencies from the program requirements of the order if their activities are exempted from Executive Order No. 12044, Improving Government Regulations. The Commission was exempted from the provisions of Executive Order No. 12044 on the basis that its provisions do not apply to our regulations. (A copy of this exemption is attached for your information.) In our opinion, the Commission is exempt from the provisions of Executive Order No. 12160 for the same reasons, and we hereby request such a ruling from the Consumer Affairs Council.

The Commission supports the goals of Executive Order No. 12160. If the Commission can be of any assistance to the Consumer Affairs Council, please contact Mr. Hal Sundstrom, Assistant Secretary and Public Information Officer (202-523-0161).

Sincerely,

Joseph O. Parker,

Chairman.

Enclosure.

[The Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.]

November 26, 1979.

Dear Mr. Parker: I am writing in response to your request that the International Trade Commission be exempted from Executive Order 12160 on Federal Consumer Programs.

In order for me to reach a determination regarding this request, I will need clarification on one point: which of the grounds for exemption set out in Executive Order 12044 and carried over to Executive Order 12160 is the ITC relying on in seeking an exemption?

Please provide me with this information as soon as possible. As you know, if the ITC does not obtain an exemption from the Order, it will be required to proceed with the preparation of a draft program for compliance.

If you have any questions regarding the grounds for exemption, please call Mark Goldberg of my staff at 456-6226.

Sincerely,

Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Honorable Joseph O. Parker, Chairman, United States International Trade Commission, Washington, D.C. 20436]

November 28, 1979.

Dear Ms. Peterson: This is in response to your letter of November 26, 1979, in which you requested that we indicate which of the grounds for exemption set out in Executive Order 12044 and carried over to Executive Order 12160 this Commission relies on in requesting an exemption from Executive Order 12160 on Federal Consumer Programs.

The exemption from Executive Order 12044 granted the Commission by the Office of Management and Budget was based upon a combination of considerations. First, Commission proceedings concern investigations on the impact of imports on domestic product markets of U.S. manufacturers and producers. Such proceedings are conducted on a case-by-case basis and are more like adjudications than they are like the regulatory programs covered by Executive Order 12044. Second, nearly all Commission investigatory proceedings are conducted under extremely short statutory or administrative deadlines. Proceedings subject to such deadlines are exempted under section 6(b)(6) of Executive Order 12044. Finally, all of the Commission's outstanding regulations are procedural. None concern the administration of programs or attempt to regulate behavior. Although the Commission is authorized to issue substantive regulations under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), prohibiting unfair conduct in U.S. import trade, no substantive regulations have been issued as of this time. Should the issuance of such regulations become appropriate,

they would be enforced by adjudicative proceedings on a case-by-case basis.

I hope this information is helpful to you. If we can be of further assistance, please let us know.

Sincerely,

Joseph O. Parker,
Chairman.

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

UNITED STATES WATER RESOURCES COUNCIL

Dear Ms. Peterson: Pursuant to Section 1-902(c) of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," I am transmitting for your consideration information which demonstrates that the activities of the U.S. Water Resources Council have no substantial impact upon consumers.

The Water Resources Council was created by the Water Resources Planning Act of 1965 (PL 89-80). By statute the Council Members are the Secretaries of Agriculture, Army, Commerce, Energy, Housing and Urban Development, Transportation, Interior, and the Administrator of the Environmental Protection Agency. The Council currently has a staff of about 60 persons who carry out the Council's responsibilities as directed by the Members.

The Council is responsible for preparing an assessment of the adequacy of U.S. water supplies; studying the relation of regional or river basin plans to requirements of the larger regions of the U.S. and the adequacy of administrative and statutory means for the coordination of Federal water resources programs; making recommendations to the President to meet the Nation's water needs with respect to Federal policies and programs; establishing principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects; reviewing river basin commission plans and transmitting such plans together with our views, comments, and recommendations to the President; and administering grants to the States for comprehensive water and related land resources planning.

Any water related action affecting consumers (e.g., recent Department of Energy distribution of flow restrictors in the Northeastern states) would be taken by a Member agency pursuant to its own authority rather than by the Council and would, of course, be subject to the Member agency's consumer program. As a coordinative body for Federal agencies having water planning responsibilities, the Council itself neither regulates nor is involved in nor does its activities have a substantial effect on the purchase or acquisition of

real or personal property, tangible or intangible goods, or services by individuals, or credit for personal, family or household purposes.

Sincerely,

Leo M. Eisel,
Director.

[Honorable Esther Peterson, Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C. 20500]

November 20, 1979.

Dear Mr. Eisel: In am writing in response to your request dated October 26 that the Water Resources Council be exempted from Executive Order 12160 on Federal Consumer Programs.

After consulting with members of the Consumer Affairs Council created by the Order, and in my capacity as Chairperson of the Council, I have concluded that the Water Resources Council should be exempted from mandatory compliance with the Order. The activities of the Water Resources Council do not appear at the present time to have a substantial impact on consumers. Accordingly, the Water Resources Council qualifies for exemption from the Order under Section 1-902(c).

Notwithstanding the eligibility of the Water Resources Council for exemption from the Order, I trust that you will pursue informational and other activities consistent with the Order to improve the public's understanding of, and involvement in, the Council's work. If my staff or I can be of any help in this regard, please let me know.

Sincerely,

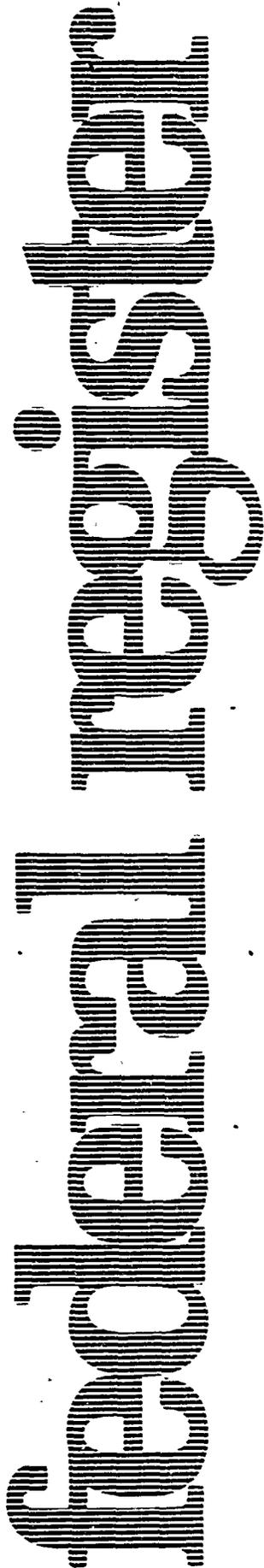
Esther Peterson,

Special Assistant to the President for Consumer Affairs.

[Mr. Leo M. Eisel, Director, United States Water Resources Council, 2120 "L" Street, N.W., Suite 800, Washington, D.C. 20037]

[FR Doc. 79-37317 Filed 12-7-79; 8:45 am]

BILLING CODE 3195-01-M



Monday
December 10, 1979

Part III

**Consumer Programs:
Natural Resources**

Agriculture Department	71148
Energy Department.....	71154
Environmental Protection Agency	71160
Interior Department	71174
Tennessee Valley Authority	71186

Monday
December 10, 1979

Part III—Section A

**Department of
Agriculture**

Draft Consumer Program



DEPARTMENT OF AGRICULTURE**Office of the Secretary****Draft Report—Establishment of USDA Office of Consumer Affairs, Procedures To Enhance Consumer Participation**

AGENCY: U.S. Department of Agriculture.

ACTION: Request for Comments, Draft Report—Establishment of USDA Office of Consumer Affairs, Procedures to Enhance Consumer Participation.

DATES: Comments must be received by March 10, 1980.

ADDRESS: Comments should be addressed to: Elizabeth Webber, Acting Director, Public Participation, OBPE, U.S. Department of Agriculture, Office of the Secretary, Room 118-A, Washington, D.C. 20250, Phone (202/447-2113).

FOR FURTHER INFORMATION CONTACT: Dr. Linley Juers, Acting Associate Director, Decision System, OBPE, U.S. Department of Agriculture, Office of the Secretary, Room 118-A, Washington, D.C. 20250, Phone (202/447-6667).

Executive Order 12160 adds an important new initiative to the development and administration of USDA programs.

Under Executive Order 12044, the Department established a system for making decisions through an orderly, open process. The Department's decisionmaking procedures under Executive Order 12044 place emphasis on public participation—involving all members of the public in decisions. The views and ideas of the public are incorporated into the Impact Analysis, which is the basis for the decision. This new Executive Order, covering the enhancement and coordination of consumer programs, supplements that system by assuring consumers—the most diverse population group affected by government decisions—ample opportunity for substantive involvement in USDA decisionmaking.

The complexity of program effects on consumers and the difficulty of getting focused, meaningful comment and information from consumers in the decisionmaking process points up the need for this special effort.

Thus, the Department is establishing an Office of Consumer Affairs, reporting to the Secretary, which will establish specific guidelines and provide oversight for consumer involvement in USDA programs. This will include assuring consumers are informed of procedures and actions, that they are provided opportunity to participate and that consumer complaints are appropriately and efficiently handled.

USDA has procedures and staff, both at the Department level and in each agency, to insure broad public participation in all decisions. The Office of Consumer Affairs will work with the Department's Public Participation staff in the Office of Budget, Planning and Evaluation, using the established procedures to provide effective involvement of consumers in all USDA decisions.

Dated: November 23, 1979.

Jim Williams,
Acting Secretary.

CONSUMER AFFAIRS OFFICE AND RESPONSIBILITIES**CONSUMER AFFAIRS PERSPECTIVE**

At the Department level, an Assistant to the Secretary for Consumer Affairs will be appointed to head an Office of Consumer Affairs. This office will consist of the Assistant to the Secretary, functioning as the Director, Office of Consumer Affairs at the Senior Executive level, a Deputy Director and a secretary.

The responsibilities of the office will include:

- General oversight of the Department's consumer outreach and involvement actions and procedures including establishing Departmentwide general policy and philosophy on involving consumers in decisions and programs.

- Authority to provide policy guidance for informational materials on consumer affairs prepared and disseminated by the Department or agencies. Working with the Office of Governmental and Public Affairs, establish a Departmentwide consumer information working group and ensure procedures are established so that relevant notices on USDA actions covering consumer issues are directed to consumers and their representatives.

- Chairing a public advisory committee on consumer affairs established to advise the Secretary.

- Working with the Decision System staff of the Office of Budget, Planning, and Evaluation to ensure that guidelines and working procedures require monitoring of consumer impacts and assuring consumer involvement in each significant decision. The USDA has existing procedures for monitoring Public Participation and Impact Analysis including a requirement that a Decision Log be submitted at the inception of each decision process. The Office of Consumer Affairs, through the Office of Budget, Planning and Evaluation, will establish guidelines which:

- Require that Public Participation Plans, prepared at the inception of actions, show specific consumer involvement initiatives; and

- Require that each Impact Analysis address consumer impact.

- Requiring that all agencies will be subject to Department guidelines on any action affecting consumers. Specific agencies, with significant consumer program impact, will be required to have a designated Consumer Affairs' Specialist reporting to the agency Administrator. The size of agency effort will be tailored to the volume of program actions and degree to which they affect consumers and be set up to effectively use the agency information and analytic staff in meeting their responsibilities. The Assistant to the Secretary for Consumer Affairs must approve each agency's consumer affairs plan and staffing.

- Direct liaison with program Assistant Secretaries and USDA agencies' Administrators to assure proper

communication of policies and guidelines for consumer involvement and for monitoring the effectiveness of agency efforts.

- Regular meetings of agencies' Consumer Specialists with the Assistant for Consumer Affairs to review and evaluate agency problems and performance.

CONSUMER PARTICIPATION

- The agency's Consumer Specialist will monitor the development of plans for analysis and public participation on each decision so that the magnitude of the impact and particular segments of the consumer public affected are known. Having identified the affected consumer public, the Consumer Specialist will recommend that the Public Participation Plan include avenues of participation (e.g., hearings, special mailings) which will facilitate meaningful input from the consumer segments.

- The Impact Analysis, which provides the analytic base for each decision, will contain an analysis of consumer impact and the response to consumer comment. On decisions where there is no consumer impact, the basis for determining there was no consumer impact will be stated.

- The Decision system staff, in the Office of Budget, Planning and Evaluation, through its decision tracking and clearance procedures, will be the checkpoint for assuring that the guidelines and procedures, as established by the Consumer Assistant's office, are followed by the agencies.

- Consumer participation will take place at all stages of USDA rulemaking. USDA has placed strong emphasis on early involvement of the public in Public Participation Plans. Public involvement in advance of proposed rulemaking has worked well in several important decisions. Consumer involvement at this prenotice stage, as well as during comment periods on proposed rules, would be built into Public Participation Plans.

- The number of forums, special efforts and level of officials involved in facilitating consumer involvement will vary from year to year depending on the number and significance of new programs or legislation being implemented. For example, the Food Safety and Quality Service has six meetings and hearings scheduled in connection with actions already in process. Additional proceedings, not yet contemplated, will undoubtedly arise and occasion added forums. This decision must be based on the usefulness of hearings or meetings to consumers, the public and to the best resolution of issues, rather than a goal of holding a stated number of meetings. Given the number and diversity of programs in USDA, this determination will have to be the result of continuing reviews under the guidance of the Consumer Office working through agencies' Consumer Specialists. Most significant USDA actions affecting consumers would be of national scope.

- The Office of Consumer Affairs will develop a manual advising consumers how to participate in USDA actions, and work with the Office of

Governmental and Public Affairs in the development of a communication that highlights major Department proceedings and consumer issues.

INFORMATIONAL MATERIALS

- USDA will continue to publish its Decision Calendar in the Federal Register twice a year, as at present, and will make it available to consumers and other public participants.

- Working with agencies with programs having major consumer impact, the Department will establish periodic publications to advise consumers and the public of all scheduled hearings and meetings open to public participation. While formats may differ, these publications or notices should:

- Clearly and adequately describe the issues,
- Provide focused questions or issues open to comment,
- Explain how and when consumer input should be made, and
- Provide a contact or avenue for obtaining additional information or clarification.

EDUCATION AND TRAINING

- Training of agency personnel will be coordinated by the Assistant to the Secretary for Consumer Affairs.

- Training of agencies' Consumer Specialists will be under the overall direction of the Assistant for Consumer Affairs.

- Continuing training will evolve through periodic meetings of the Assistant for Consumer Affairs with all Consumer Affairs Specialists. These meetings will draw on agency experience, the results of monitoring activities, new issues and constitute a continuing education effort.

COMPLAINT HANDLING FUNCTIONS

The Department has an excellent computerized correspondence system under the direction of the Department's Correspondence Review Officer which is a basic requirement for complaint handling and tracking. Initiating the complaint tracking function requires two steps:

- Advising the public of the establishment of a complaint monitor function in the Department and how to address it. The Correspondence Review Officer in the Office of the Secretary will develop procedures for coding and directing complaints and establish Departmentwide standards for monitoring constructive response, follow-up actions, timeliness and use of complaint information.

- Establish a consumer complaint monitoring function in the Office of Consumer Affairs under the Deputy Director to review and classify varying kinds of substantive consumer complaints and monitor the responsiveness of replies and follow-up actions. Complaints are a potentially important source of analytic and program evaluation information. The person in this position must have the analytic skill to develop and use the information received.

The existing correspondence system has the computerized capability of directing correspondence

for reply, tracking the status of response, compiling data on the volume, and timeliness of responses. In addition to the existing subject codes used, complaint categories have been added.

The larger agencies of the Department have remote access to this system. The tracking of complaints handled by agency field offices may require that agencies develop their own subsystems to incorporate agency complaint handling data into the Departmentwide overview.

Agencies of the Department vary considerably in the degree of decentralization of control over field offices. The Office of Consumer Affairs, working with the Correspondence Review Officer, will establish procedures and guidelines for agencies in consumer complaint handling, monitoring and systematic reporting procedures.

OVERSIGHT

The Director of the Office of Consumer Affairs will report to the Secretary. This position will be at the Senior Executive level. The office will be established organizationally in the immediate Office of the Secretary and charged with Departmentwide responsibilities which will include:

- Establishing operational guidelines for consumer participation in USDA decisions.
- Policy guidance for procedures and informational materials to inform consumers of their opportunities to effectively participate in USDA decisions.
- Supervise and monitor consumer complaint monitoring in USDA.
- Provide advice and counsel to the Secretary and top officials of the Department on the effectiveness of consumer participation in USDA programs.

BILLING CODE 3410-01-M

Form Approved:
OMB No. 116S79021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - _____
 - Informational materials _____
 - _____
 - Complaint handling _____
 - _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

[FR Doc. 79-36656 Filed 12-7-79; 8:45 am]

BILLING CODE 3410-01-C

Monday
December 10, 1979

DEPARTMENT OF ENERGY
DRAFT

Part III—Section B

**Department of
Energy**

Draft Consumer Program

DEPARTMENT OF ENERGY**Office of the Secretary****Draft Response to Executive Order 12160****AGENCY:** Department of Energy.**ACTION:** Request for Comments on Department of Energy Response to Executive Order 12160; "Providing for Enhancement and Coordination of Federal Consumer Programs".**SUMMARY:** Executive Order 12160 requires Federal agencies to develop and maintain a consumer program with, at a minimum, the following five elements:

- (1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;
 - (2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;
 - (3) Development of information materials for consumers;
 - (4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and
 - (5) Systematic procedures for complaint handling.
- DOE is seeking public comment on this response to the Order, its consumer programs and the adequacy of procedures to ensure consumer involvement in DOE decisionmaking processes. Comments and recommendations are requested on all aspects of DOE's efforts to involve the public, including: how to improve the quality of information provided in response to requests; making consumer involvement easier and more productive; improving the opportunities for and quality of technical assistance; and procedural or structural changes that might be needed.

As defined by the Order, "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

DATE: Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to: Liz Overstreet, Department of Energy, Office of Consumer Affairs, Room 8G031, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C. 20585.**FOR FURTHER INFORMATION CONTACT:** Liz Overstreet, at above address. Phone: 202-252-5877.**I. CONSUMER AFFAIRS PERSPECTIVE****Requirement**

Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

Current Status

The Department of Energy maintains an Office of Consumer Affairs (OCA), located in the Office of the Secretary. The address is DOE, Office of Consumer Affairs, Room 8G082, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C. 20585, and the phone number is 202-252-5877. The Director of OCA reports to the Secretary through the Executive Assistant. OCA currently has an authorized staff of 24 including consumer specialists with expertise in law, engineering, communications, economics and management/administration. OCA, as a Secretarial Office, is regularly apprised of and participates in those policy, program and regulatory activities which will require Secretarial approval.

The Director of OCA has primary responsibility for:

- Providing policy direction for, and coordination and oversight of, DOE's consumer activities,
- Apprising the Secretary of potential impacts on consumers of initiatives under consideration within the Department,
- Serving as Advisory Committee Management Officer for all DOE advisory committees, and as program official for the DOE Consumer Affairs Advisory Committee.

II. CONSUMER PARTICIPATION**Requirement**

Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

Current Status

The legislation establishing DOE (Pub. L. 95-91, Title I, Sec. 102) directs DOE to provide for, encourage, and assist the public to participate in the development and execution of national energy programs.

DOE has developed procedures to ensure early and meaningful consumer participation in the development and review of its rules, policies, and programs. While OCA maintains responsibility for oversight of DOE's activities and procedures to reach and involve consumers, DOE Secretarial Officers are accountable for regular and substantive public participation programs in their areas of responsibility.

Procedures for providing public participation opportunities in the regulatory process are outlined in DOE Order 2030.1, *Procedures for the Development and Analysis of Regulations, Standards and Guidelines*. These include: providing minimum 60-day public comment periods for significant regulations; providing minimum 30-day comment periods for

nonsignificant regulations (with opportunity to challenge on determination of non-significance); publishing draft regulatory analyses on major significant regulations for public comment; making more use of Notices of Inquiry and Advance Notices of Proposed Rulemaking; publicizing notices by means other than the Federal Register; publishing a summary of public comments and the manner in which such comments have been addressed in a final rule; and republishing every regulation within five years of its effective date, with a minimum 60-day comment period, to ensure evaluation of the continued need for and effectiveness of the regulation.

DOE also publishes, in April and October of each year, a *Semiannual Agenda of Regulations*, that includes descriptions of all regulations in the development process as well as existing regulations which are scheduled for review.

DOE Order 1210.1, a *Citizen Participation Manual*, has been issued by OCA and provides guidance and procedures for program offices in making decisions on, planning and conducting effective public participation activities. Avenues for participation in these processes include opportunity to provide written and oral comments, participation in regional public hearings and workshops, membership on advisory committees, and other public forums. This Order also outlines various means of notifying consumers of opportunities to participate in agency decisionmaking, such as special invitations or notices, news releases, public service announcements, and speeches.

OCA publishes a monthly newsletter, *The Energy Consumer*, which provides information on existing and pending DOE policies and programs and lists upcoming opportunities for public involvement in hearings and other public forums. *The Energy Consumer* regularly lists state and local contacts for those areas and issues where decisionmaking or provision of assistance is a state or local organization's responsibility. OCA also prepares and distributes special notices to individuals and groups with expressed interest and to potentially impacted groups on issues that have significant consumer impact, and maintains a mailing list of interested citizens and organizations that is made available to all DOE program offices for targeted mailings of program office notifications. DOE also publishes a monthly *Energy Meetings* calendar, publishes press releases, and uses other means of notification. Members of the public can request to be on the mailing lists for all of these types of materials.

DOE currently has 14 advisory committees established to provide guidance and recommendations to the Secretary on various energy issues, and maintains a general policy that each committee have at least 10% consumer representation.

DOE's Secretary and Deputy Secretary regularly schedule meetings with individuals and representatives of consumer and other public interest organizations to discuss issues of concern to them.

III. INFORMATIONAL MATERIALS

Requirement

Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

Current Status

DOE currently distributes a number of printed and audiovisual informational materials on various energy issues, ranging from technical documents to consumer-oriented publications such as *Tips for Energy Savers*, *Winter Survival*, and *Making Energy Regulations: How the Public Gets Involved*, and films such as *Solar Energy: The Great Adventure*.

OCA will be working on improving these materials by:

- Gathering and quantifying information on the type and subject matter of public information requests,
- Sampling recipients of publications and audiovisual materials to determine the usefulness of materials,
- Communicating public information needs to technical staff,
- Assigning staff resources for producing needed information materials in a reasonable time,
- Producing a citizen-oriented directory that contains information on DOE program responsibilities, services and responsible personnel.

DOE Secretarial Officers will be responsible for preparing explanatory materials regarding meetings open to the public for which they are responsible and for developing plans for their distribution. OCA will provide support and guidance to each Office where appropriate.

IV. EDUCATION AND TRAINING

Requirement

Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

Current Status

The Office of Consumer Affairs will be responsible for educating staff members as to requirements and activities related to Executive Order 12160, and will coordinate with the Office of Personnel to provide specialized training to consumer affairs personnel.

OCA recently conducted workshops for DOE personnel on implementation of the *Citizen*

Participation Manual. OCA plans to work with the Office of Personnel to develop additional workshop sessions, which will include regional and field office staff, and cover any new activities that may be required under this Order.

Other significant activities or changes with respect to DOE consumer programs will be communicated to all DOE staff.

Through its Energy Extension Service, the Inventions Program, and the Appropriate Technology Small Grants Program, DOE provides technical and financial assistance to consumers and organizations. DOE program offices also have responsibilities for providing technical assistance, answering scientific, technical, or procedural questions, and assisting consumers and groups in effectively participating in decisionmaking processes.

V. COMPLAINT HANDLING

Requirement

Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

Current Status

DOE maintains a correspondence control system within the Office of the Executive Secretary (ES) of correspondence addressed to the Secretary, Deputy Secretary, and Under Secretary. Such correspondence is assigned to the appropriate DOE program element for response. However, a significant amount of correspondence and other kinds of inquiries including consumer complaints is not routinely handled through ES, but is received directly in DOE program offices.

Therefore, DOE proposes to develop a decentralized complaint answering responsibility in each major DOE Office.

Proposed Responsibilities

Because DOE believes that consumer complaints will receive the most rapid and thorough response if individual offices answer complaints dealing with their areas of responsibility, the heads of such offices will be responsible for developing a complaint handling system that will meet the requirements of the Order and operate efficiently.

The elements of the Consumer Complaint System will include:

1. Statistical Reporting

The Consumer Complaint Manager in each such office will be responsible for collection and analysis of consumer complaint data for identification of problems and use in policy development processes.

2. Audit

The Consumer Complaint Manager will, from time to time, audit Office consumer complaint handling to assure that complaints within an Office are expeditiously answered with accurate and adequate responses.

3. Policy Analysis

Written reports from Consumer Complaint Managers will be consolidated and circulated periodically to Office heads for use in assessing the impact of DOE policies and programs on consumers.

4. Accountability

The Consumer Complaint Manager will publish guidelines governing the handling of complaints.

5. Opportunity for Redress

Consumers who are dissatisfied with DOE action on their complaints may ask the Consumer Complaint Manager to review an Office's resolution of an original complaint where administrative review systems have not been created at the Office level.

Proposed New Initiative

1. Each office within DOE which has significant consumer program impact will designate a Consumer Affairs Specialist(s) to prepare a plan that responds to the five required consumer program tasks and to monitor its implementation.

2. Secretarial Officers will submit plans for implementation of these procedures to the Director of OCA for approval.

3. Target dates for completion of each office program plan will be established, with the concurrence of OCA.

4. Secretarial Officers will be responsible for ensuring compliance with the plans.

5. OCA will develop more detailed guidelines for implementing procedures.

6. The DOE organizational elements which will be required to develop and implement a consumer plan are:

(a) Economic Regulatory Administration

(b) Energy Information Administration

(c) Offices of the Assistant Secretaries for: Conservation and Solar Energy, Fossil Energy, Nuclear Energy, Resource Applications, Environment, Defense Programs. Offices of: Hearings and Appeals, Energy Research, Administration, Procurement.

(d) Regional Offices

(e) Operations Offices

7. DOE will improve consumer services by strengthening its Regional Office support to consumers, by activation of the Energy Extension Service in every State, and by reforms in its information and technical assistance capabilities.

OVERSIGHT

The Director of the Office of Consumer Affairs has primary responsibility for giving policy direction to, and coordinating and monitoring DOE's consumer activities. The Office of Consumer Affairs is located in the Office of the Secretary and the Director reports to the Secretary through the Executive Assistant. The Director will have primary responsibility for apprising the Secretary of the potential impact on consumers of particular policy initiatives under development or review within the agency. The Director is a career member of the Senior Executive Service.

Issued in Washington, D.C., November 23, 1979.

Tina Hobson,

Director, Office of Consumer Affairs.

BILLING CODE 5450-01-11

Form Approved:
OMB No. 116579021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

Monday
December 10, 1979

Part III—Section C

**Environmental
Protection Agency**

Draft Consumer Program

Final Report

ENVIRONMENTAL PROTECTION AGENCY**Consumer Affairs Program in Compliance With Executive Order 12160, Providing for Enhancement and Coordination of Federal Consumer Programs****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed Consumer Program to Implement Executive Order 12160.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Joan M. Nicholson, Director, Office of Public Awareness (A-107), Environmental Protection Agency, Washington, D.C. 20460.**FOR FURTHER INFORMATION CONTACT:** Thomas F. Williams, Deputy Director, Office of Public Awareness (A-107), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-0700.**AUTHORITY:** By Administrative Directive, the Environmental Protection Agency will revise its operating procedures to incorporate the following draft consumer program.

PREAMBLE: The Environmental Protection Agency is responsible for protecting and restoring the Nation's air, land, and water systems. The laws governing EPA's environmental protection efforts are based, for the most part, on the need to protect the health and welfare of individual citizens from the serious effect of pollution. These laws affect a broad spectrum of consumer goods as traditionally understood, such as automobiles, drinking water, and pesticides, as well as the air, land, and water each of us depends on for our survival. In focusing on the health and welfare of individual citizens, EPA's programs are similar to the consumer protection programs of such agencies as the Consumer Product Safety Commission and the Food and Drug Administration, with which EPA works closely. Recognizing the impact of its programs on the public, EPA has conducted for many years, with the strong encouragement and support of Congress, active public information and involvement programs. These programs are fundamental to the decisionmaking processes of the agency, at all levels.

Executive Order 12160 provides EPA with valuable opportunities to strengthen its public representation mechanisms, and to reiterate to the public its opportunities for participation in EPA decisionmaking processes. The strong support of the President will help encourage EPA staff to take cognizance of consumer needs and consumer views in the development of its programs.

It is proposed here to implement the Executive Order by strengthening existing public information and involvement mechanisms within the Environmental Protection Agency in accordance with the requirements of the order. The vast majority of individuals now served by existing public information and participation programs are consumers as defined in the Executive Order. Efforts to distinguish, within EPA's organizational structure, between *consumer* representation and *public* representation would weaken programs of proven effectiveness. All of EPA's

authorizing laws call for public information programs, and many require public participation activities. These legislative mandates could be diluted by what would be, given EPA's responsibilities, an artificial division between the two notions.

In summary, the Office of Public Awareness and headquarters and regional program offices, in conjunction with the Administrator's Special Assistant for Public Participation, already carry out many of the programs required by the Executive Order. The staff of the Office of Public Awareness will be given certain additional responsibilities in accordance with the requirements of the order. Specifically, it will review all agency rules, policies, programs, and legislative proposals to insure that consumer interests have been adequately considered. That staff will help insure consumer participation in the decisionmaking processes of the agency. It will be given special training, as needed, to carry out these tasks. The Director of the Office of Public Awareness, in coordination with the Special Assistant for Public Participation, will be responsible for conducting training programs necessary to insure agency compliance with the Executive Order throughout the Environmental Protection Agency. The agency will conduct a reevaluation of its complaint handling procedures to insure that complaints play a proper role in the formation of agency policy. The Director of the Office of Public Awareness will be given the additional title of Special Assistant for Consumer Affairs, and in this capacity will report directly to the Administrator of the Agency. Finally, the Environmental Protection Agency will establish a high-level Consumer Affairs Coordinating Council responsible for oversight of consumer activities within the agency, and for insuring proper implementation of the Executive Order. Membership will include representatives from the program offices as well as the Special Assistant for Public Participation.

In compliance with Executive Order 12044, *Improving Government Regulations*, the Environmental Protection Agency reviewed its rulemaking procedures, and published a description of those procedures, revised in accordance with the Executive Order, in the Federal Register of May 29, 1979 (vol. 44, No. 1040), pp. 30988 to 30998. This document, entitled *Improving Environmental Regulations*, describes procedures to improve management oversight in the development of regulations, to involve the public and other governmental organizations in evaluating regulatory proposals, to analyze the effect of new and existing regulations, and to avoid unnecessary regulatory burdens on the public. It is recommended that the reader consult this material for a full understanding of the proposed changes to be made in accordance with Executive Order 12160. Copies of *Improving Environmental Regulations* may be obtained by writing to Public Information Center (PM-215), Environmental Protection Agency, Washington, D.C. 20460.

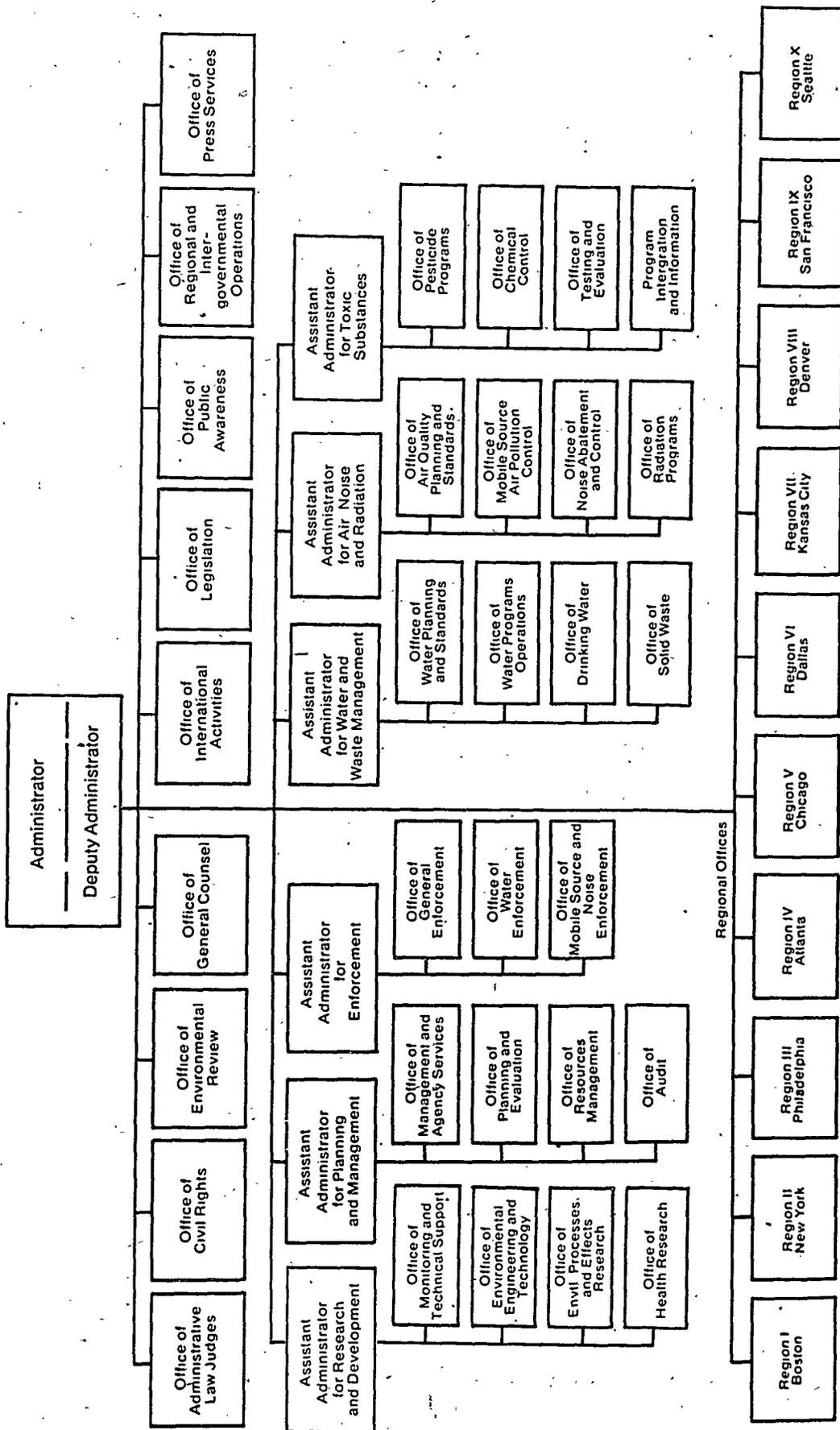
I. CONSUMER AFFAIRS PERSPECTIVE**Requirement**

Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation. (Subsection 1-401(a))

The consumer affairs staff of the Environmental Protection Agency will be the staff of the present Office of Public Awareness. That office is a staff office to the Administrator, and in this capacity, the Director reports to the Executive Assistant to the Administrator. In her new capacity as Special Assistant for Consumers Affairs, the Director will report directly to the Administrator. The place of the Office of Public Awareness within the Environmental Protection Agency is indicated on the accompanying organization chart.

BILLING CODE 6560-01-M

United States Environmental Protection Agency



BILLING CODE 6560-01-C

Size and Resources

The Office of Public Awareness has a permanent, full-time staff of 48 and an annual budget of \$2.8 million. Program officers in headquarters and regions also have public information and participation personnel, and the total agency expenditure for these functions is several times that of the Office of Public Awareness.

The Director of the Office of Public Awareness is responsible, in cooperation with the appropriate Assistant Administrators of the agency, for the development and implementation of annual Public Awareness/Participation Support Plans for each major law administered by EPA, and additional Plans for agency-wide issues and for the Offices of Research and Development, Planning and Management, and Enforcement. Assigned to work with each of the six Assistant Administrators in the development and implementation of these plans are Office of Public Awareness Associate Directors. The Associate Directors are responsible for integrating, in the Public Awareness/Participation Support Plans, the objectives of the program offices, at both national and regional levels, with the needs and perceptions of public constituency groups. The Associate Director thus acts as an advocate for the public and consumer within the program offices. Public Awareness/Participation Support Plans are implemented utilizing the personnel and resources of both the Office of Public Awareness and the program offices.

Another major component of the Office of Public Awareness is the Constituency Development Unit, which is responsible for insuring adequate two-way information flow, as well as participation opportunities for the major constituency groups, such as the elderly, youth, labor, agricultural groups, and minorities, impacted by EPA programs.

A third component of the Office of Public Awareness is the Information Development Unit, which is responsible for developing and reviewing the documents, radio and television spots, films, and other information materials called for in the Public Awareness/Participation Support Plans.

The Administrator's Special Assistant for Public Participation works in close partnership with the Director of the Office of Public Awareness. The Special Assistant is responsible for the development of public participation activities in Agency programs. She chairs a Public Participation Task Force comprised of public participation representatives from the headquarters and regional program offices, as well as agency staff offices. The Director of the Office of Public Awareness is a member of the Task Force.

Through internal training of officials in the Office of Public Awareness, the Environmental Protection Agency will develop a cadre of specialists qualified to perform the review functions required by the Executive Order. The public awareness and public participation responsibilities of the Director of the Office of Public Awareness and its Associate Directors already require a high level of knowledge of consumer interests and concerns. Through the Constituency Staff

of the Office of Public Awareness, these officials maintain close contact and communication with a wide spectrum of consumer groups. This enables these officials to be apprised of concerns of those groups regarding the Environmental Protection Agency's regulations and policies.

Responsibilities

The consumer affairs staff of the Environmental Protection Agency will have a number of responsibilities in addition to those required by this section of the Executive Order. These responsibilities are those described above for the major operational units of the Office of Public Awareness, and further described below under the Consumer Participation, Informational Materials, and Complaint Handling sections.

Relationship With Other Consumer Personnel and Agency Operating Units

These relationships are fully described in the Size and Resources subsection above.

Participation in Development and Review of Agency, Policies, Programs, and Legislation

The Environmental Protection Agency is a regulatory agency which develops and implements regulations in accordance with Congressional mandates. Thus, the focus of this section will be on participation in agency rulemaking and legislative proposals, as "policy decisions" and "program decisions" are virtually always made in the context of the rulemaking process.

1. Notification

When a program office of the Environmental Protection Agency intends to issue a significant new regulation, the Assistant Administrator of the program office sends a standard *notification form* to senior management. This notification form tells these persons that a regulation is contemplated and allows them to plan accordingly. To insure that consumer interests are represented at the earliest possible stage, Environmental Protection Agency procedures will require that the Director of the Office of Public Awareness be sent all such notification forms.

2. Stage at Which Participation Begins

Upon reviewing the notification form, the Director of the Office of Public Awareness may choose to be represented on a *work group*. This is a group of specialists drawn from various offices within EPA to advise and assist the lead office in preparing each significant regulation and its support material. Participation in these work groups, when appropriate, by officials of the Office of Public Awareness will insure that the consumer perspective is properly represented at the earliest possible stage of EPA rulemaking.

3. Methods of Participation

The program office developing a regulation is responsible for preparing a *development plan*, which identifies the purposes of the proposed regulation,

major alternatives to it, public participation measures desirable as part of the review process, and methods for identifying interested and affected parties of the regulation. Consumer affairs specialists will play an important advisory role in the preparation of these plans, as well as in the preparation of the subsequent *decision package*, in which a copy of the proposed rule is included along with analyses of the rule's impact on various sectors. EPA operating procedures will require that the economic analysis in such decision packages include a discussion of the impacts, if any, of proposed regulations on consumers. These decision packages are reviewed by agency officials in the next stages of the decisionmaking process, which occur twice for each regulation, once for the *proposed* rule, and once for the *final* rule.

The final stages of EPA rulemaking include a review of proposed rules by a *Steering Committee*, composed of representatives from each of the six program offices, and of appropriate staff offices. EPA operating regulations will require that the Director of the Office of Public Awareness be represented on the Steering Committee.

Before approval of the proposed rule by the Administrator, a *Red Border Review* is conducted by senior management. This is an internal review in which officials comment on proposed regulations and suggest modifications they believe necessary. The Director of the Office of Public Awareness, who is now part of the Red Border Review procedure, will insure, at this stage, that consumer concerns, as analyzed by the consumer affairs staff and as expressed in consumer participation forums, are properly called to the attention of the Administrator before a final decision is made.

Legislative proposals are developed by the Administrator and program offices in conjunction with the Office of Legislation. EPA operating procedures will insure that the Director of the Office of Public Awareness and Special Assistant for Consumer Affairs will be consulted in the development of these proposals.

II. CONSUMER PARTICIPATION

Requirement

Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

The Environmental Protection Agency has established procedures for the early and meaningful review of agency rules, policies, and programs by the public. Requirements for such procedures are

contained throughout EPA's authorizing legislation and regulations. To insure early notice to the public, the Office of Planning and Management regularly publishes a Regulatory Agenda which gives six-month advance notice of proposed rulemaking. Public Awareness/Participation Support Plans require activities to notify the public of upcoming decisions concerning agency rules, policies, and programs and to inform the public of opportunities to participate in those decisions.

It is our judgment that the existing public and consumer participation procedures of the Environmental Protection Agency meet, and indeed exceed, the requirements of the Executive Order. These procedures are outlined in detail in the document *Improving Environmental Regulations*, cited above. The most pertinent part of EPA's policies, as promulgated in that document, are as follows:

"For each Significant regulation, EPA will:

"(1) Draw up a plan for external participation (as part of the development plan) that shows in detail how interested and affected parties will be identified and notified.

"(2) Provide early notice that regulation development is under way. This includes publishing a Federal Register notice (usually an Advance Notice of Proposed Rulemaking), which informs the public that work is beginning, provides the general approach and schedules, and identifies particular area where additional information is needed. This notice describes the purpose, schedule, issues, available alternatives, analyses, external participation measures, and the name, address, and telephone number of an EPA contact person for the regulation. EPA will mail this Notice directly to interested and affected groups and will use appropriate news articles and radio and television spots to provide timely notice that regulation development is beginning.

"(3) Meet to discuss issues and alternatives during the development of the regulation with representatives of consumer, environmental and minority associations; trade, industrial, and labor organizations; public health, scientific and professional societies; educational associations and other appropriate individuals or groups of interested and affected parties from outside the Agency.

"(4) Hold open conferences, workshops, hearings, meetings, and arrange direct mailings as appropriate to supplement other opportunities for public participation, and keep a mailing list of those interested in receiving draft regulations and background materials.

"(5) Provide suitable background information prior to any meeting to those who will be attending. This information may include such material as a description of EPA's regulation development process; a summary of the draft regulation and key supporting materials; a list of major issues; and the name, address and telephone number of persons who can supply additional information.

"(9) Write the regulation and explanatory materials clearly. To help lead officials write regulations that

people can understand, EPA is developing a style book for regulation writers, selecting several regulations and developing them as models of good writing, and hiring editors to assist work groups write selected regulations.

"(10) Make available a draft of the Regulatory Analysis (when one is required) by the time we publish a Notice of Proposed Rulemaking. The Federal Register preamble will have a summary of the Regulatory Analysis and information on how the public can obtain it. (Note: EPA will make public a final Regulatory Analysis when it publishes the final rule.)

"(11) Provide at least 60 days for public comment, measured from the date the proposal is published, and refrain from requiring commentators to supply multiple copies of their comments. When a 60-day comment period is not possible the proposal will contain a brief statement of the reasons for using a shorter time period.

"(12) Summarize outside comments, indicate EPA's response to major points and distribute both to interested and affected individuals and groups. (We summarize comments and our responses in preambles to our final regulations.)"

In order to insure a consistent, uniform approach to public/consumer participation in the Agency, the Public Participation Task Force is developing a Public Participation Policy which is in the final stages of internal approval before being placed in the Federal Register for comment. The proposed policy emphasizes the following elements, which are spelled out in greater detail in the regulations above: identification of interested and affected members of the public (1); outreach to them in terms of early and sufficient information so they can participate in forthcoming decisions (2); two-way communication between program officials and the public (3, 4, 5, 9, 10, 11); responsiveness to public recommendations and concerns in final decisions (11, 12); and feedback to the public on the results of their participation (12). The proposed policy calls upon the Assistant Administrators and Regional Administrators to set priorities, allocate resources, and assure that the policy is applied in their jurisdictions.

EPA's established structures and procedures encourage public and consumer access to decisionmaking within the headquarters organization as well as in EPA's ten regional offices and the 50 state governments having a prime role in implementing most of EPA's environmental laws. Many of the major laws implemented by EPA contain specific provisions for public participation in the development of policy and regulations. Hence, in addition to the efforts of the Office of Public Awareness and the Special Assistant for Public Participation, program managers in headquarters and in the regions are responsible for insuring adequate budgets and personnel resources to carry out public participation activities. Regulations requiring such activities apply as well to state and local governments receiving financial assistance under EPA's programs.

EPA's public participation policy provides an overall framework of purpose, objectives, procedures and responsibility, and outlines the general scope of activities to which it will be applied. It leaves, however, considerable discretion to Assistant Administrators, Regional Administrators and Deputy Assistant Administrators to develop more specific program guidance and to determine the extent of the decisions which will be covered by the policy. This flexibility provides room for the differences among programs. For example, the Office of Water and Waste Management has recently developed and implemented, after extensive comment from all sectors of the public, regulations for public participation in its programs. These regulations were first proposed in the Federal Register on August 2, 1978, and the final regulations were published on February 16, 1979.

Another ongoing method by which EPA insures consumer participation is by the award of contracts and grants to public interest organizations of many varieties, which conduct public education and participation programs for their constituent members and the general public. Such grants are awarded by the Office of Public Awareness as well as by program offices in the areas of air, water, drinking water, solid and hazardous waste management, noise, pesticides, and toxic substances. All elements of the public have easy access to agency decisionmakers. In part, this is a result of the decentralization of EPA authority, which results in major decisions occurring in more easily accessible regional offices. Various program managers are required by regulation to provide participation opportunities. These are facilitated by the Constituency Staff of the Office of Public Awareness and public participation staffs in the programs.

III. INFORMATIONAL MATERIALS

Requirement

Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them. (Subsection 1-401(c))

It is our judgment that the current programs of information production of the Environmental Protection Agency are in compliance with the requirements of the Executive Order. Nevertheless, the Executive Order provides information specialists within the agency with a valuable opportunity to reassess the currency, relevance, and completeness of information available to consumers.

As described in the Section Consumer Affairs Perspective, above, Office of Public Awareness Associate Directors work with program offices in the development and implementation of annual, cooperative Public Awareness/Participation Support

Plans, which are designed to help the program offices achieve their goals.

In developing these plans each fiscal year, existing informational materials are reviewed for their currency and determinations are made as to the appropriate information tools necessary to convey specific messages or information about programs in the upcoming fiscal year. As public awareness/participation is a dynamic activity, the plans are amended as necessary when program objectives are influenced by current events.

A wide variety of informational materials are produced and distributed to explain the broad range of activities and regulation undertaken by the agency in carrying out its responsibilities for implementing the environmental laws enacted by Congress. These materials are produced by the Office of Public Awareness in headquarters and in the regions, and by headquarters and regional program offices.

Publications, slide presentations, exhibits, radio and television public service announcements, fact sheets, films, print ads, brief documentaries, full length public television documentaries, speech reprints, the *EPA Journal* (published ten times a year), articles for placement in newspapers, magazines, and newsletters, are developed on air pollution, water quality, drinking water, waste management, pesticides, toxic substances, radiation, and noise pollution. Similar tools are developed explaining the planning and management, enforcement, and research and development activities of the agency. Materials are often produced to convey to the public in lay terms results of technical environmental research and development. Materials are also produced to convey cross-cutting issues such as energy, economics, health, regulatory reform initiatives, and public participation initiatives.

EPA informational materials typically include a description of environmental problems facing consumers, and accounts of specific agency programs, activities, or regulations designed to meet those problems, along with a discussion of steps consumers can take to protect their health or protect or enhance their environment. Frequently, this material provides information concerning how consumers may become involved in the public participation processes of the agency. Consumers are provided brief explanations of provisions of law or regulations calling for public involvement, and of the types of public meetings or hearings EPA conducts in compliance with these provisions. Some material is produced solely to help consumers wishing to become involved in agency decisionmaking. Consumers may be further directed to EPA regional Public Awareness Office for additional information or for assistance on public involvement procedures.

Informational materials are often developed for a specific constituency, such as youth, agricultural workers, pesticide applicators, and mechanics. To further enhance awareness and understanding of the agency's activities, materials are often produced in both English and Spanish.

Materials developed under Public Awareness/Participation Support Plans are reviewed by program representatives for technical accuracy, by editorial and constituency specialists and by other Office of Public Awareness officials to insure that they are comprehensible to consumers and accurately reflect agency information policies. Office of Public Awareness Associate Directors review all public information documents produced by the agency, and forward them with recommendations for approval or disapproval to the Director of the Office of Public Awareness.

Usefulness of Current Material

Periodic reviews of materials are conducted by Office of Public Awareness Associate Directors and Constituency representatives, as well as by program officers, to determine whether those materials are obsolete or in need of revision. At the present time more than 150 publications and 35 audiovisual presentations are available from EPA headquarters, and more from regional offices. For Fiscal Year 1980, Public Awareness/Participation Support Plans call for production of 73 new publications and 13 new audiovisual presentations at EPA headquarters.

Plans for Improvement

Numerous informational materials exist, or are in the process of development, for most agency programs. However, efforts are now being made to develop a series of informational materials in areas where consumers have not traditionally had an interest, such as planning and management and research and development, and in other previously neglected programs, such as radiation, where current events have increased public interest.

Executive Order 12160 clearly emphasizes the need for consumer education about all of the agency's activities. New efforts will be made to insure that all EPA informational materials convey the intent of the Executive Order. The Office of Public Awareness will produce informational materials to convey information concerning the EPA's response to the Executive Order to the public.

Distribution of Materials

1. Printed Materials

Initial distributions of printed materials are routinely sent from EPA headquarters, in bulk, to the EPA's ten Regional Public Awareness Offices, 27 laboratories and field offices, ten regional libraries, Visitors' Center, Public Information Center, and Printing Management Office, which handles subsequent nationwide distribution of publications. These entities are responsible for redistributing publications within their jurisdictions, or for providing them to organizations for distribution to consumers.

In addition to the above distribution, mailings of materials are made to individuals and organizations on selective Office of Public Awareness mailing lists. These lists consist of over 100 categories of individuals and contain over 67,000 individual addresses. These

mailings naturally tend to generate even further interest in EPA materials, as the categories include national organizations, their newsletters and magazines, and newspapers and magazines with general distribution.

EPA frequently purchases mailing lists from private sources such as Dun and Bradstreet, and from specific groups and organizations whose members may be particularly affected by EPA activities.

Last year, the Office of Public Awareness initiated monthly mailings of printed materials to over 350 State and local public information officers to assist them in carrying out their environmental responsibilities. These information officers have commented that such mailings have materially increased their effectiveness.

Another mechanism employed by the agency when it needs to reach consumers quickly is supermarket distribution through the facilities of Supermarket Communications, Inc. This company has display racks of publications in over 3,500 supermarkets throughout the country. A one month campaign routinely results in the dissemination of over one million copies of a document.

Each regional office also has a distributional network for informational materials produced in the region.

2. Press Services

EPA Press Officers, at headquarters and in the ten regional offices and four major laboratories, are responsible for providing information, through the media, to consumers concerning current EPA rulemaking and other major activities of the agency.

News releases are issued as frequently as necessary, often several each day. Copies of headquarters releases are carried to the National Press Building and are thus made available to every major newspaper having a Washington office. In addition, copies of releases are routinely mailed to the nearly 3,000 daily newspapers and over 8,000 weekly newspapers throughout the country. Releases are sent out to wire services and specialized magazines, newsletters, and newspapers when appropriate.

Press conferences are held on major agency actions and are open to the public as well as the media. In order to more fully explain complicated environmental decisions to the media, press briefings are often held a day or two before a major action is announced in a press conference.

To insure that agency officials are kept current on consumer views, as expressed in the media, concerning agency regulations and other actions, the Office of Press Services compiles a daily briefing book from several major newspapers, and a weekly briefing book on environmental articles taken from newspapers from throughout the Nation.

3. Audiovisuals

A variety of audiovisuals, such as films, radio and television public service announcements, full length public television documentaries, exhibits, slide presentations, etc., are developed by the Office of

Public Awareness and are seen and heard by consumers in a variety of ways.

Television public service announcements are sent to over 800 program managers of television stations, and radio spots are mailed to over 6,000 program managers of radio stations throughout the country. Brief documentaries for use on local and national news programs are also given nationwide distribution.

The agency awards grants to public television stations to defray some costs of producing documentaries on environmental issues. These shows are promoted initially throughout the 280 station PBS system, and then are subsequently placed in a motion picture distribution house for further distribution to public, commercial, and cable television stations. These grants also encourage public television stations to produce special public participation programs, such as talk shows with community leaders, business leaders, and concerned citizens, in which local issues are discussed using the documentary as a resource. These programs further emphasize the need for consumer participation in environmental decisions that might directly affect consumers and their communities. A show on drinking water produced in 1977 is still being shown, and has been seen by an estimated 20 million people. A public television show on chemicals in the environment has recently been released, and a show on hazardous waste is scheduled to be released in late 1979.

The documentary films produced for television, and other films produced by the agency, are distributed either through private distribution houses or through the National Audiovisual Center of the General Services Administration. The films are also promoted by headquarters and regional personnel, and are seen by thousands of school and community groups throughout the year. A short, animated film on water pollution has had enormous success as use as a short subject in movie theaters.

Slide presentations are produced in sufficient quantities so that supplies can be placed in EPA regional offices for use by their various constituencies. These presentations are also shown by many national organizations who assist the agency by conveying specific messages.

IV. EDUCATION AND TRAINING

Requirement

Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations. (Subsection 1-401(d)).

As described above, EPA already has, in the professional staff of the Office of Public Awareness and in public participation staffs within its programs, a

staff well-trained and experienced in public information and participation processes. Through the Constituency staff of the Office of Public Awareness, and through other programs, EPA now provides technical and financial assistance to organizations of individuals affected by EPA programs. This assistance helps insure that the public will be able to participate knowledgeably and effectively in EPA decisionmaking. EPA recognizes a responsibility not only to allow public participation, but to encourage it with all available means at its disposal.

Specialized Training for Consumer Affairs Personnel

The Director of the Office of Public Awareness and Special Assistant for Consumer Affairs will be responsible for providing specialized training, as required, to consumer affairs personnel within the Environmental Protection Agency.

The Office of Public Awareness will develop information, in various media, for EPA staff relating specifically to Executive Order 12160, describing how it is being implemented and how staff members are responsible for insuring consumer representation in their programs. EPA's existing training component will develop, in-house and through contracts, training modules on the Executive Order and related consumer matters, which will be given to all EPA employees.

The Public Participation Task Force is currently developing a series of public participation training activities for the programs and regions so that EPA managers will be suitably prepared to implement the proposed Public Participation Policy. Consumer concepts and skills will be incorporated in the training package.

Selecting Consumers and Organizations To Receive Assistance

Technical assistance in the form of grants to prepare written material, conduct workshops and conferences, and participate in EPA's decisionmaking processes is provided through headquarters and regional program offices and through the Office of Public Awareness in accordance with Public Awareness/Participation Support Plans. Decisions on such grants are made by program officers and by the Director of the Office of Public Awareness.

V. COMPLAINT HANDLING

Requirement

Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy. (Subsection 1-401(c))

The Environmental Protection Agency's established complaint handling procedures substantially comply with the requirements of the Executive Order. All consumer complaints will continue to be received and processed by the Public Information Center, which is presently responsible for complaint handling.

Sources of complaints received by consumers include those sent to the Office of the President of the United States and his staff, and those which are sent directly to EPA regional or program offices. Less than one percent of complaints is received by telephone, and if pursued by the caller, these complaints are handled in the same manner as written complaints.

Upon receipt at the consumer complaint desk of the Public Information Center, complaints are categorized into major areas of agency concern: air, water, noise, waste, pesticides, radiation, toxic substances, and general. Once categorized, complaints are logged into a permanent record of receipt. The format for acknowledgements and responses is EPA Standard Form 5180-1. It indicates the date of receipt and deadline for reply, which has been established as nine working days after receipt. Complaints are copied and filed by a control number, which is indicated on the attached form.

Complaints are referred to one of four public information specialists, each of whom is in charge of assigned areas of interest. These specialists then determine the nature of the complaint and either answer it themselves, or refer it to the appropriate regional or program office for further consideration and reply.

The Public Information Center requires that a copy of the eventual reply be filed with the original complaint as verification. In some cases, when complaints are not promptly handled by the office to which they are sent, the Center will reroute the complaint to a more relevant authority. This is seldom required, however.

Once the complaint is answered, the material if filed in an inactive complaint file.

A weekly report is compiled which details the subject matter of public inquiries and indicates correspondence received, complaints, and other inquiries. Cumulative statistics are maintained of outstanding inquiries.

VI. OVERSIGHT

Requirement

The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency. (Subsection 1-402).

The Director of the Office of Public Awareness, a GS-17, will be designated as the senior-level official called for in the Executive Order. That person will be given the additional title of Special Assistant to the Administrator for Consumer Affairs. As Special Assistant for Consumer Affairs, this person will report directly to the Administrator of the agency. She will coordinate with the Special Assistant for Public

Participation in the implementation of the Executive Order.

The nature of this official's responsibilities and authority, and the ways in which the official will interact and interface with other agency offices and staff members, have been discussed above in the Consumer Affairs Perspective, Consumer Participation, and Complaint Handling sections.

EPA will establish a Consumer Affairs Coordinating Council, which will be responsible for insuring continued EPA compliance with the letter and spirit of Executive Order 12160. The Council will have oversight and coordinating responsibility over the consumer affairs programs of EPA. It will be co-chaired by the Special Assistant to the Administrator for Consumer Affairs, and by the Assistant Administrator for Planning and Management or his designate. The Office of Planning and Management has budgetary and administrative oversight for all EPA programs. The Assistant Administrator's authority over EPA internal operations will help insure swift and effective implementation of the Executive Order. Represented on the Consumer Affairs Coordinating Council will be the Special Assistant to the Administrator for Public Participation, designees from each of EPA's program offices, and the head of the Public Information Center.

Douglas M. Costle,

Administrator.

November 21, 1979.

BILLING CODE 6560-01-M

Form Approved:
OMB No. 116S79021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

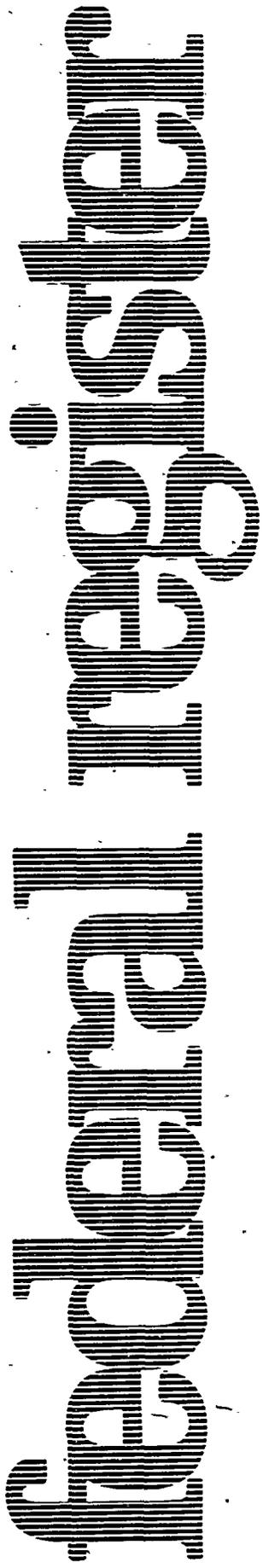
**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

Monday
December 10, 1979

Part III—Section D

**Department of the
Interior**

Draft Consumer Program



DEPARTMENT OF THE INTERIOR**Office of the Secretary****AGENCY:** Department of the Interior.**ACTION:** Draft Consumer Affairs Program for the Department, and Invitation for Comment.

SUMMARY: The Department has drafted a Consumer Affairs Program to provide a policy framework, standards of performance, and an oversight mechanism ensuring effective access of the consumer public to the Department's activities of interest or concern to them.

DATE: Comments must be received by March 10, 1980.**ADDRESS:** Send comments on the Interior draft program to Assistant Secretary-Policy, Budget and Administration, U.S. Department of the Interior, Washington, DC 20240.**FOR FURTHER INFORMATION CONTACT:** Cecil Hoffmann, Coordinating Officer for Public Participation and Consumer Affairs, 202-343-5106, address as for Assistant Secretary, above.**AUTHORITY:** Executive Order 12160.

SUPPLEMENTARY INFORMATION: As called for by the President's Executive Order, "Providing for Enhancement and Coordination of Federal Consumer Programs," the Department has drafted a Consumer Affairs Program designed to ensure that "consumer needs and interests are adequately considered and addressed."

The goal of the program is to offer individuals who have an interest in this Department's business ready access and focussed information about their concerns—including information about the Department's procedures for addressing public concerns.

The program as published here is intended as a consumer's window on the Department of the Interior. It provides a framework for the separate programs of the Department's component bureaus and offices—there is a basic philosophy of awareness and advocacy, ready access no matter what the concern, standards of performance, and a mechanism for systematic monitoring and oversight carefully integrated with the systems for Secretarial policy determinations.

Component bureaus and offices of the Department have, or have under way, structured programs to meet consumer needs in line with their separate missions. Several recent pieces of legislation have set detailed requirements for individual bureaus to provide opportunities for citizen involvement. Newly designed programs or major revisions to existing programs relevant to public access and input to Department activities are offered for public comment separately. For information on those programs, contact the Bureau or Office directly or contact the Department's Coordinating Officer at the address above.

Comments received by March 10, 1980 on the draft program published here will be considered in drafting a final program for publication in the Spring. However, it is the Department's policy that members of the

public are encouraged to comment at any time on consumer access to the Department. Comments may address the access to a particular bureau or office, and such comments will be shared promptly with the unit and considered as part of the overall program.

The Department program calls for surveys of certain Department systems and performance. It is intended that, insofar as possible, these surveys will be completed by March 10, 1980, so that the results can be incorporated along with the public comment received.

The principal author of the Department's Program is Cecil Hoffmann, Office of the Assistant Secretary—Policy, Budget and Administration. Substantive input came from staff in all major Department Bureaus and Offices, including the Offices of the Solicitor and the Director of Public Affairs, and the immediate Office of the Secretary.

Larry E. Meierotto,

Assistant Secretary—Policy, Budget and Administration.

November 21, 1979.

I. CONSUMER AFFAIRS PERSPECTIVE**Introduction**

The missions of the Department of the Interior include:

- Management of lands and water resources, including access to publicly owned energy and other mineral resources;

- Regulation of energy and mineral development;
- Protection of fish and wildlife populations and their habitat;

- Protection and interpretation of historic, archaeological, and other cultural or recreation resources of national significance;

- Advocacy for American Indian and Alaska Native peoples for whom the Federal government has a trust responsibility;

- Oversight of Federal programs delivered to the various Territories of the U.S.

These responsibilities of the Department are carried out through the day-to-day operations of its eleven major Bureaus, Services or Offices. These office are grouped by related functions under four Assistant Secretaries—or Land and Water Resources; Energy and Minerals; Fish, Wildlife and Parks; and Indian Affairs. The Office of Territories reports directly to the Secretary, and there is an Assistant Secretary for Policy, Budget and Administration—to whom the cross-cutting and coordinative staffs report.

The Department of the Interior acts as steward for the nation's storehouse of natural resources. As such, the Department's missions are carried out for all citizens, and any member of the public has a potential interest in the Department's business. The Department of the Interior consumer program, then, is its program for public participation in decisionmaking. It offers consumers—as individuals or in groups—access to Departmental decisions which may affect them, or which they may see as affecting them.

Traditional audiences for Department programs have been conservation and environmental groups, representatives of agriculture and industries who lease

or otherwise use public resources; academic, scientific or industrial communities working cooperatively in research on many areas of basic natural resources knowledge; and visitors to National Parks, Refuges, recreation areas and other lands, waters, or - installations managed by the various Bureaus, Services and Offices which make up the Department of the Interior.

The traditional constituent groups still provide useful access to the Department's activities, because of the commonality of interest and the value of shared resources and thinking. However, any consumer has the same opportunities for access to the Department's information and its decisionmaking. The purpose of this program is to guide the interested consumer to:

- How and when people can get useful information about Department programs;
- How people can know what activities the Department is considering which may be of interest or concern to them;
- How and where people can make timely input to these considerations;
- How the Department will collect and use their input; and
- What will be done in response to the public's concerns.

Each bureau or office is responsible for its own public participation plan within the policy framework, reporting requirements, and oversight of the Department program presented here. Two major units, the Water and Power Resources Service (formerly the Bureau of Reclamation) and the Bureau of Land Management, have program plans which include extensive handbooks, field guidelines, etc., which have already scheduled wide review and public input, and which are expected to be in final in the same time frame as this.

Responsible officials of each Bureau and Office are accountable for early considerations of the need for the public—consumers—to participate in decisionmaking, at any level, if there is a potential for public concern or interest.

Because the public now expresses much of its concerns about Interior activities through the environmental impact review procedures under the National Environmental Policy Act the Department's public involvement guidance closely matches those government-wide procedures. Also, public participation planning for activities at any level closely follows Federal requirements for formal rulemaking, and intra-Departmental requirements for Secretarial Issue Documents, and for a Critical Issues Management System. This standardization of procedures and reporting patterns insures continuing attention to public input by officials who know enough and have enough authority to build consideration of public concerns, large or small, into their administration of Department activities.

It is the policy of the Department of the Interior to offer its public meaningful opportunities for participation in decisionmaking processes leading to actions and policies which may significantly affect or

interest them. This policy applies to development and review of agency rules, policies and program as well as to such other local or less formal kinds of program decisionmaking as might affect of interest the Department's public. The Department's guidelines governing public participation are in the Departmental Manual (Part 301, Chapter 2). "Public" means affected or interested individuals, including consumers; organizations and special interest groups—official of local, State and Indian tribal governments; and officials of other Federal agencies.

The guidelines supplement laws, regulations, policies, and guidelines mandating or governing public involvement in administrative action. In determining whether to solicit public participation in a decision-making process, and in determining the form of the participation, Department officials must consider particularly:

- (1) The notice-and-comment rulemaking requirements of the Administrative Procedures Act, 5 U.S.C. 553;
- (2) The Federal Register publication requirements of the Freedom of Information Act, 5 U.S.C. 552(a);
- (3) The advisory committee requirements of the Federal Advisory Committee Act, 5 U.S.C. Appendix I;
- (4) The environmental impact consideration process of the National Environmental Policy Act, 42 U.S.C. 4321, et. seq.; and
- (5) The procedures for development of significant rules under Executive Order 12044 (March 23, 1978).

Staff Location and Resources

The central consumer affairs contact point for the Department of the Interior is the Departmental Coordinating Officer for Public Participation and Consumer Affairs. The officer serves on the immediate staff of the Assistant Secretary for Policy, Budget and Administration.

All Assistant Secretaries designate contacts on their immediate staff who are responsible for Public Participation and Consumer Affairs in the functional area under their jurisdiction—Fish, Wildlife and Parks; Energy and Minerals; Land and Water Resources; and Indian Affairs.

All Bureaus or Office Directors designate staff (not limited in number) from appropriate units. This group of designates includes public affairs officers (frequently the "consumer contact" for a bureau), Special Assistants; public participation specialists, training officers, program planners, policy analysts, evaluators, etc. The range of disciplines and the clearly assigned accountability and reporting procedures insure continuous, wide, appropriate consideration of the views of consumers—the public—on current issues. It also assures that institutional procedures are set in place so that the public's concerns are regularly heard and addressed even after current staff officials move on.

The bureau and office designates are accountable to their supervisors and through the normal chain of command to the Secretariat for the coordination, technical assistance, monitoring, and reporting to

insure effective public participation and attention to consumer concerns as appropriate to each of the many missions they carry out under the Department's banner.

Responsibilities and Relationships

The Departmental Coordinating Officer for Public Participation and Consumer Affairs reports to the Assistant Secretary for Policy, Budget and Administration. This office has immediate access for consultation, as needed, to the Director of the Office of Public Affairs, the Secretariat members, and other Department Senior Staff.

All Assistant Secretaries meet in council with the Secretary and the Under Secretary regularly during the week to report on and discuss issues. Public participation in Department decisionmaking, including consideration of consumer concerns, is systematically raised in these discussions, for the range of Departmental concerns, by the Assistant Secretary for Policy, Budget and Administration, and the Director of the Office of Public Affairs, if not by others.

The Assistant Secretary for Policy, Budget and Administration has continuing, ready access to all facets of the Department's work, throughout many stages from early problem definition through field implementation of final policies, and evaluation of program effectiveness. Thus it is the most effective location for the Departmental Coordinating Officer for Public Participation and Consumer Affairs. The location allows knowledge of, and access to, all the resources of the Department necessary for vigilant, systematic attention to consumer concern with Interior Department activities.

The Departmental Coordinating Officer for Public Participation and Consumer Affairs chairs regular meetings of the Assistant Secretaries', and Bureaus', and Offices' designates, forming a high-level staff Working Group. This system maintains formal contact for regular reporting, and for exchange of ideas, information, problems and advice. The group makes recommendations for discussion in the Secretary's Policy Staff Meetings. The group staffs initiatives raised by the Secretariat in the Secretary's Policy Staff Meetings.

The Executive Secretariat of the Department supports the communication linkages throughout the Department on a continuing systematic basis. It coordinates balanced documentation of issues presented to the Secretary, whether for decision or for information. The two intra-Departmental procedures for doing this are Secretarial Issue Documents and the Critical Issues Management System. The unit also oversees the routine circulation of memoranda, briefing papers and other documentation among the Secretariat, Senior Staff, and principal office heads.

Each Assistant Secretary and each head of Bureau or Office is responsible for maintaining effective procedures allowing public participation early and at intervals throughout decisionmaking processes which may significantly affect or interest them.

(1) The procedures will be available to the public.

(2) Procedures identify a staff contact point (public affairs office or other as appropriate) to deal with or refer to knowledgeable officials all matters bearing on public involvement and consumer affairs; and to circulate systematically key public involvement information among interested parties including policy and program officials, public affairs, training, and equal opportunity divisions, in Washington and the field.

3. Procedures provide for responsible officials to record enough information about any public participation process they undertake so that public participation efforts throughout the Department can be compared and evaluated. The record is to note as briefly as possible the usefulness of the bureau guidance, the public participation plans and the techniques selected, along with the adequacy of the manpower and other resources applied, and some judgment of the amount and kind of public input, and its application to the decision.

II. CONSUMER PARTICIPATION

Because of the nature of Interior's business—for example, as a land management agency, or as a regulator of the surface effects of mining—much of a consumer's concern with activities naturally arises locally or regionally rather than in Washington. For this reason, the Department of the Interior has established a policy that its managers at all levels must consider the needs of consumers, and must make allowance for the fact that the public may have an interest in participating in the development and review of not only rules, policies, and programs, but program activities on the regional or local levels. For this reason, program managers and support staff at any level can become the "responsible official," responsible for a public participation plan and its implementation integrated with the steps necessary to reach final decisions.

Rulemaking procedures are prescribed by the Administrative Procedures Act, Executive Order 12044, and in part 318 of the Departmental Manual. These procedures call for early notice of intent to write regulations, not only in the Federal Register, but by press release, and where applicable, by mailings to groups and individuals, and other means.

For major policy, program, or other Secretarial level decisions, the Department has specific procedures requiring input on options with Department-wide review before presentation to the Secretary. Part 301 of the Departmental Manual prescribes the steps for Secretarial Issue Documents. These instructions include a requirement to display the kind and amount of public participation in the preparation of options for decision.

Every six months, the Department publishes a calendar of regulations pending or planned, as do other Federal agencies. The Department is considering the feasibility of publishing a calendar of other significant activities, either in conjunction with the regulations calendar publication or separately. The usefulness of such a publication, what it would cover,

and how often and where it would appear are among the considerations.

A continuing source of information about Department activities is the public process in producing environmental impact statements. Widely publicized and discussed under a variety of agency auspices, the Department initiates, monitors, or reviews hundreds of such statements annually from its wide range of expertise as well as jurisdiction. Public comments on a wide range of natural resource concerns are registered, and become built in considerations for Departmental managers.

Officials throughout the Department look for opportunities to improve the general level of public knowledge about significant authorities and activities of the Department, with provision for recorded comment and feedback. Suggested means include periodic publication of calendars of anticipated actions printed in popular as well as official press; periodic open public meetings; periodic "open office" time; and other public involvement techniques which, being regularly scheduled, could lessen the need for numbers of separate public participation plans or events.

The best point of access to the Department of the Interior for an individual person anywhere in the country is a public information officer for the Bureau or Office carrying out the activity of interest. If a consumer does not know which unit is responsible for his/her area of concern, the best beginning point of contact would be the Secretary's Public Affairs Office or the Department Coordinating Officer for Public Participation and Consumer Affairs. The consumer will be directed to the best source of information about his/her concern, including information about the procedures and responsible officials which govern the decisionmaking or activity about which he/she is concerned.

Staffing Responsibility

Each Assistant Secretary and each head of Bureau, Service, or Office is responsible for:

- (1) Up-to-date and consistent policy guidance on the kinds of decisions or activities in his/her area in which public involvement is or is not needed or useful, and
- (2) Procedures for such public involvement in keeping with office missions.

Responsible officials will identify and assign qualified personnel with necessary technical skills with staff support and funding adequate to plan and carry out public participation effectively tied to the decisionmaking process.

Consumers' access to public involvement activities, if there have not been announcements, schedules, or other published material on the activity, is to write or call the nearest Bureau or Office Public Affairs unit, or if they need an advocate for their concerns beyond the access offered by these referrals, they may call the Departmental Coordinating Officer who will locate an appropriately trained respondent.

Timing for Participation

Before a proposed significant rule or regulation is drafted, a notice of intent to propose rule making will be published in the Federal Register. The notice of intent will advise the public where additional information can be obtained and where comments should be sent. A press release will be issued when public interest in the subject matter warrants notice beyond routine publication.

Officials will consider opportunities where public input might be necessary or useful in any decisionmaking process and in periodic work planning processes, as well as for the traditional procedures such as project planning, area management planning, environmental assessment, or established consumer affairs activities.

Responsible officials will consult with the public affairs division of their bureau or office, or of the Department, throughout their planning for public participation, starting with the earliest discussions as to whether public participation is needed or useful for the given instance.

The consumer public is encouraged to suggest the areas of their concern as early as possible in order to condition the responsible officials' judgments as to whether citizen involvement is needed or useful on a particular matter.

Avenues of Participation

The most regularly used ways to open avenues of participation are Federal Register notices of intent, press releases, and local or regional public information meetings, where a problem or needed activity is articulated, the public can hear presentations, see graphic displays, obtain written material, and ask questions. Among the information relayed at such meetings is a proposed schedule for decisionmaking or planning, and the opportunities for the public to be involved. Questions or comments on the processes themselves are duly considered, and may well result in changes. It is especially useful if consumers express themselves early in the process.

Responsible officials survey and select techniques for public participation which are appropriate both to the mission of the unit and to the extent of possible public interest. Sample techniques are listed below. These techniques may be used alone, or in sequence with others. They may be used once or repeated. In general, officials consider the degree of formality useful and appropriate to various stages of the decision process, and consumer opinion on these choices is valuable, also. In general, initial stages call for the less formal techniques (press releases, speeches, informal meetings, etc.). Near the final decision point, the more formal techniques may be suitable or necessary (public hearings, Federal Register publications, etc.).

The overall public participation plan, closely tied to the decisionmaking process, is intended to be flexible enough that techniques may be added or dropped as public input shows a new level of need or interest. Here is a check list of techniques used.

(1) For announcing possible actions or need for action and for supplying information (including public participation plans themselves): releases to press and other media, direct mail, brochures, reports, and speeches or presentations to interest groups, conferences, schools, clubs, etc.

(2) For gathering opinion or reaction to issues, questions or proposals: public hearings, less formal public meetings or forums, "hotlines" and surveys or questionnaires. (Any survey or questionnaire must conform to requirements of the Office of Management and Budget.)

(3) To allow interaction and exchange of information and opinions on issues, questions or proposals: workshops, advisory boards, informal contacts, and several varieties of structured "nominal group" discussions. These techniques may be structured to develop alternatives or modifications or to help resolve conflicts between used groups in cases where genuine trade-offs exist in the issues under discussion.

(4) For feedback to those interested, any of the techniques above may be used. Techniques using discussion and interaction provide some instant feedback to participants. Ideally, feedback should include not only intermediate or final decisions, but also reference to the public views heard and considered in the participation process.

The Assistant Secretary—Policy, Budget and Administration in consultation with the Director, Office of Public Affairs, the Solicitor, the Under Secretary, the line Assistant Secretaries, and Senior Staff of the Department will periodically evaluate the effectiveness of the Department's total effort to involve the public in a meaningful way in the decisionmaking processes of the Department. Data reviewed in the course of the evaluation will include reports of the Assistant Secretaries, heads of bureaus and offices, and responsible officials, and will also include both random and systematic comment from the public.

Consideration of Public Concerns

Each Assistant Secretary and each head of Bureau or Office is responsible for insuring that public concerns are adequately analyzed and then considered in the decisionmaking process. For a decisionmaking process where there was citizen involvement, the responsible official makes sure that all appropriate comments have been properly recorded, evaluated and considered. His/her administrative record reflects the amount and kind of public input and how it was used. Responsible officials compile periodic reports, at least annually, which briefly summarize and record enough information about any public participation process they undertake so that public participation efforts throughout the Department can be compared and evaluated as to adequacy in considering public concerns. More specific requirements for consideration of public concerns in the environmental impact statement are set out in 40 CFR 1503.4 of the regulations implementing the provisions of the National

Environmental Policy Act; agency rulemaking (Departmental Manual, Part 318), Secretarial Issue Documents (Departmental Manual, Part 301).

Special Efforts

The Department welcomes suggestions at any time as to how its outreach to consumers could be improved or its avenues for citizen involvement made easier to follow, or more effective.

Recent legislation has made extensive and detailed provision for citizen participation, starting with the intensive rulemaking procedures for activities mandated by the new laws. One outstanding example is the Federal Land Policy and Management Act governing activities of the Bureau of Land Management. Planning for multiple uses of the public lands—grazing, timber, prospecting and mining, backpacking, off-road vehicles, are but some of the potential or existing uses. The Bureau has established a policy staff position in the central office to design, coordinate, and oversee the many opportunities for public involvement as the Act is administered. Another significant law was the Surface Mining Control and Reclamation Act, which ordered a new bureau, the Office of Surface Mining and Reclamation Enforcement. The Heritage Conservation and Recreation Service has initiated a program targeted to urban recreation needs.

Each of these laws or initiatives has demanded, and the Department has provided, frequent highly publicized opportunities for the public, including State and local officials, to be integrally involved in designing the administration of new programs, or of program revisions.

Each of these programs is so large and so varied in their effects, and the kinds of people concerned with their effects so different, that it is impossible to summarize usefully all of the activities or access to the processes. Each of the Bureaus and Offices has an ongoing effort to heighten awareness of, and advocacy for, public or consumer concerns in line with its mission authorities.

Responsible officials make a special effort throughout all planning for public participation to reach and involve reluctant or unknown segments of the public.

For example, minorities are reached by such means as minority press, television, and radio. Likewise, special media channels exist to reach special segments of the public—the aged, young people, the handicapped, the disadvantaged. Information is posted or handed out in non-traditional places. Material inviting public participation can be supplied in languages other than English.

III. INFORMATIONAL MATERIALS

Each of the Bureaus and Offices produces and distributes materials to inform the public about overall responsibilities and services, as well as about individual facilities or locations of interest: National Parks, Monuments, Battlefields and other Historic sites, Seashores, and numerous other Recreation

Areas; Fish and Wildlife Refuges, Game Ranges, dams and reservoirs. Several units of the Department have missions for which their major audience are in the academic and scientific communities: the Geological Survey, the Bureau of Mines, the Office of Water Research and Technology, units of the Fish and Wildlife Service. Studies cover a wide range of natural resources concerns. The results of such work are expected to contribute to better natural environments, better quality of life, more economical use of irreplaceable resources, and the like. Work is done in conjunction with universities, with other State and local entities, and with other agencies of government. Technical forums and conferences, bulletins and paper are not generally of interest to the lay public or consumer. However, if there is interest, there is easy access to publication lists, research project lists and abstracts, etc., through the Public Affairs Offices of the Bureaus or Offices or of the Department.

Agency Information Services

Informational materials are distributed through a variety of methods with emphasis on the most effective techniques to reach specific interest groups and special publics for the particular project or program. The Department and the Bureaus, Services, and Offices maintain mailing lists of constituencies, specific groups and interested persons grouped by topical interests, to receive information materials. All use, as appropriate, additional outreach methods such as brochures; films; television; radio; public service announcements; workshops; seminars; public meetings; press conferences; press releases; public speaking; articles on periodicals; newsletters; fact sheets; and specially arranged briefings. Information and Public Affairs Offices and responsible program officials in each Bureau and Office are also encouraged to distribute the Department's public participation guidelines from the Departmental Manual and this Notice as widely as it may be useful to anyone interested in effective participation. If the consumer knows what kinds of opportunities are or can be available, he/she is better able to know when to go where, and what to ask for so he/she will be heard.

1. Usefulness of Current Material

The Department publishes a number of brochures and other forms of information material giving an overview of the agency and its component Bureaus, Services, and Offices. These materials are kept up to date. The many complex and diverse roles of the numerous Interior agencies are laid out in informative and readable fashion for the laymen. Key materials describing the Department's overall responsibilities are:

- Information Please!
- U.S. Department of Interior, General Organization
- Creation of the Department of the Interior
- Interior, American's Guardian of Natural Resources

The Department publishes a Film Catalog listing over 70 outstanding Interior films and audiovisual aids

covering ten different areas of responsibility from parks to mineral resources. Each Bureau and Office produces and distributes current and more detailed material about its own responsibilities, missions and programs.

2. Plans for Improvement

There is a need for a single publication which guides the consumer to the units of the Department whose activities are or might be of interest. The Department is considering a pamphlet that would focus the public's awareness of the Department's missions, responsibilities and expertise, explaining the opportunities for participation in the Department's decisionmaking process. Such a brochure would combine the following elements:

(1) A brief description of each Bureau and Office in the Department, their missions and overall responsibilities, including regional and field structures.

(2) Key points of the Public Participation and Consumer Affairs Program, and relationship to Interior programs and opportunities for citizen access.

(3) Contacts for various Bureaus and Offices for Inquiry or advocacy, in Washington and in the field. The Department's brochure would be planned for distribution after the Department's Consumer Affairs Program is approved. The information will be distributed to all Bureaus and offices for further distribution, use, and display at Regional, State and field offices. It could be useful in general inquiry responses, made available at the Consumer Information Center in Pueblo, Colorado, and at special exhibits regionally or locally, such as State fairs, conventions, etc.

In response to the Executive Order, the Departmental Office of Public Affairs will systematically review its information material and program and develop an information plan which evaluates and identifies appropriate information needs; constituent groups; materials assessment; dissemination strategies; and methods of outreach to insure consumer interests and needs are effective and properly met. With regard to information material, the Office of Public Affairs will develop methods for determining uses, goals, and priorities; coordinating relevant publication actions with the Consumer Affairs Council; coordinating with other agencies with similar missions; mechanisms for monitoring progress; budget and staff resources; timeliness; and evaluation of the overall effectiveness of the Department's program.

3. Officials Responsible for Consumer Information Program

The Public Affairs or Information division of each Bureau, Service, or Office in the Department maintains responsibility for its Consumer Information.

The Secretary's Office of Public Affairs for the Department coordinates the public affairs activities of each Bureau's information office as well as being directly responsible for general Departmental publications and information material. The Department's Office of Public Affairs periodically assesses the effectiveness of its information material.

as does each Bureau and Office, and gives consideration to making content and distribution more effective through material revisions and increased distribution.

Because public affairs offices are integrally involved in consumer and public participation activities, as staff resources, as part of the reporting network, and as members of the Departmental working group chaired by the Coordinating Officer, information targeted and useful to the consumer citizen will result.

Materials for Public Meetings

Responsible program officials for each Bureau or Office, in consultation with Information Officers, assure that explanatory materials regarding meetings open to the public are available at a reasonable time prior to such meetings (usually 30 days) and that such materials are adequate, appropriate and understandable.

1. Format of Material

Materials available for public meetings are designed in such a way as to facilitate the public's understanding of the issues under consideration. No standard format can be required given the wide range of topics and the variations in technical difficulty of subject matter to be discussed. There is good coordination among the Department's Bureaus, Services and Offices, and consequently a transfer of information on effective presentations developed over several years of experience under the National Environmental Policy Act. It remains the responsibility of each Bureau and Office to inform the public, on a regular basis, either through the publication of calendar schedules, newsletters, and fact sheets, or by other appropriate means, of the status of public participation programs currently being conducted and the issues before the public for discussion.

2. Manner of Notification

How and where to get explanatory materials is made part of the notice of meeting if it is available at the time of the notice. Press releases—locally, regionally, or nationally as appropriate—announce available materials. Every reasonable effort is made to edit or target material for audiences which may have difficulty with the highly technical nature of information presented, or simply the bulk of it. People who need or wish technical assistance should make contact the office listed in the meeting notice as early as possible to see what is available. If no contact point is known, call an Office of Public Affairs.

IV. EDUCATION AND TRAINING

As in the other areas, each Bureau and Office of the Department has its own personnel office, and its own education and training plans and officials. (The Designated Working Group for Public Participation and Consumer Affairs, chaired by the Departmental Coordinating Officer had training officers among its members.) More and more emphasis is being given to those skills which public affairs staff, program planners and program managers and other need in

order to reach citizens with information useful to them, and allow them to make input to decisions affecting them and know they have been heard.

Staffing Responsibilities

Assistant Secretaries, and heads of Bureaus and Offices are responsible for training programs to assure the continuing quality and usefulness of public participation plans and techniques appropriate to Departmental actions in which the public may be interested, at all jurisdictional levels.

The Assistant Secretary—Policy, Budget and Administration in consultation with the Director, Office of Public Affairs, has oversight responsibility for adequate training in the technical skills necessary to plan and manage public participation or special consumer activities.

Areas in Which Training Is Provided

Pursuant to the Executive Order, the Department is surveying the kind and location of personnel with special skills in public participation and consumer methodology, listing people to form a skills bank with provision for access to those skills across bureau lines. This has been done informally for the past year with some success. From this skills bank will be drawn core participants and facilitators for an intra-Departmental orientation and training programs, each, to consist of at least two meetings in sequence (assuring follow-up and connection with longer range planning). The meetings will be structured to encompass demands of staff program managers at various levels, and Senior Staff of bureaus and the Secretariat, with some interactions between them. From these meetings and related assignments will come clearer view than a quick survey can provide about what and where are the gaps in knowledge and skills.

Meanwhile, several Bureaus, Services and Offices have been both offering and requiring training in areas relevant to Consumer Affairs. The Fish and Wildlife Service estimates that 40-60% of project leaders, interpretation and recreation specialists and public affairs officers have by now received some type of formal training in public involvement techniques. The Water and Power Resources Service (formerly the Bureau of Reclamation), the National Park Service and the Bureau of Land Management have differing kinds of training efforts planned and underway, suitable to their separate missions.

Educating Staff Members

It is the nature of most of Interior's missions that relevant technical knowledge must be brought to bear on decisionmaking at all levels—land characteristics, the effect on dry or otherwise fragile lands of even simple recreation activities, the forecasting of water supplies, mined land reclamation enforcement, the economics of leasing for mining, grazing drillings or other uses, ways to get the benefits of natural resources without using them up or otherwise foreclosing future options. For consumers to be provided enough information to contribute usefully to

such decisionmaking, the Department's expert public affairs personnel, program managers and staff at all levels have to be sensitized and oriented to citizen concerns and the methods for surfacing and dealing with these concerns as an integral part of their daily work. To work well in this Department, the approach to training must be participatory in itself. It is important to plan the mechanical considerations like length and scheduling of training sessions and follow-up so that the key managers can absorb what they need to know, and are backed by staff with the right capabilities without unduly disrupting existing work schedules.

At the central office level, the Secretariat is briefed on the Executive Order and the Program. Public participation is highlighted in the annual two day policy orientation for Senior Executive Service people from all over the country. Follow-up is to go both ways between field offices and Washington. There will shortly be a directive to inventory capabilities and training needs and plans developed in light of the Executive Order.

Technical Assistance

The Department's Bureaus and Offices have traditionally supplied technical assistance in their varied fields of expertise. Traditional recipients have been State and local officials who shared administration responsibility for Department programs. But, for example, citizens or groups interested in reviewing or contributing to a specific element of their State's Comprehensive Outdoor Recreation Plan can obtain reports, technical information, even site visits as work schedules of knowledgeable personnel permit. On a similar basis, Bureaus/Offices can guide interested people to available information, and many units provide de facto technical assistance amounting to consultation on specific problems. It is important in this context to remember that the preparation of an environmental impact statement or other major reports in the course of a decision-path may extend over several years, such as for a major energy resources development facility. In the absence of a published contact point, a consumer should ask the closest Public Affairs Office of the Department. Such assistance can be provided at various levels of the agency. It usually occurs during interaction on agency programs through sharing of scientific data, answering procedural questions, assisting in preparation of application forms, etc. Bureaus and Offices make every effort to provide appropriate technical assistance to public organizations and to the general public upon request, in accordance with existing laws, regulations, policies and administrative procedures.

V. COMPLAINT HANDLING

Separate units of the Department have their own routine procedures for handling complaints in accordance with their authorities and delegated responsibilities. Correspondence directed to the Secretary or to Senior Officials or which concerns

major issues is controlled by the Executive Secretariat. In general, all correspondence procedures follow the Department model. There has not previously been a clear need for central control, or detailed central reporting.

Procedures for handling complaints made under the Freedom of Information Act are set forth in the Departmental Manual (Part 316). Those procedures provide prompt access to information as well as establishing responsibilities of Departmental, Bureau and Office officials.

It is known that most often written and oral complaints from the public call for an explanation of the limits of Bureau, Service or Office authorities, a clarification of procedures, need for basic information, or for a definition of policy.

In response to the Executive Order, the Department will survey Bureau and Office systems for complaint handling to evaluate such elements as logging techniques, routing time and efficiency (for incoming and for clearance of response), timeliness of response, and training or staffing needs. Having done this, and made any recommended improvements, the Department will have a system for aggregating and evaluating statistics on generic complaints, and making sure they are taken into account.

A standard contact for complaints or for inquiries about complaint handling systems is a Public Affairs Officer of the Bureau or Office in question, or of the Department, or the Department's Coordinating Officer for Public Participation and Consumer Affairs.

For any citizen concerned about management, preservation, or wise use of natural resources, the ever-increasing opportunities for informed public involvement, the quantity and quality of Interior publications timely press releases and special outreach efforts on special issues all provide evidence of the Department's concern for the views of the public. Publication of this Program in response to the Executive Order, and incorporation of public comment into the final Program should reinforce existing Department policy that is receptive to complaints.

Methods of filing vary by unit mission and the relationship of a consumer to that unit. Thus, in a National Park, someone dissatisfied with concessioner service, lodging or parking facilities, or whatever, would normally and properly address his complaint to the Park Superintendent. If addressed elsewhere, the complaint would be routed to the Park Superintendent for response. Repeated complaints, of course, would be reported to the appropriate supervisory level for action—conditioning future contracts with concessioner, requesting funding for additional parking or bus service, or affecting the performance rating of an employee—whatever the appropriate response was determined to be after due process.

The Office of Surface Mining Reclamation and Enforcement has a formal system for handling complaints of mining violations or emergency conditions resulting from mining operations, such as subsidence or underground fire. If circumstances warrant, a phone call to a close-by (Regional) Public

Information Officer can result in an inspector being dispatched within hours of the call.

Complaints of trespass on public domain lands, or questioning of mining claims, once filed with a district office, could well take as long as months or years to resolve. This is because public lands in many areas are "checkerboarded" with private lands. A survey might be required, or a search of old records in county courthouses and the like to determine previous uses. Many hours of skilled work might have to be planned, budgeted and spent.

Thus a Department-wide uniform standard of response to complaint is not possible. The guarantee of timely appropriate attention with some indication of a route for appeal of final responses viewed as unfair or inadequate, is a reasonable expectation, and one which this Department is pledged to fulfill.

Format for Logging Complaints

Given the varied nature of Bureau, Service, and Office duties, there is not a standard format requirement Department-wide. The Department is undertaking a survey of existing procedures, usefulness of standization, with special attention to the handling and recording of complaints received by telephone so as to be able to evaluate performance in timeliness and quality of response handling, and in gathering and analyzing information as to the nature of the complaints, and their implications for policymakers.

Investigation and Analysis

The Department's planned survey will cover routing of complaints from their initial receipt, no matter to whom addressed, through final response.

It is Department policy to process all complaints in a timely fashion. As a standard, inquiries are promptly acknowledged by the appropriate office unless a complete response can be processed in a reasonable time—say 5-10 working days. The format for acknowledgments and response outlines the steps that will be taken by the Department, indicates who may be contacted for further information, and specifies an expected resolution date. If the responsible official judges that the response may not be satisfactory to the correspondent, he/she should provide enough information that the correspondent may pursue the issue to a higher authority in the agency. This practice, modelled on the Freedom of Information Act requirements, is already widely used for all correspondence.

Under the present system, the Departmental Coordinating Officer is available to assist with routing and analysis advice if there is a question, if the complaint appears to be part of a larger issue, or if the complaint deals with more than one jurisdiction of the Department. This coupled with periodic reviews of the nature of Freedom of Information Act denials and appeals appears to provide a satisfactory oversight window on the Department's overall performance of complaint handling routines. The survey will produce

recommendations for more rigorous response procedures, if needed.

Evaluation of Complaint Handling System

Periodically, the Department reviews its correspondence handling mechanisms. Changes in administration at any level result often in changes of persons or levels of sign-off authority. At those times, correspondence system, including complaint handling, are scrutinized for timeliness. As a result of the Executive Order, and subsequent to the planned survey of existing procedures, the Department will institute specific procedures to allow continuous quality control of complaint handling, and to permit evaluation of the nature of complaints as evidence of need for policy or program change.

Each Assistant Secretary and each head of Bureau, Service or Office will be responsible for compiling periodic reports which will identify significant inquiries, analyze the patterns of issues raised and their implications for policymaking, and evaluate the inquiry-handling system to assess the promptness and quality of responses. Such reports and recommendations for improvement will be addressed by the Secretary's Policy Staff Group if controversial or conflicting. Otherwise, procedures would be properly amended by responsible officials.

VI. OVERSIGHT

The Assistant Secretary for Policy, Budget and Administration is accountable directly to the Secretary for initiating, coordinating or reviewing major policy initiatives which cut across the full range of Department programs. This Assistant Secretary provides oversight review and evaluation of individual programs; coordination of budget requests into the Department submission; setting of common standards of performance for initiatives which apply Department-wide regardless of unit mission; oversight of procedures at all levels of Department operation under the National Environmental Policy Act. This Assistant Secretary effectively has final clearance before the Secretary's signature on Interior-wide rules, policies, programs and legislative proposals or comments.

The Assistant Secretary—Policy, Budget and Administration, in consultation with the Director, Office of Public Affairs, has oversight responsibility for the Department's Public Participation and Consumer Affairs program which includes the following:

- (1) Periodic review of guidance issued by Assistant Secretaries and heads of bureaus and offices;
- (2) Response to questions, and resolution of issues and conflicts or complaints raised by public participation activities and not resolved at other levels;
- (3) Systematic exchange of information and expertise on public participation throughout the Department;
- (4) Periodic orientation on public participation strategy related to both Department-wide performance

and currently significant issues for policy officials and program managers at all levels;

(5) Consideration of special budget needs for public participation and consumer affairs beyond legal and normal administrative overhead requirements. If he/she finds cause, the Assistant Secretary—Policy, Budget and Administration will make recommendation to the Secretary as to options for covering such costs.

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Monday
December 10, 1979

Part III—Section E

**Tennessee Valley
Authority**

Draft Consumer Program

**1979
Draft
Consumer
Program**

TENNESSEE VALLEY AUTHORITY**Response to Executive Order No. 12160****AGENCY:** Tennessee Valley Authority (TVA).**ACTION:** Notice of intent to establish a Consumer Affairs Office.

SUMMARY: The Board of Directors of the Tennessee Valley Authority proposes the adoption of the following policies to comply with Executive Order No. 12160. The TVA Citizen Action Office (CAO), formed one year ago, will take the lead in establishing a consumer affairs program to ensure that citizens of the Tennessee Valley regions have the opportunity to participate in TVA's decisionmaking process. The Citizen Action Office has been assigned the specific responsibility to represent consumers' interest and to report their concerns to TVA's top management. It operates on a separate budget and reports to TVA's General Manager. A major function of this office is to coordinate all of TVA's public participation programs and recommend new processes by which citizens can become involved in TVA's decisions. The office will seek methods to institutionalize ways within TVA to facilitate the gathering of timely public views about proposed and ongoing TVA programs. A toll-free telephone system provides one mechanism for the public to voice their concerns. TVA expects the program to be flexible and dynamic, changing in response to public comments to meet changing needs.

DATE: Comments must be received by March 10, 1980.**ADDRESS:** Comments should be sent to Dawn S. Ford, Chief, Citizen Action Office, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902.**FOR FURTHER INFORMATION CONTACT:** Dawn S. Ford, Chief, Citizen Action Office, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, telephone (615) 632-4402.**SUPPLEMENTARY INFORMATION:** Under Executive Order 12160 there are five general criteria agency consumer affairs offices must meet. TVA proposes to comply as follows:**I. CONSUMER AFFAIRS PERSPECTIVE**

The CAO consists of a professional staff of consumer affairs personnel. This office shall report to TVA's General Manager and consist of approximately 15-20 people. Staff will serve a coordinating function, working with all divisions in TVA to ensure that opportunities are made for citizens of the Tennessee Valley region to participate in agency decisionmaking. In addition, they will be responsible for initiating and conducting agency-wide public participation functions such as town meetings involving the Board of Directors or consumer forums. The consumer affairs staff will review all agency draft programs and policies with an opportunity to comment on how a proposed policy will be received by the public and how the public should be involved in the process. The staff will have the opportunity to make written comments, work on agency task forces, and attend staff briefings to the TVA Board of Directors.

II. CONSUMER PARTICIPATION

TVA should seek public participation in all administrative processes to the extent allowable. Generally, a proposed action is significant unless it is not expected to affect important policy concerns. Citizen involvement in decisionmaking shall take place after TVA staff has developed preliminary studies and prior to a final decision by the Board of Directors. Avenues of participation will vary with the issue and public participation processes will be implemented by the CAO or by the initiating program division in cooperation with the CAO.

Prior to any policy decision a reasonable public comment period will be established. Written comments will be invited as well as comments via the toll-free telephone service. These comments will be recorded in the final record by the division responsible for initiating the proposed policy for the Board's consideration. The CAO staff will review the final record to ensure that consumer views are adequately expressed. Depending on the nature of the proposed policy, advertisements may be taken out in community newspapers and notice may be posted in the Federal Register. All proposed actions will be considered at open TVA Board meetings, and the public will be advised of them through news releases and mass mailings to a list of consumers maintained by the CAO. Other public participation processes will be employed as appropriate. TVA recognizes that one process by itself is rarely adequate to achieve public participation objectives.

In its effort to consult with the public and respond effectively, TVA will:

(A) Conduct consumer forums throughout the 7-state Tennessee Valley region. Issues will vary with the meeting and recognized experts on TVA-related issues who are not associated with the agency will be invited to speak. Responsible staff-CAO.

(B) Conduct Board meetings open to the public. At these meetings special time is made available for any member of the public to comment on and question Board members and responsible TVA officials about pending business or just express a view about TVA in general. Periodically the TVA Board of Directors will take Board meetings or town meetings "on the road" to various locations in the Tennessee Valley region, thus ensuring participation by a wide range of citizens, Responsible staff-CAO and the TVA Information Office.

(C) Utilize TVA regional offices as a grass roots link between local communities and the senior level management of the agency. The special knowledge and experience of field office personnel will help identify key publics, explain local impacts of major decisions, identify parties of interest on those impacts, provide logistical support at public sessions and implement publicity techniques. The CAO staff will work closely with all field office personnel.

(D) Conduct public meetings and hearings on major policy issues. In fiscal year 1979, TVA conducted over 100 public meetings on issues such as transmission line construction, land use, utility power rate

structures, and electric service practice standards. TVA will continue to employ this process when appropriate. All public meetings will be coordinated with the CAO. Responsible staff-CAO and program divisions.

(E) Expand funding programs as necessary. TVA conducted a public participation funding program in connection with its consideration of electric power service and rate standards under the Public Utility Regulatory Policies Act of 1978, making substantial contributions to the cost of representing consumers' interests in hearings held by TVA. The agency is now developing another program which will make contributions to the cost of assisting consumers in representing their interests in upcoming hearings to be held by TVA on rate reform pursuant to PURPA. Funding programs will be monitored and reassessed as the agency gains more experience in this facet of public participation. Responsible staff-CAO and program divisions.

(F) Sponsor similar workshops on subjects of mutual interest to the citizens of the region. On 3 occasions the agency funded the use of outside experts in conducting electric rate workshops in different locations in the region. Although results varied in these original attempts at public participation funding, overall impressions have been favorable, particularly with the workshop-type format. Responsible staff-CAO and program divisions.

(G) Consideration will be given to ad hoc citizen task forces as needed.

(H) Schedule numerous informal meetings between the CAO staff and outside groups. It is TVA's belief that outreach work is the essence of good public participation. These meetings will be kept informal in order to encourage open expression of views.

III. INFORMATIONAL MATERIALS

In order to participate effectively in TVA's decisionmaking process, the public must have accurate, understandable, and pertinent information about TVA-related issues. TVA currently publishes general brochures about agency programs supplemented by marketplace publications directly related to energy conservation, as well as technical papers. The Director of Information is responsible for production and distribution of general TVA brochures. Program divisions, in cooperation with the Information Office, are responsible for publishing other materials. Publications are continually updated and revised to reflect current programs. Distribution is through mailings in response to questions and via racks at public buildings. TVA will continue on elaborate consumer education consisting of the following elements:

1. Television and radio public service announcements,

2. Publications such as the TVA Annual Report, the TVA Handbook, A Short History of TVA, energy and conservation booklets, a TVA electric rate brochure and brochures on each TVA facility,

3. A new film about the agency to distribute to schools and civic organizations, and

4. An advertising program on energy conservation.

The CAO staff is responsible for the distribution of summary, issue, and background papers in connection with public participation processes, as well as draft and final environmental impact statements. To fulfill TVA's desire to inform the public, the CAO will:

(A) Identify groups and individuals both inside and outside the region with an interest in TVA-related issues. An initial mailing list has been compiled. Categories include regional consumer groups, Tennessee Valley state and Federal legislative delegations, national and state organizations, private citizens who have participated in past public sessions, TVA power distributors, local government officials and industrial representatives.

(B) Distribute to persons on this list an educational packet consisting of a guide to TVA publications, a general brochure about the history of the agency, and material on the CAO.

(C) Establish and maintain information depositories in public libraries or universities. These depositories will contain copies of environmental impact statements, policy papers, and staff studies.

(D) Distribute timely information on a regular basis. The CAO will prepare information for wide distribution to keep interested parties advised of TVA's progress on any given issue. A consumer newsletter will be developed outlining public participation programs currently being conducted and issues before the public for discussion.

(E) Distribute information which facilitates the formal public comment process. The CAO will be responsible for distributing materials prior to public sessions and for gathering feedback on the results of a public session or decision by the TVA Board. As appropriate such material will be distributed prior to the decision so that the public can develop informed comments and TVA can carefully consider public views before taking final action.

(F) The Environmental Quality Staff has the final responsibility for the proper distribution of an environmental impact statement (EIS) and will work in cooperation with the CAO to ensure that distribution is made promptly to all interested groups and individuals. When a notice of intent to publish a draft EIS is placed in the Federal Register, the EQS and the CAO will begin developing a distribution list. When the draft EIS, including the distribution list, is approved, the CAO will ensure that copies are mailed promptly. All distribution of draft and final EIS will be the sole responsibility of the CAO.

IV. EDUCATION AND TRAINING

The CAO with TVA's Office of the General Counsel will be responsible for educating senior staff members and information personnel about Executive Order 12160 and any changes which will incur in the structure of the consumer affairs program as a result of the Order through briefings, employee publications, and circulation of material.

The staff of the CAO has received extensive specialized training in public participation. This training is a continuing process. It is now being conducted for managers in program divisions who normally have contact with the public.

TVA remains the only Federal agency equipped by statute and administrative structure to reflect the total economic and environmental concerns of the people of an entire major river basin. TVA provides the facilities, technical assistance, and opportunities for learning. A continuing economic and community development program offers technical assistance in such areas as agricultural development, flood control, solid waste management, rural health care, energy conservation, river cleanup, reclamation, industrial development and townlift programs. This assistance will continue to be provided by program divisions.

V. COMPLAINT HANDLING

TVA has established a region-wide toll-free telephone service—a "hotline" that puts the public in direct personal touch with TVA at no personal cost to themselves. The lines are a part of the CAO. Although usually answered by full-time, specially-trained personnel, they are also occasionally staffed by the agency's Board of Directors and other senior TVA officials. Emphasis is on providing quick, reliable, and understandable answers, cutting red tape, and investigating complaints. Responses are monitored by a computer system and public opinion trend analyses are provided to TVA management.

Complaints received over the Citizen Action Lines are entered into the computer and the complaint form is routed to the program division involved. An answer is expected back in the CAO in two weeks. The Chief of the CAO is responsible for determining if, in fact, TVA staff has done all it can for a consumer or if other steps can be taken to correct the situation. A tickler system ensures that divisions are responsive within two weeks.

In an effort to be more responsive to public needs, staffs in the General Manager's office and district field offices, who regularly handle complaints, will provide a monthly statistical report of complaints handled, resolved, and unresolved to the CAO.

This staff will then prepare a uniform monthly report to the TVA Board and General Manager of all agency complaints. This report will contain an evaluation of the way in which complaints are being handled with suggestions for improving the system and a narrative on significant complaints received in any 1 program area. The General Manager's staff will ensure that program divisions provide a draft response to written complaints to the General Manager for review within 7 days.

The CAO will develop a "How to Complain Guide" outlining how and where to send complaints relating to a wide variety of TVA programs for public distribution. On a regular basis the CAO will survey consumers who have complained by mail or via the toll-free hotlines. The survey responses will be analyzed from the consumer viewpoint as to what

TVA can do to be more effective. The analyses will be sent to the program offices along with recommendations.

VI. OVERSIGHT

The TVA Board of Directors has already designated the Chief of the CAO M-7, a senior-level official, within TVA who exercises, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. Based on TVA's corporate structure, in which TVA's General Manager is the agency's principal administrative officer, the General Manager is the appropriate person in TVA to whom the CAO should report.

Dated: November 21, 1979.

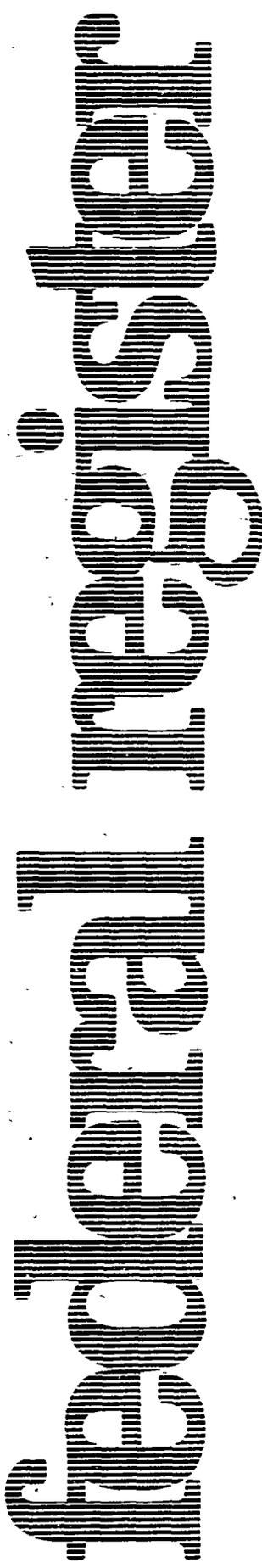
W. F. Willis,

General Manager.

[FR Doc. 79-36587 Filed 12-7-79; 8:45 am]

BILLING CODE 8120-01-M

Monday
December 10, 1979



Part IV

**Consumer Programs:
Human Services**

Commission on Civil Rights	71192
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ACTION	71264

UNITED STATES COMMISSION ON CIVIL RIGHTS**Proposed Consumer Affairs Program****AGENCY:** U.S. Commission on Civil Rights.**ACTION:** Notice of proposed program for consumer affairs.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to: Lawrence B. Glick, Solicitor, United States Commission on Civil Rights, Washington, D.C. 20425.**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Glick, (202) 254-5633.**AUTHORITY:** Executive Order 12160; Enhancement and Coordination of Federal Consumer Programs.

The United States Commission on Civil Rights is an independent, bipartisan, factfinding agency established by Congress under the Civil Rights Act of 1957.

The Commission is authorized to:

Investigate complaints alleging that citizens are being deprived of their right to vote because of race, color, religion, sex, age, handicap, or national origin; or, in the case of Federal elections, by fraudulent practices.

Study legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Serve as a national clearinghouse for civil rights information.

Submit reports of its activities, findings, and recommendations to the President and Congress.

The Commission is not an enforcement agency and has no power to apply specific remedies in individual cases. Complaints about denials of rights are usually referred to the appropriate Federal agencies for action.

Activities

The Commission conducts factfinding hearings relating to discrimination or the denial of equal protection of the laws. Using its subpoena power, the Commission seeks facts from public officials, minority group members, and other citizens representing diverse interests and points of view.

The Commission conducts extensive research and investigation regarding the denial of equal protection of the laws in such fields as voting, education, employment, health services, housing, and administration of justice. The Commission also evaluates the Federal effort to further equal opportunity.

The Commission sponsors national, regional, and State conferences as part of its fact-gathering and as a method of disseminating information to specialized audiences. These conferences bring together Federal,

State, and local officials, community leaders, and representatives of business, labor, and civil rights and women's groups.

The Commission collects, compiles, and disseminates information concerning civil rights problems, the laws relating to them, and various procedures for resolving such problems. These materials are called "clearinghouse reports."

State Advisory Committees

The Commission has State Advisory Committees in each State and the District of Columbia to assist in factfinding, investigative, and clearinghouse functions. These Committees are composed of knowledgeable citizens who serve without compensation and who are familiar with local and State civil rights problems. The Committees issue reports to the Commission that are published when appropriate. They also make recommendations to the Commission that may be used in its reports to the President and Congress.

The Commission maintains 10 regional offices. Addresses of these offices are:

- Central States Regional Office, U.S. Commission on Civil Rights, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374-2454.
- Eastern Regional Office, U.S. Commission on Civil Rights, 75 Piedmont Ave., N.E., Room 362, Atlanta, Georgia 30303, (404) 221-4391.
- Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, 2120 L St., N.W., Room 510, Washington, D.C. 20037, (202) 254-6717.
- Midwestern Regional Office, U.S. Commission on Civil Rights, 230 South Dearborn St., 32nd Floor, Chicago, Illinois 60604, (312) 353-7371.
- New England Regional Office, U.S. Commission on Civil Rights, 55 Summer St., 8th Floor, Boston, Mass. 02110, (617) 223-4671.
- Northwestern Regional Office, U.S. Commission on Civil Rights, 915 Second Ave., Room 2852, Seattle, Washington 98174, (206) 442-1246.
- Rocky Mountain Regional Office, U.S. Commission on Civil Rights, Executive Tower, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202, (303) 837-2211.
- Southern Regional Office, U.S. Commission on Civil Rights, 75 Piedmont Ave., N.E., Room 362, Atlanta, Georgia 30303, (404) 221-4391.
- Southwestern Regional Office, U.S. Commission on Civil Rights, Heritage Plaza, First Floor, 418 South Main, San Antonio, Texas 78204, (512) 229-5570.
- Western Regional Office, U.S. Commission on Civil Rights, 312 North Spring St., Room 1015, Los Angeles, California 90012, (312) 688-3437.

Information regarding the organization and programs of the Commission may be directed to:

Office of the Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425.

Proposed consumer affairs program:

I. CONSUMER AFFAIRS PERSPECTIVE

The Commission on Civil Rights has an authorized strength of 285 staff members. Of these approximately 200 are located at headquarters in Washington, D.C., and the balance in the 10 regional offices. With only this small staff, it does not appear appropriate to

assign a senior level officer and a staff unit to work full-time on consumer affairs.

Responsibilities

The Assistant Staff Director for Program Planning and Evaluation, a position in the Senior Executive Service, reporting directly to the Staff Director, is designated as Director of Consumer Affairs and will serve, in addition to other duties, as the official responsible for the coordination and oversight of U.S. Commission on Civil Rights consumer activities.

Staffing

The seven-person staff of the Office of Program Planning and Evaluation, reporting to the Assistant Staff Director for Program Planning and Evaluation, will serve as the staff responsible for the consumer affairs program of the Commission, in addition to their other duties. This staff will relate to and communicate with other staff units of the Commission through the Assistant Staff Director who is a member of the Commission's executive staff.

Staff Location

The Consumer Affairs staff are located in the Office of Program Planning and Evaluation, a first level unit in the table of organization of the Commission. Through its chief, the Assistant Staff Director for Program Planning and Evaluation, this office reports directly to the Staff Director who is the administrative head of the agency, and laterally to the other Assistant Staff Directors of the Commission.

II. CONSUMER PARTICIPATION

Opportunities for consumer participation in the development of Commission policies and programs are available as follows:

(a) Attendance at Commission functions, including: open meetings, hearings, consultations, civil rights conferences, and press conferences. Such attendance may, at the discretion of the Commission, include an oral presentation or the submission of written statements.

The majority of witnesses who testify at Commission hearings appear in response to a Commission subpoena. Any person who wishes to testify and has not been subpoenaed may contact Commission staff during the course of the scheduled hearing and ask to appear and offer testimony. Such testimony must concern the subject matter of the hearing. Rules for the hearing will be stated and appropriate staff contacts will be identified during the opening remarks of the Commission's chairman. The testimony and written statements submitted by subpoenaed and nonsubpoenaed witnesses will be given full consideration in the formulation of Commission policies and recommendations and in the preparation of Commission reports.

(b) Attendance at the frequent open meetings of the Advisory Committees established by the Commission in each State and the District of Columbia and, at the

discretion of such committees, the presentation of oral and/or written testimony.

(c) Potential appointment by the Commission as members of such State Advisory Committees.

(d) Comment on Commission publications prior to publication as may be requested by the Commission and subsequent to publication at any individual's discretion.

Staff Involvement in Consumer Participation

All Commission staff members involved in the conduct and preparation of the activities outlined above are responsible for assisting in consumer participation in such activities and the analyzing and consideration of consumer views for the purpose of planning and executing future Commission programs.

III. INFORMATIONAL MATERIALS

Mailing List

Any individual or organization may be included on the Commission's mailing list by writing to:

Office of Management, Publications Management Division,
U.S. Commission on Civil Rights, 1121 Vermont Avenue,
N.W., Washington, D.C. 20425, (202) 254-7381.

Public Notice

Notice of all Commission activities which are appropriate for public participation are widely publicized through press releases prepared and distributed by the Press and Communications Division and by staff contacts with interested organizations. The agenda for Commission meetings and other activities and response to inquiries regarding the agenda may be obtained by contacting:

Press and Community Relations Division, U.S. Commission
on Civil Rights, 1121 Vermont Avenue, N.W.,
Washington, D.C. 20425, (202) 254-6345.

IV. EDUCATION AND TRAINING

Responsibility for Training

The Assistant Staff Director for Program Planning and Evaluation and the staff of that Office are responsible for directing the attention of all agency staff members to their individual responsibility for consumer affairs. Such effort includes the preparation and dissemination of written material and oral briefings for headquarters and field staff members.

Technical Assistance

The Director of the Press and Community Relations Division or his/her designee response to consumer inquiries respecting consumer participation in Commission planning, programming and policymaking.

V. COMPLAINT HANDLING

Complaints of Deprivations of Civil Rights

The Commission has no authority to resolve individual complaints of deprivations of civil rights. To the extent complaints are received regarding such

deprivations they are transmitted to the appropriate Federal, or other agency.

Complaints and Comments Regarding the Commission

Complaints, views, comments and suggestions regarding Commission policies, programs and activities receive full consideration and a substantive response is made by senior Commission staff members.

Dated: November 30, 1979.

Louis Nunez,
Staff Director.

[FR Doc. 79-37397 Filed 12-7-79; 8:45 am]

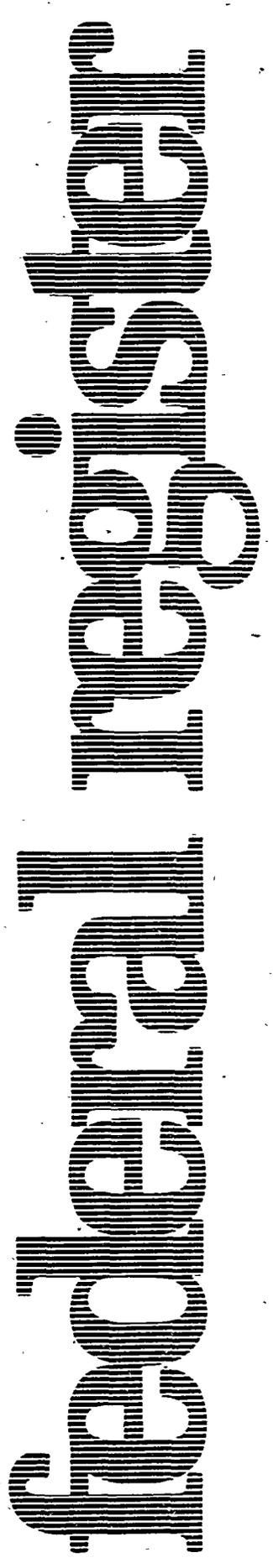
BILLING CODE 6335-01-M

Monday
December 10, 1979

Part IV—Section B

**Community Services
Administration**

Draft Consumer Program



COMMUNITY SERVICES ADMINISTRATION

Proposed Consumer Affairs Plan

AGENCY: Community Services Administration.

ACTION: Notice of Proposed Consumer Affairs Plan.

SUMMARY: The Community Services Administration is filing its proposed Consumer Affairs Plan. This action is taken in order to comply with Executive Order 12160, Providing for enhancement of Federal Consumer Programs. The plan details how CSA will carry out its functions in the area of consumer representation.

DATE: CSA encourages comments on this proposed rule. All comments received by March 10, 1980 will be considered in finalizing the plan.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Ramsay, Community Services Administration, Office of Community Action, 1200 19th Street, N.W., Washington, D.C. 20506. Telephone: 202-632-6694

Graciela (Grace) Olivarez,
Director.

COMMUNITY SERVICES ADMINISTRATION CONSUMER PROGRAM PLAN

Introduction

The Community Services Administration (CSA)'s authorizing legislation requires maximum feasible participation of the poor in the planning, conduct, and evaluation of programs. Involvement of the poor in developing plans and priorities of local Community Action Agencies (CAAs) is required. CAA Boards must have at least one-third of their members represent the poor. Boards of other grantees either must comply with this one-third requirement or establish an advisory committee.

In a general sense, CSA serves low-income consumers in such programs as Senior Opportunities and Services, Community Food and Nutrition (CFNP), Emergency Energy Conservation (EEC), Community Economic Development (CED), and community action. This latter is CSA's major program and the projects it funds deal with such concerns as housing, employment, education, consumer affairs, day care, etc., all of which are locally designed with in-put from consumers in the planning process and from Board members in the decisionmaking process. CSA also is involved in specific consumer programs which include consumer education and protection and the development of alternative economic systems such as cooperatives and credit unions. The CSA consumer representative maintains a clearinghouse of consumer information including a National Consumer Directory, Consumer Resource Guide, and many booklets and pamphlets on consumer education and protection, cooperatives, and credit unions.

CSA served as the lead agency in coordinating efforts toward increased citizen participation. Its January 1978 publication *Citizen Participation*, identified requirements for citizen participation in over 300 Federally assisted programs and explained how individuals and groups can effect them. Ten Public

Policy Forums in the Fall of 1977 gave CSA staff the chance to hear directly what low-income consumers felt about Federal anti-poverty programs. In December 1978 CSA sponsored 13 public meetings where low-income consumers provided their concerns and recommendations to make the National Consumer Cooperative Bank a responsive source of support for marginal and emerging cooperatives.

Forthcoming CSA consumer efforts include:

1. A Regional grant whereby all consumer organizations in the Southeast are identified, their capacities to serve the needs of poor people identified, and a regional consumer network established with intra- and inter-state linkages to CSA grantees.

2. Interagency efforts which include a program with the Food and Drug Administration to broaden delivery of health information and education to low-income Hispanic groups and a pilot program with the Consumer Product Safety Commission whereby CAAs will serve as outreach vehicles to involve low-income communities in consumer education concerning fire related problems.

3. Efforts to involve consumers in eleven January 1980 meetings on the National Consumer Cooperative Bank draft regulations.

4. State and local programs involving financial and/or technical assistance to low-income consumers.

PROPOSED PLAN

I. CONSUMER AFFAIRS PERSPECTIVE

The Office of Community Action (OCA) and the Office of Interagency and External Affairs (OIEA) have primary responsibility for consumer programs and citizen participation respectively. There has been no consumer office *per se* and staff has worked on an *ad hoc* basis when comments were requested on major consumer reports, legislation, and on annual budget planning.

Pending receipt of a permanent slot for a staff member who will have sole responsibility for the function CSA has designated an on-board staff member as the consumer representative to help carry out the functions mandated by EO 12160. In this capacity she will coordinate consumer activities of OCA and OIEA as well as elements of such categorical programs as CFNP, Emergency Energy Conservation, Community Economic Development and others which have impact on consumers. She will coordinate with OCA's Office of Regional Operations, providing support and direction for field consumer activities. She will represent CSA at meetings of national consumer organizations, public and private. These include the Consumer Education and Information Liaison Panel and the Interagency Council on Citizen Participation. She will advise CSA Director and staff on how consumers perceive and react to CSA policies.

Pursuant to Executive Order 12044, CSA seeks to maximize public participation in its rulemaking process. CSA's semi-annual report lists rules and regulations being revised for various policies such as

organization of CAA Boards and for programs such as Community Food and Nutrition and Summer Youth Recreation. In preparation for the semi-annual report, published in May and November, the consumer coordinator will meet with each person developing such rules and regulations to determine how to involve CSA's constituency and to determine which rules are most relevant to CSA's consumer activities.

II. CITIZEN PARTICIPATION

The primary purpose of CSA's Citizen Participation Program is to provide consumers with the opportunity to participate in and influence planning, conduct, and evaluation of programs authorized under the Economic Opportunity Act, as amended.

In CSA's case, consumer representation—hence citizen participation—occurs most often at the neighborhood level through involvement of public, private, and poor sectors of every community.

However, to make public participation an integral part of agency decisionmaking, the consumer representative will identify issues which concern low-income consumers for the agency decisionmakers. In conjunction with OIEA and the Office of Community Action she will determine what public participation activities could be held to resolve these issues, and develop information explaining these issues and encouraging participation. One example cited above is public participation in the rulemaking process.

III. INFORMATIONAL MATERIALS

CSA currently has a considerable range of publications on all its programs—categorical (CFNP, Emergency Energy Conservation, etc.), and those in the filed (through publications of various associations of CAAs and CAA directors and grantees). Specific consumer books, pamphlets, and papers as well as directories of films and other audiovisual material are distributed by the Office of Community Action. The Office of Public Affairs uses a wide variety of materials describing a broad range of CSA programs in an effort to inform CSA's constituency, the media, and the general public.

Efforts should be made to provide information concerning all consumer activity to the publications CSA and its grantees publish. These efforts will educate low-income consumers and facilitate their involvement in the decisionmaking processes which affect their lives.

IV. EDUCATION AND TRAINING

The consumer representative, working with offices responsible for citizen participation, regional operations, and categorical programs, will educate staff members about Executive Order 12160. Provision of information and technical assistance to consumers can be delivered through the network of CSA's 878 CAAs and other grantees. Efforts are ongoing to translate publications into Spanish.

CSA's consumer plan will be published and circulated to other Federal agencies and to its staff and to grantees. A Staff Instruction detailing Regional

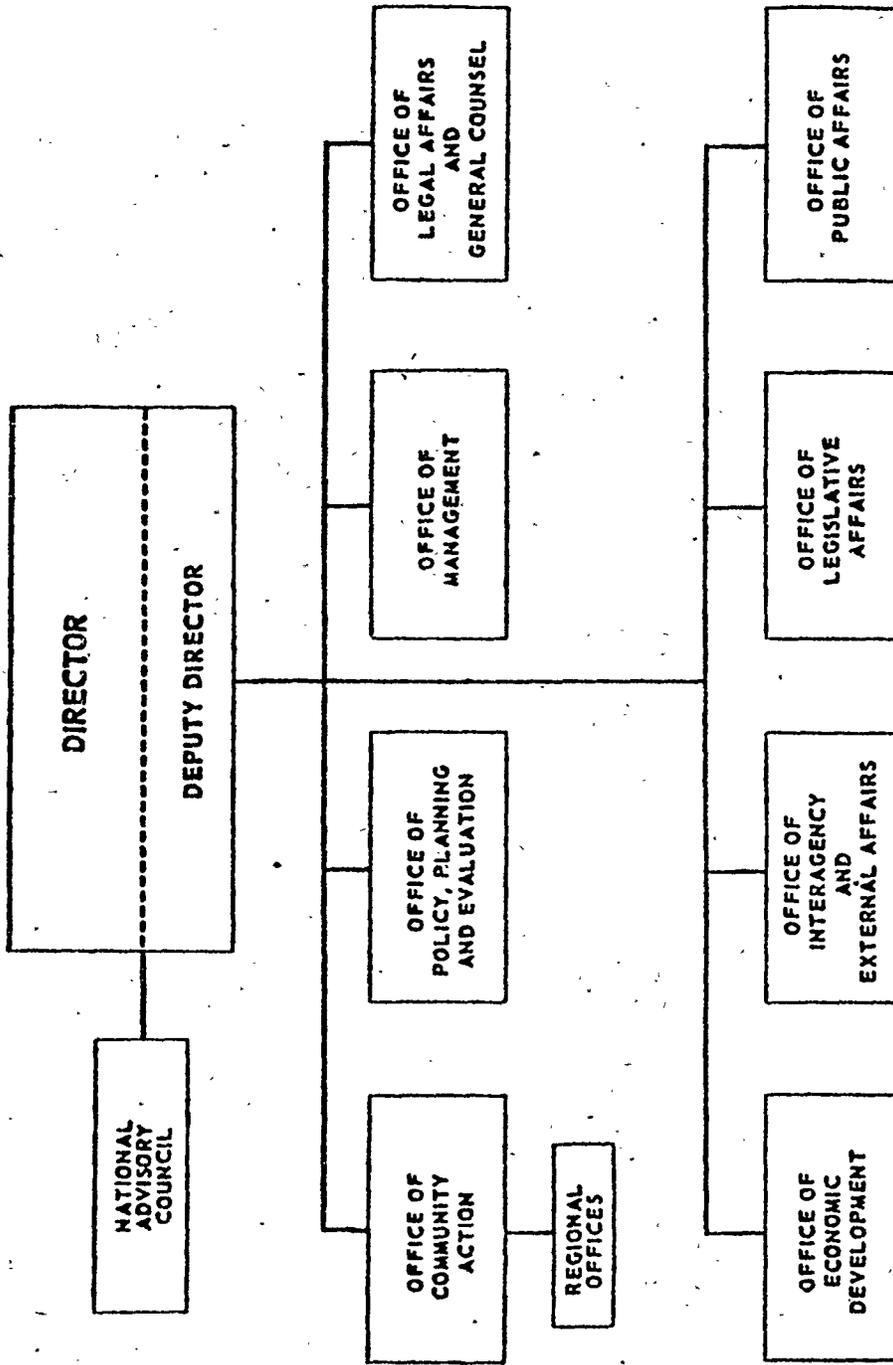
Office responsibilities will be developed and internal staff briefings held.

V. COMPLAINT HANDLING

Complaints and requests for information and assistance either will be handled by the consumer representative or sometimes referred to other staff and agencies. There will be efforts at increased coordination with other Federal and private agencies. The type of questions and opinions expressed through letters to the agency and its Grantees will be assessed and utilized to contribute to the consumer position being developed and will serve as guidance for consumer program emphasis and direction. Such questions and opinions will be used in developing rules and regulations issues by the agency semi-annually and in determining the need for various guidance papers as well as developing overall agency policy.

BILLING CODE 6315-01-M

COMMUNITY SERVICES ADMINISTRATION



[FR Doc. 79-37651 Filed 12-7-79; 8:45 am]
BILLING CODE 6315-01-C

GENERAL SERVICES ADMINISTRATION**Consumer Program—Implementation of Executive Order 12160.****AGENCY:** General Services Administration.**ACTION:** Proposed Consumer Program.

SUMMARY: The General Services Administration (GSA) is proposing an expansion of our current consumer activities. The proposed consumer program follows the guidelines in Executive Order 12160 (44 FR 55787, Sept. 26, 1979).

DATE: Written comments must be received by March 10, 1980.

ADDRESS: General Services Administration (XC), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: David F. Peterson, Office of Consumer Affairs (202-566-1794).

AUTHORITY: In accordance with Executive Order 12160. The General Services Administration issues the following proposed consumer program:

Background

The General Services Administration (GSA) establishes policy and provides for the Government an economical and efficient system for the management of its property and records, including construction and operation of buildings; procurement and distribution of supplies; utilization and disposal of property; transportation, traffic, and communications management; stockpiling of strategic materials; and the management of the Government-wide automatic data processing resources program.

GSA's "public" is primarily other Federal agencies. However, there are three programs within GSA that are especially consumer-oriented: The Consumer Information Center (CIC), the Federal Information Center (FIC), and the Office of the Federal Register (OFR). GSA's consumer plan focuses on the activities of these three programs.

I. CONSUMER AFFAIRS PERSPECTIVE

The professional staffs of the Consumer Information Center and the Federal Information Center programs will constitute the Consumer Affairs staff of the General Services Administration. Those staff members comprising of Office of Federal Register consumer function will work closely with the Consumer Affairs staff of GSA.

Staff Location

The Consumer Information Center and Federal Information Center will report directly to the Director of Consumer Affairs for the General Services Administration. The Director of Consumer Affairs will monitor and coordinate the consumer activities performed by the Office of the Federal Register and other GSA operating components when appropriate. The Director of Consumer Affairs will regularly report to the GSA Administrator on implementation of this consumer plan.

Size and Resources

The Consumer Information Center was established by Executive Order 11566 in 1970, and its staff consists of 19 persons including consumer information and consumer media specialists. The Center has two basic responsibilities: To encourage Federal departments and agencies to develop and release relevant and useful consumer information, and to increase public awareness of and access to Federal consumer information. The Center maintains an active liaison program with more than two dozen Federal departments and agencies to accomplish these missions. Dissemination of consumer information is carried out by publication of the quarterly Consumer Information Catalog, in coordination with the media, to publicize the availability of consumer information; and distribution of Federal consumer publications through the Center's distribution facility in Pueblo, Colorado.

The Federal Information Center program was established to assist persons seeking information about the Federal Government and its programs. The program was established solely for the benefit of the consumers and users of Government services who have questions about the Government but do not know where to access the system to find the answers. An FIC headquarters staff of 7 persons and a field staff of 148 persons, located in 38 key cities across the country, provide in-person and toll-free telephone information services to approximately 50 percent of the U.S. population.

The Office of the Federal Register (OFR) is comprised of 90 persons and is responsible for the publishing of the daily Federal Register, which contains all Presidential proclamations, Executive orders, and Federal Government rules and regulations (final and proposed), and of the Code of Federal Regulations, which is the codification of the current general and permanent regulations of Federal agencies and is republished annually. Presidential speeches and other materials made public by the White House are published in the Weekly Compilation of Presidential Documents and annually in the Public Papers of the Presidents. The OFR provides additional information on Federal agencies in the annual United States Government Manual.

Responsibilities

The CIC, FIC, and OFR staffs will continue their regular operating procedures to accomplish the responsibilities listed above. These staffs will work closely together to coordinate consumer activities within GSA.

Participation in Development and Review of Agency Rules, Policies, Programs, and Legislation

The GSA Administrator will issue an agencywide order directing all operating components to notify the Director of Consumer Affairs of pending actions; e.g., rules, policies, and programs, that have potential significant impact on the economic well-being or quality of life of consumers. This order would be

effective within 30 days of publication of the final GSA consumer plan. Upon review of the proposed action, if the Director of Consumer Affairs determines that an agency action does significantly affect consumers, the Director of Consumer Affairs will meet with key officials, will submit written comments on proposals in order to present the consumer viewpoint, and will be included in the formal GSA clearance procedures before a final agency determination is made.

II. CONSUMER PARTICIPATION

When the Director of Consumer Affairs (DCA) determines that a proposed GSA program or policy significantly affects consumers, the DCA will ensure that the originating unit within GSA observes specific procedures for early and meaningful participation by consumers in the development and review of these proposals. These procedures will include the establishment of a plan for public comment that states how interested persons will be given the opportunity to comment on the proposed action or to participate in the rulemaking process. Among the options to be considered by the originating GSA unit for inviting consumer comments are: (1) Publishing an advance notice of proposed rulemaking in the Federal Register; (2) holding open conferences or public meetings; (3) sending notices of proposed actions to publications that are likely to be read by persons who will be affected; or (4) notifying interested persons directly. The DCA will assist the originating GSA unit in evaluating the comments received and in establishing an evaluation plan for the final action, focusing on its effect on consumers. The DCA will also establish a procedure for holding forums at which consumers can meet with GSA decisionmakers on topics of concern.

Avenues of Participation

The Consumer Information Center will continue to regularly conduct national consumer surveys to identify consumers' informational needs. These surveys involve interviewing 2,500 consumers with diverse demographic characteristics in order to pinpoint their need for specific publications. Survey results are reported by the age, sex, geographical location, income, and education of the respondents. The Center then encourages the development of Federal consumer information based on these consumer surveys and also learns what methods of information dissemination to use.

The Center also conducts audience surveys to obtain consumer views concerning ways to improve the CIC program. Once each quarter, questionnaires are enclosed with 1,500 randomly selected outgoing orders. They are designed to elicit advice and suggestions for new publications and also ask about the Center's service; e.g., whether the consumer was satisfied with the publications, how long it took to receive the order, and what the Center can do to improve the service.

The Center will establish publications evaluation surveys on a regularly scheduled basis to improve the quality of Federal consumer pamphlets. These surveys invite consumer suggestions for making revisions of

consumer publications more useful. The Center will undertake a more extensive analysis of consumer mail and telephone inquiries and will expand external liaison efforts with national, State, and local consumer organizations to obtain meaningful consumer participation in program direction and development.

The Federal Information Centers will encourage and assist consumers who are interested in participating in Federal agency rulemaking. The staff members will use the specialized training detailed in Section IV, Education and Training, to more fully assist the public in participating in the rulemaking processes. The FIC's will develop and keep current a list specifying the person within each department and agency responsible for public participation programs. Additionally, each FIC will obtain and post notices of public hearings. The Centers will have available for the public a 60-day file of Federal Registers if there is no library in the building with a more extensive file.

The Office of the Federal Register will continue and expand its consumer education workshops designed to assist consumers in using the Federal Register/Code of Federal Regulations system more effectively. A new segment will be added to specifically focus on the public's right to participate in the rulemaking process and to present guidelines for effective participation. The workshop information will be compiled into a self-teaching text. This text would be publicized by the U.S. Government Printing Office, the CIC, and the FIC and would be available for purchase through the Superintendent of Documents by consumers unable to attend the workshop.

III. INFORMATION MATERIALS

Agency Information Services

1. *Usefulness of Current Material*

The Consumer Information Center conducts programs to develop and disseminate consumer information. The Center encourages, coordinates, and assists Federal agencies in the development and distribution of consumer information publications through the Consumer Information Catalog and use of the Center's distribution facility in Pueblo, Colorado. The Catalog, published quarterly, lists more than 200 of the best Federal Government consumer booklets and covers a broad range of consumer topics. In FY 1979, the Center distributed more than 22 million consumer publications. The Center's media program includes the development of biweekly consumer news releases and monthly radio and television scripts that highlight publications in the Catalog and other topics of current consumer interest. The media staff also provides a media "hotline" service for consumer reporters seeking Federal consumer information assistance. Additionally, the Center conducts an annual public service campaign to increase awareness of the Catalog and Federal consumer publications. The campaign involves the development of television, radio, and print public service announcements. More than 450,000 Catalogs were distributed as a result of the FY 1979 public service campaign. Special efforts

are made, to reach Spanish-speaking consumers through the *Lista de Publicaciones Federales en Espanol para el Consumidor*. This listing gives titles and ordering instructions for Federal consumer publications available in Spanish. The listing is distributed free to educators, libraries, community leaders, and consumer organizations. The Center also provides news releases and scripts to the Spanish media as well as prerecorded Spanish-language consumer features. In quarterly audience surveys the Center has consistently received an over-90-percent approval rate on questions concerning user satisfaction.

The Federal Information Center network is currently comprised of FIC's serving 85 major metropolitan areas. These centers provide in-person or toll-free telephone informational services to more than 50 percent of the U.S. population. The Centers currently distribute an information brochure describing the FIC services and listing the addresses and telephone numbers of the FIC's across the country, the Consumer Information Catalog, and a selection of other Federal Government consumer publications.

The Office of the Federal Register publishes the daily Federal Register and the Code of Federal Regulations, which is published annually. These publications inform consumers of the workings of their Government. The Federal Register is of particular importance to consumers because it is the only publication that covers all proposed Federal regulations and tells consumers how, when, and where to express their viewpoints.

2. Plans for Improvement

The Consumer Information Center will continue all of its consumer information programs listed above. The CIC media program will be expanded to include 26 additional consumer news releases annually and will increase its efforts to encourage major national magazines to promote consumer information through feature articles.

The CIC will encourage and assist the National Audiovisual Center, located in GSA, with the development and distribution of a listing of consumer education films. This pamphlet would be an interagency listing of educational films on consumer topics available through the National Audiovisual Center.

In FY 1980, the FIC program will begin an expansion effort as follows:

- Open the first statewide operation by expanding the two Florida FIC's to service the entire State.
- Expand FIC's in Missouri and Nebraska to statewide coverage.
- Open new FIC's in Kansas and Iowa that will provide immediate statewide service.
- Open a new FIC in Anchorage, Alaska.

The eventual goal of this expansion effort is to provide 100 percent of the U.S. population with toll-free telephone access to an FIC.

In FY 1980 the FIC program will begin an annual public service campaign to publicize the increased availability of FIC service. This campaign will use

television and radio public service announcements to inform consumers of the availability of FIC services.

New brochures detailing the FIC program and how to access it will be prepared and promoted widely within local communities. Additionally, the Centers will distribute other Federal consumer publications, especially the Consumer Resource Handbook from the Office of Consumer Affairs and the Consumer Information Center Catalog. The FIC's will also develop special resource lists to assist handicapped persons. These lists will identify Federal Government and local community programs that provide special services for persons with varying types of handicaps.

There will be a test program in the San Francisco FIC using a special telecommunications system that will allow deaf persons to use FIC services. This test, planned to begin in 1980, will be the first time deaf persons will have the opportunity to access an FIC.

The FIC headquarters staff will expand its liaison program with Federal agencies to offer assistance to those Federal agencies without an extensive field structure. In the past the Federal Communications Commission and the Office of Copyrights have used the FIC's to communicate vital information easily and quickly to consumers. The FIC's ability to dispense information and materials to consumers widely and with dispatch is a service that will be offered to Federal agencies.

With the cooperation of the issuing agencies, the Office of the Federal Register will establish a new research tool or "finding aid" for consumer-interest documents. This aid would appear in the daily Federal Register and would also be included in the monthly subject Index. It will state the matter being regulated in terms of the consumer issue impacted, the subject matter, and the name of the agency issuing the document; e.g., Nutrition; Food Labeling; Food & Drug Administration.

3. Officials Responsible for Consumer Information Program

The GSA Director of Consumer Affairs will be responsible for planning and carrying out the GSA consumer information program. The Director of Consumer Affairs will have direct responsibility for the CIC and FIC programs, and will monitor and coordinate the consumer information functions of the OFR.

Information on Agenda of Public Meetings

Each GSA service and staff office will be responsible for preparing explanatory materials regarding meetings open to the public for which they are responsible. Each office will also be responsible for developing appropriate plans for their distribution of the materials. The DCA will provide support and guidance as appropriate.

IV. EDUCATION AND TRAINING

Areas in Which Training Provided

Executive Order 12160 requires that a consumer affairs staff be identified in Federal agencies, and that

this staff review proposed and final rules and regulations and policies issued by the agency in terms of their impact on consumers. Since the Office of the Federal Register has unique resources for conducting workshops and developing training materials to assist Federal consumer staffs in reviewing regulations, it will offer 1-day seminars in rulemaking and its relationship to the consumer affairs staff. These seminars will be offered on a continuous and regularly scheduled basis. Topics will include: What is "readability" in Federal regulations; basic administrative law; how to structure rulemaking to achieve maximum public participation; effective use of semiannual agendas as a consumer tool; and how to manage, digest, and analyze a large return of comments.

Responsibility for Educating Staff Members About Consumer Program

The GSA Director of Consumer Affairs will be responsible for educating the heads of all GSA operating components about Executive Order 12160 and the GSA consumer activities planned in this consumer program.

Method of Education

The GSA Director of Consumer Affairs will circulate Executive Order 12160, the proposed GSA consumer program, and other related materials to the heads of all GSA operating components. The GSA order mentioned in Section I, Consumer Affairs Perspective, will ensure the involvement of the Director of Consumer Affairs in all proposed agency actions that may significantly affect consumers.

Specialized Training for Consumer Affairs Personnel

The Office of the Federal Register will conduct its 1-day seminars in rulemaking and its relationship to the consumer affairs staff (described above) for the Consumer Information Center and Federal Information Center headquarters staffs. The supervisors of the 38 FIC's will also attend the OFR seminar during the annual FIC supervisors' conference.

The CIC and FIC staffs will continue to attend and participate in training courses and workshops on topics on consumer interest. Additional training for the consumer affairs staff will be offered for complaint handling, consumer participation procedures, and preparation of consumer informational materials as needed. The CIC and headquarters staff of the FIC program will arrange and regularly attend training sessions conducted by Federal and non-Federal resource persons who will provide detailed explanations of issues and programs on current consumer topics. Information from these briefings will be furnished to the 38 FIC's through FIC bulletins.

Technical Assistance

The consumer education workshops for consumers, described in Section II, Consumer Participation, will be conducted by the Office of the Federal Register. These workshops will focus on the public's right to

participate in the rulemaking process and will present guidelines for effective participation.

V. COMPLAINT HANDLING

The Consumer Information Center, the Federal information Center program, and the Office of the Federal Register will establish procedures for systematically logging in, routing, handling, responding, and analyzing consumer complaints and inquiries.

The CIC currently acts as a collection point for a wide variety of consumer complaints and inquiries. The Center forwards these to the appropriate Federal agencies and directs consumers to either local consumer agencies or private groups that can help with their particular problems. To better serve consumers, the Center is consolidating all the complaint handling in one clearly defined area and is designating a full-time professional staff member to serve as coordinator. The coordinator will:

- Maintain a log of the number of written and telephone complaints received, by specific topic; the logs will state what help was given to the consumer or to what agency he or she was referred;

- Send a followup letter to each consumer whose complaint is referred to another Federal agency. On a regular basis, the CIC will invite consumers to let us know if their problems have been resolved;

- Prepare, on a monthly basis, a summary of complaints and inquiries, both for internal use and to be sent to the U.S. Office of Consumer Affairs (USOCA); and

- Maintain liaison with consumer complaint units in other Federal agencies.

The CIC will also promote to the media and the public the availability of USOCA's Consumer Resource Handbook. This free publication tells consumers how to complain and get results, and gives a descriptive listing of Federal, State, and local governmental agencies and private organizations that can help.

Each year the FIC's receive between 7 million and 8 million inquiries, some of which are complaints about Federal programs or services and suggestions regarding how to make them more effective. The FIC program, both at the Center level and the Washington level, will analyze these complaints and suggestions and report quarterly to the appropriate agency the concerns voiced by the public. Where the situation requires immediate actions, the FIC's or the headquarters staff will promptly bring the matter to the appropriate agency official for resolution. Responses to inquiries or complaints received by the FIC's are immediate—either over the telephone or in person.

The OFR will maintain a reading file of complaint letters with the response letter attached, which will be available for public inspection upon request.

OVERSIGHT

The Administrator of General Services will designate the Director of Consumer Affairs (DCA), at

the GS-15 level, to be solely responsible for policy direction, coordination, and oversight of the agency's consumer activities. The Director of Consumer Affairs will regularly report to the Administrator on implementation of this consumer plan. The DCA will coordinate the consumer activities performed by the agency's consumer affairs staffs in the Consumer Information Center, the Federal Information Center programs, the Office of the Federal Register, and other agency components as appropriate. The Administrator will issue an agencywide order directing all GSA operating components to notify the Director of Consumer Affairs of pending actions; e.g., rules, policies, and programs, that have potential significant impact on the economic well-being or the quality of life of consumers. Upon review of the proposed action, if the Director of Consumer Affairs determines that an agency action does affect consumers nationally, the DCA will meet with key officials, will submit written comments on proposals in order to present the consumer viewpoint, and will be included in the formal GSA clearance procedures before a final agency determination is made.

Dated: November 26, 1979.

Ray Kline,
Acting Administrator of General Services.

BILLING CODE 6820-34-M

Form Approved:
OMB No. 116579021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-79-960]

AGENCY: HUD.

ACTION: Notice Inviting Public Comment on Draft Consumer Program.

DATE: Comments must be received by March 10, 1980.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Room 5218, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Sandra J. Alexander or Kathy Dexter, Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, U.S. Department of Housing and Urban Development, Room 4100, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-0950. This is not a toll-free number.

I. CONSUMER AFFAIRS PERSPECTIVE

In 1976 the Secretary of the Department of Housing and Urban Development created the Office of Consumer Affairs and Regulatory Functions and delegated primary responsibility for consumer matters within the Department to the Assistant Secretary heading this office. (See 41 Fed. Reg. 19365—May 12, 1976.) The Office of Consumer Affairs and Regulatory Functions was delegated expanded responsibilities in 1977 and was renamed the Office of Neighborhoods, Voluntary Associations, and Consumer Protection (NVACP). Many of the responsibilities outlined in Executive Order No. 12160 are already being performed by the professional staff of consumer affairs personnel currently maintained by the Department under the Assistant Secretary for NVACP.

Staff Location

The consumer affairs staff will continue to be located under the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, in the Office of Consumer Affairs and the Office of Policy and Program Development. The Office of Consumer Affairs is divided into four divisions: Housing Counseling Division, Consumer Complaints Division, Consumer Liaison Division and Community Services Division.

Size and Resources

The size of the full-time or part-time professional staff of consumer affairs personnel that will be needed within the Department to serve the full mandates of the Executive Order is not readily ascertainable. The Agency finds that a certain level of expertise is required by each of the divisions under the Office of Consumer Affairs and the Office of Policy and Program Development in order that the responsibilities and obligations outlined by this program can be met. The staffing needs of the Department will be met

through the application of the discretion granted to the Department's Assistant Secretaries to hire staff sufficient to meet their delegated responsibilities.

The effective operation of the *Consumer Complaints Division* depends upon a staff having experience working effectively with individuals, and developing and maintaining consumer complaint systems, including systems for equitably resolving complaints. The staff must also have an ability to monitor the processing of consumer complaints by other HUD Headquarters and field offices and to analyze data gathered by the consumer complaint management system.

The *Consumer Liaison Division* requires a staff possessing familiarity with HUD's organizational structure and major departmental programs, a thorough working knowledge of methods of ascertaining public views, and the ability to analyze and evaluate the views and positions of the public and to summarize them into policy recommendations. Experience is also needed in conducting and analyzing extensive studies in the fields of housing, in collecting and evaluating facts, in drawing conclusions, interpreting and applying regulations and policies to programs related to housing issues. The staff will include at least one Housing Specialist, having knowledge about housing policies, programs and organization at the Federal, State and local levels. There will also be at least one Community Development Specialist with knowledge about the community development programs, policies and organizations at the Federal, State and local levels. This division will also include at least one Education Specialist with the capability to develop consumer publications, and interpret regulations. This individual must also be familiar with management information systems.

In order for the *Office of Policy and Program Development* to be effective, its staff members must be familiar with one or more HUD programs, and have the ability to perform systematic and high level analyses of HUD issues, policies, programs, procedures and regulations, from the perspective of the affected consumers. Staff members must have proven high-level writing abilities, knowledge of regulatory program operations, and the ability to articulate and advocate a minority position.

Responsibilities

The Assistant Secretary for NVACP has oversight responsibility, establishes policy direction for and coordinates the Department's consumer activities. The Assistant Secretary will report directly to the Secretary on matters related to this program, and has authority to directly appeal to the Secretary or Under Secretary any determination of agency officials adversely affecting the consumer interest.

The Director of the Office of Consumer Affairs will directly support and assist the Assistant Secretary in meeting his or her responsibilities under this program.

Oversight of the consumer affairs activities within the Department is not the only responsibility of the

Assistant Secretary for Neighborhoods, Voluntary Association and Consumer Protection. The Assistant Secretary will continue to meet his or her delegated responsibilities in the consumer-related subject areas of neighborhood development, public-private partnerships and regulatory enforcement. The Secretary of HUD has determined that these delegated responsibilities are complementary to the consumer affairs function and will not detract from, but will enhance, the Assistant Secretary's ability to represent the consumer interests within the Department.

The Consumer Complaints Division has total responsibility for monitoring and coordinating all consumer complaints activity within the Department. The Consumer Liaison Division acts as liaison between the Department and public and private organizations concerned with consumer matters, and develops an effective means by which consumers can gain access to the Department and communicate their concerns. The Office of Policy and Program Development analyzes and comments upon all proposed and newly drafted final Departmental regulations, major Handbooks; and policy documents, in order to identify and represent the interests and views of the consumers.

The Community Services Division provides technical advice and guidance to designated staff of HUD Regional Offices on the social science aspects of housing management and on planning with people to improve social and economic opportunities and to better the quality of life. The Housing Counseling Division administers a housing counseling grant program. The Counseling division also recruits, trains and certifies community-based public and private non-profit organizations which provide housing counseling services to homebuyers, tenants and homeowners. The Community Services Division and Housing Counseling Division are primarily responsible for program functions which are not related to the consumer affairs responsibilities outlined by this program.

Relationship With Other Consumer Personnel and Agency Operating Units

The Office of the Assistant Secretary for NVACP will also coordinate its oversight responsibility with the activities of the Office of Citizen Participation within the Office of Community Planning and Development. Development of consumer educational and informational materials, and participation in public events will be coordinated with the Office of Public Affairs in the Secretary's Office. Development of an education and training strategy for HUD personnel will be coordinated with the Assistant Secretary for Administration. The Office of the Assistant Secretary for Administration will also support the Office of the Assistant Secretary for NVACP by providing expertise in preparing publications, and preparing presentations and exhibits for the public.

The Department will establish a Consumer Affairs Advisory Council consisting of members from the HUD program offices (of at least Deputy Assistant Secretary

rank), the General Counsel's office, Office of Policy Development and Research and the Office of Public Affairs. The Director of the Office of Consumer Affairs will serve as secretary for the Council. The purpose of the Council is to provide a mechanism through which high level officials of the Department can meet with the Secretary on a regular basis to discuss consumer issues. The regular agenda for the Council meetings will include consumer affairs issues of concern to the public and other Federal, State and local agencies. The Advisory Council will appoint a chairperson, who will serve for a term of one year.

Participation in Development and Review of Agency Rules, Policies, Programs and Legislation

1. Notification Procedure

—The HUD Handbook prescribes a Departmental clearance process for Federal Register documents, work plans and semiannual lists of routine, special and significant rules. The Office of Regulations in the Office of the General Counsel distributes copies of the items subject to Departmental clearance to the Assistant Secretaries and other heads of major organizational units in HUD Headquarters for simultaneous review. The Office of the Assistant Secretary for NVACP will receive all items distributed by the Office of Regulations along with an invitation to participate in the clearance process. The Office of Policy and Program Development will notify the Office of Consumer Affairs and its Division that items have been received by the Assistant Secretary and are available for review by their staffs.

—The Consumer Affairs staff may be invited by various Departmental program offices to participate during the development of rules, policies, programs and legislation.

2. Stage at Which Participation Begins

—Consumer Affairs staff participation takes place during the Departmental clearance process for the following items:

(a) Substantive rules relevant or applicable to the general public which prescribe a penalty or course of conduct; confer a right, privilege, authority, or immunity; or impose an obligation.

(b) Rules of procedure (e.g., description of forms available, places where forms may be obtained, instructions as to the scope and contents of reports).

(c) Statements of general policy or interpretations of general applicability relating to public property, loans, grants, benefits, or contracts.

(d) Advance Notices of Proposed Rulemaking; Task Force charters and Notices of Task Force Meetings.

(e) Descriptions of HUD's central and field organizations (e.g., Delegations or re-delegations of final authority regarding Departmental programs; Orders of Succession; Established places at which, and methods whereby, the public may obtain information, make submittals or requests, or obtain decisions.

(f) Work plans and semi-annual lists of routine, special and significant rules.

3. Methods of Participation

—The Office of Regulations will send a copy of the clearance item to the Assistant Secretary for NVACP for review. The Office of Policy and Program Development will examine the clearance item and make recommendations to the Assistant Secretary. The reviewing office may concur without comment, concur with comment, or nonconcur. The Office should nonconcur only if it insists that it cannot approve the clearance items until the substantive concern causing the nonconcurrency is satisfactorily resolved or decided by the Secretary/Under Secretary. The Office would concur with comment if it has editorial suggestions or substantive concerns not sufficiently serious to warrant a nonconcurrency. The Office will have to distinguish between comments which are the basis for nonconcurrency, and those it considers not sufficiently serious to warrant a nonconcurrency. The Office would negotiate directly with the drafting office in an initial attempt to resolve a nonconcurrency.

—The staff may be assigned, either as working staff or as the official consumer representative, to a variety of agency task forces or working groups.

—The staff may meet with key officials to resolve disputes over appropriate program directions.

—The staff may develop and propose program initiatives in response to a perceived consumer need or actual requests for rulemaking by the Department on specific consumer concerns.

—The staff may participate in program reviews or program development when a specific consumer interest is identified.

—The staff may also participate on evaluation panels for research contracts awards on particularly relevant issues.

II. CONSUMER PARTICIPATION

The Department of Housing and Urban Development's Consumer Participation Programs are designed to fulfill the following objectives:

—To provide the public with the opportunity for input into rulemaking and policy or program development;

—To provide consumer educational and informational exchanges;

—To provide technical assistance in the utilization of available program resources; and

—To facilitate the monitoring of program input.

Stage of Agency Decisionmaking Participation Begins

1. Required Procedures—Rules

Departmental procedures as outlined in the HUD Handbook required that before drafting a significant regulation, the drafting office must prepare a work plan which outlines the entire rule formulation process. The drafting office must indicate in its work plan the methods by which it will obtain public participation in the development of the regulation.

—The first step in developing the plan is to identify who should be invited to comment on the regulation. Participants should include:

(a) Those persons and groups to whom the beneficiaries or obligations of the regulation are directed.

(b) Those persons or groups who assist HUD in providing services, such as counseling agencies, or other government agencies.

(c) Interest groups, such as civil rights or consumer organizations.

(d) General purpose state and local governments and national organizations representing those general purpose governments which notified the drafting office of their interest in the regulation following publication of the Semiannual Regulations Agenda.

The drafting office will list the participants in the public participation portion of its work plan. If a participating group is large, the drafting office will identify the method by which it will obtain a representative sample of the group. In reviewing the work plan, Assistant Secretaries or other heads of major organizational units in HUD headquarters may recommend additional participants.

—The principal means of encouraging public participation at the early, pre-drafting stage of rule development is to publish an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register. The ANPR will briefly outline:

(a) The proposed new program or proposed changes, and why they are needed;

(b) The major policy issues involved;

(c) A request for comments, both specific and general, as to the need for the proposed rule and the provisions that the rule might include;

(d) If appropriate, a list of questions about the proposal that will elicit detailed comments;

(e) If known, an estimate of the reporting and recordkeeping requirements likely to be necessitated by the proposal; and

(f) Where comments should be addressed and the time within which they must be submitted.

The drafting office shall attach the ANPR to the work plan, so that the documents may be reviewed at the same time.

—After the Secretary/Under Secretary approves the work plan and the ANPR, the Office of Regulations will forward the ANPR to the Federal Register for publication. In addition, the drafting office will mail copies of the ANPR to the participants identified in the work plan. If a proposed regulation is subsequently published, the drafting office will mail copies of it to the same participants who received the ANPR.

—An ANPR will be published for each significant regulation, unless the Secretary/Under Secretary grants an exception based upon legitimate and pressing time constraints.

In addition to publishing an ANPR and a proposed regulation, the drafting office may provide for further public participation by one or more of the following methods:

(a) Random or media based surveys;

(b) Panels, conferences, or forums; and

(c) Public hearings.

2. Policies and Programs

The determination of the actual point for consumer participation in general policy and program development not involving rulemaking is left to the discretion of the drafting program office. The public participation components employed by these offices may include consultation with advisory Committees, meetings with representatives of affected consumer groups, and discussions in forums and public hearings.

Avenues of Participation

1. Consumer Forums

Perhaps the most visible mechanism for informing consumers about HUD and soliciting their views on issues and programs has been the Consumer Forums. These forums are designed to encourage a working relationship between HUD's program offices and policymakers and the consumers of the Department's programs. Approximately 100 open consumer forums have been held in the past 12 months, focusing on major, timely issues. The forums are of three types: national, state and local.

Several *national forums* are held annually. They are generally conducted in Washington, D.C. The forums serve as catalysts for discussions on issues of concern to the Department and the public. Staff from the specific programs being discussed are present and take part in discussions with representatives of industry, consumers and government. Assistant Secretaries make presentations at these forums. Occasionally the Secretary and Under Secretary are participants.

—Eighty to ninety *local consumer forums* are planned annually throughout the country by HUD field offices. The intent of these meetings is to inform consumers about HUD programs and solicit their views on program performance. Area Office Managers or Regional Administrators make major presentations at virtually all of these forums. Other HUD field staff serve as panelists and workshop leaders. In addition, there is generally representation on the panels by State and local officials, community organizations, consumers and private business firms involved in HUD programs. Audiences average from 100 to 250 people.

—Approximately fifteen states per year conduct *State Consumer Forums* on behalf of HUD. These forums are structured to pull state and HUD resources together to jointly address, in a public setting, major consumer issues in housing and community development. The state offices involved include housing and community development, urban affairs, housing finance, and consumer affairs.

The state agencies develop the forums to acquaint the public with:

- (a) HUD's programs and personnel;
- (b) City/state/Federal role in housing and community development;
- (c) Ways in which the public can help government meet its needs;

(d) Ways in which the public could provide feedback on the effectiveness of HUD's state and local programs;

(e) Ways in which the Federal, state and local agencies may meet the public's needs;

(f) Community Development Block Grant Entitlement Cities;

(g) Office of Housing Finance;

(h) Consumer Affairs Office;

(i) State Economic Opportunity Office;

(j) State legislative committees that have jurisdiction over HUD issues; and

(k) Consumer, neighborhood and community groups.

They are encouraged, where appropriate, to invite either HUD Area Office Managers, Regional Administrators, or Assistant Secretaries as speakers.

2. Consumer Network

HUD has established a Consumer Network that now numbers approximately 24,000 groups and individuals. It is composed of local consumer and community groups, national organizations, state and local consumer affairs agencies, tenant associations, public housing authorities and other groups or individuals who request that they be listed in the Network. It also includes groups with special concerns, such as women, Spanish-speaking individuals, Indians, the elderly, and coalitions working on specific issues. The Consumer Network is a computerized system with the ability to assemble and update various mailing lists, cross-indexed by consumer interests in Departmental policies or programs. This system has the capacity to limit its distribution to any State or Regional jurisdiction.

3. Consumer Newsletter

A monthly *Consumer Bulletin* is sent to the entire Consumer Network highlighting HUD activities and soliciting comments. A *Consumer Notice* is distributed only to those consumers who have expressed an interest in a specific topic. It announces upcoming consumer forums and provides background material on the issues and programs to be discussed.

4. Mailings

Direct solicitation of comments about major regulations is conducted by sending mailings of published proposed regulations, with a cover letter highlighting the major issues, to various groups and individuals to ensure that they have notice of the proposal and to encourage them to formally comment. These are groups and individuals from the Consumer Network who have indicated an interest in the particular subject matter. Mailings are also made to special consumer groups, such as Hispanics, Indians, and women, on issues directly related to their interests.

5. Informal Working Groups

These small groups of consumers and consumer representatives are brought together to discuss a particular issue. The working groups then prepare papers stating their views and recommended HUD actions.

6. Advisory Committees

When it is desirable that a group of consumers and consumer representatives meet on a regular, long-term basis with HUD staff to discuss a particularly important issue or program, an Advisory Committee is established. This is mandated by the Federal Advisory Committee Act.

Analysis of Consumer Concerns

With regard to rulemaking, the preamble to a final regulation is required by HUD procedures to include an analysis of significant comments submitted to the Rules Docket Clerk. The preamble also explains why comments were or were not adopted. During the clearance process the consumer affairs staff in the Office of Policy and Program Development reviews the preamble to evaluate its adequacy. When the consumer affairs staff identifies an issue which appears to have a negative impact on consumers, or when the commentors raise an issue which the staff determines was not adequately addressed by the responsible program official, then the Assistant Secretary for NVACP nonconcurs on the clearance item. The program office is obligated by HUD procedures to attempt to resolve the nonconcurrence. If NVACP and the Program Office cannot agree on a resolution, the issue may then be escalated to the Under Secretary or the Secretary of HUD for decision.

In addition to the formal rulemaking process, when an issue has been highlighted and consumer views solicited through one of the avenues of participation previously discussed, those views are analyzed, presented to, and discussed with responsible HUD program officials. The objective is to affect current or future rulemaking and program design by insuring that the consumer viewpoint has been presented and considered.

A Consumer Affairs Working Group, consisting of representatives from each program, is designated in each Field Office. This group coordinates the development of a forum and insures that followup activities are carried out. An evaluation report is required after each meeting describing the forum design, audience mix, major issues raised and the recommendations and commitments made. A schedule for resolving issues and fulfilling commitments must be furnished. Periodically, Area Managers, Regional Administrators, and Assistant Secretaries are required to submit status reports to track the progress made in resolving these consumer concerns. Forum participants and others receive a newsletter summarizing the issues and describing the actions that will be taken to implement recommendations made.

Notice to Consumers of Opportunities To Participate in Decisionmaking

Consumer Notices are sent to the members of the previously described Consumer Network to provide information concerning forums, special meetings, newly proposed regulations, and any other significant matters. In addition, the Office of Public Affairs

notifies the local news media each time a Consumer Forum is scheduled.

III. INFORMATIONAL MATERIALS

Agency Information Services

The Department has established on national, regional and area levels special networks of consumers with whom we regularly communicate. The highest priority goes into creating opportunities for two-way communications between consumers and HUD. Consumers are prepared to protect themselves in the marketplace, and to participate effectively as advocates in the HUD policymaking process. In order to accomplish this, the Department prepares informational and educational consumer materials about the Department and its program and encourages the expression of consumer viewpoints through forums, public hearings, seminars, meetings and mailings.

1. Usefulness of Current Material

HUD publications produced by program offices are reviewed for clarity and sensitivity to the consumer viewpoint (by the Consumer Liaison Division) and to identify where new publications are needed. Additionally, summaries of major new program initiatives or revisions are written and sent to consumers by the Consumer Liaison Division. A draft *Consumer's Primer of HUD* has been prepared, which explains how the Department works and its major programs. Brochures with pictures and diagrams explaining the functions of the Office of Consumer Affairs and the procedures for consumer participation have also been prepared. The Office of Public Affairs has developed a booklet entitled *More Than Shelter* which describes HUD's major programs in "Plain English" with photographs for consumers. The Neighborhood Relations Division has also developed a 28-page booklet entitled *Neighborhood Oriented Programs of the Federal Government*, which is a compendium of funding and technical assistance resources for neighborhood organizations. This was published in November 1979.

HUD program offices produce brochures and fact sheets on each program, which are updated periodically. An information book summarizing all HUD programs is produced annually by the Office of Public Affairs. The Office of Policy Development and Research regularly produces studies and reports on HUD programs and policies. These materials are available to the public. Films and slide presentations on HUD programs and consumer participation are carefully developed to avoid any sexual, racial or ethnic bias.

2. Plans for Improvement

Due to inadequacies identified over the past years by HUD staff or by outside groups and individuals, several new materials or methods for communicating with HUD's clientele have been developed for FY 1980. These include:

—A continuation of the FY 1979 initiative *Women and Mortgage Credit Campaign*. This Campaign is specifically designed: (1) to educate women about the availability of credit for home mortgages, and about past and current discriminatory practices; and (2) inform lending institutions about the credit worthiness of women. During FY 1980, the campaign will be brought to women and lending institutions via public service announcements on T.V., radio, and newspapers. The Office of Policy Development and Research monitors this campaign through a contract with an outside consultant.

—The National Association of Housing and Redevelopment Officials (NAHRO) will develop a series of teaching classes for housing authority managers to instruct them on what public housing authorities are doing and should be doing. The classes will include a segment about the special needs of the tenants of public housing.

—The Neighborhood Information Sharing Exchange System began official operations in November, 1979. This computerized system is designed to provide information to neighborhood organizations about neighborhood revitalization programs and activities around the country. It operates outside the HUD Headquarters at K Street, N.W., Washington, D.C., and is maintained by an outside contractor.

—HUD has developed a video film about an energy conservation conference held in 1978. The film is designed to encourage local groups to undertake the same type of conference activity. HUD will develop more of this kind of consumer-oriented films. The energy film, and others not yet developed, will be distributed to HUD Area and Regional Offices and to other Federal Agencies which indicate an interest in the particular consumer item. Also, the availability of the films will be made known through HUD's consumer mailing list as well as through the White House consumer bulletin.

—HUD will begin an experimental project called "Yellow Pages" in five cities in January 1980. In this demonstration, we will place ads directed toward persons who are looking for mortgage money and insurance in the local Yellow Pages. The ads will include a toll free number for consumers to call and is designed to explain the FHA process to consumers. This project results from Department awareness that many or most people do not understand the FHA process. If this demonstration is successful, it will be expanded to other cities.

—HUD will continue its Supermarket Communications program, under which a contractor to HUD puts informational material in supermarkets around the country on a regular basis.

—The Department will initiate a series of Public Service Announcements (PSA's) for television aimed at informing consumers about such subjects as:

- a. The Real Estate Settlement Procedures Act
- b. Lead-Based Paint Poisoning Prevention
- c. Fair Housing
- d. Housing Counseling

3. Officials Responsible for Consumer Information Program

Each program office has responsibility for developing material relevant to its area. The Office of Public Affairs, which is headed by an Assistant to the Secretary assists in the development of this material in several ways.

First, every publication and proposal by a program office is submitted to the Publications Review Board (Chaired by the Office of Public Affairs) for a determination of its need, whether it duplicates existing material, and whether it should be translated into Spanish. Once the Board so decides, a communication may go forward.

Second, the Office of Public Affairs manages the graphic and visual arts staff for the entire department and therefore assists in illustrating publications.

Third, the Office of Public Affairs can assist a program office financially if the program office lacks funds to support a necessary publication.

4. Manner of Distribution

In addition to the Consumer Bulletins, the Office of Neighborhood Development, under the Assistant Secretary of NVACP, periodically publishes "Alert Memos." The Alert Memos provide updated information on the programs of HUD and other Federal agencies which are relevant and accessible to neighborhood organizations. These memos are sent to an expanding national network of neighborhood organizations and individuals. As of October 1979 the mailing list included 5,600 organizations and individuals.

HUD also has an Information Center in its Headquarters Office where the public can obtain informational materials about programs as well as technical and research publications. Each Area and Regional HUD Office has program material for distribution to the public. Often information about HUD activities of interest to consumers is made available to national magazines and regional and local journals.

Television spots are occasionally used to highlight specific consumer issues. These television spots are often followed-up by newsletters and Consumer Forums. Films and slide presentations are shown at most Consumer Forums. Press conferences are frequently held in conjunction with these meetings and press releases are always prepared and sent to the local news media announcing the meetings. Consumer Forums, public hearings and seminars are preceded by careful background work, such as selected participants and HUD staff researching and writing discussion papers. Packages of informational material about a specific issue or program are distributed at these meetings.

The Product Dissemination and Transfer Division of the Office of Policy Development and Research (PD&R) is responsible for assuring that consumers have access to research products and programs. The consumer population includes state and local public officials, members of the building industry, representatives of

neighborhood organizations, researchers in universities, and consumers. Highlights of the division's dissemination program include:

(a) A computer-based information service, called HUD USER. The data base contains short abstracts on all HUD-funded research. The service assists PD&R in providing the following services on a rapid basis:

- (1) Personalized literature searches from the computerized data base to answer consumers' questions.
- (2) A semi-annual annotated compendium of research results.
- (3) A bi-monthly bulletin announcing the latest PD&R research reports.
- (4) A document distribution service which supplies consumers with copies of research results.
- (5) Special products including topical bibliographies, brochures and announcements of important future research results.

(b) Publications especially for consumers on selected subjects have been prepared and disseminated. Examples of this type of publication include "The Energy-Wise Home Buyer" and "In the Bank . . . or Up the Chimney?"

(c) The Division also has developed new types of publications which summarize research results (bi-monthly bulletins, flyer, with order forms) which are designed to give the user enough information to decide whether to order the full report.

Information on Agenda of Public Meetings

The program office sponsoring a public meeting is responsible for preparing materials designed to make the meeting comprehensible to the public. Since the purpose and type of meeting may vary, the Department has not prescribed a format for the public meeting materials. The sponsoring office is granted the widest latitude to develop the types of materials which will make the public's involvement in the meeting most beneficial.

Notification of interested persons about the availability of the materials and the distribution of materials is also left to the discretion of the sponsoring officials. In general, the program offices notify the public about public meetings in the same manner that they inform consumers about HUD programs.

IV. EDUCATION AND TRAINING

Areas in Which Training Provided

The Department has a substantial professional staff which has performed most of the activities outlined in this program for several years. It is not anticipated that the Department will need to develop or offer specialized training to existing personnel in consumer participation, complaint handling and preparation of informational and educational materials. Recruiting procedures and on-the-job orientation processes will insure that the professional staff will have the requisite skills to meet their responsibilities under this program.

Responsibility for Educating Staff Members About Consumer Program

The Assistant Secretary for NVACP will coordinate with the Assistant Secretary of Administration and the other program Assistant Secretaries in developing a strategy to educate HUD staff members about the President's Executive Order and about HUD's activities for carrying out its consumer affairs program.

Method of Education

HUD will conduct briefing sessions, including a slide show for all of the Assistant Secretaries' offices within HUD. These briefings will explain the Executive Order, HUD's policy and program response and the implementation strategy.

The Assistant Secretary for NVACP will provide the Secretary's Principal Staff a short summary of the Executive Order and the proposed plans at Principal Staff Meeting.

The staff of the Office of Consumer Affairs in conjunction with the Office of Public Affairs will prepare a video cassette film and a slide presentation about the Executive Order, the new Federal policy and HUD's programs and policies developed in response to the Order. The audiences will include:

- a. Regional Administrators and Area Managers
- b. Headquarters and Field Staff
- c. Neighborhood and Consumer Affairs Representatives
- d. HUD's consumers

A special briefing will be held at the HUD Executive Management Review meeting (an internal management meeting) in which Regional Administrators, Area Managers and Assistant Secretaries meet to discuss program and policy implementation strategies.

A course will be developed in conjunction with the Department's Division and offered as part of HUD's annual curriculum.

Field training programs in Columbia, Maryland, will include a module on Executive Order No. 12160 and HUD's Consumer Program. The NVACP Management Training Program, which will be held in December 1979, and the Citizen Participation training sessions (CPD) will have a specific section on this subject.

Selecting Consumers and Organizations To Receive Assistance

Procedures may be established which specify certain periods during the administrative process when citizens may affect the decisionmaking process. The Department will review several approaches for providing assistance to consumers and their organizations which would encourage their participation and enhance the effectiveness of their input.

HUD personnel currently answer technical and procedural questions, and assist consumers and groups in the preparation of applications, forms and other documents.

The Department also has a Technical Assistance Program which is designed to transfer skills and

knowledge in planning, developing, and administering the Community Development Block Grant program to eligible applicants who have a need for this assistance.

V. COMPLAINT HANDLING

The Division of Consumer Complaints, within the Office of Consumer Affairs, has total responsibility for monitoring and coordinating all consumer complaint activity within the Department. A network of consumer complaint coordinators is in place to assure compliance with the prescribed procedures by all 52 HUD field offices as well as every major Headquarters Assistant Secretary's Office. Consumer complaint coordinators report to the Division of Consumer Complaints through written analysis as well as regular telephone communication.

The overall purpose of HUD's consumer complaint system is:

- To assure that all consumer complaints receive timely and responsive replies;
- To provide decision-makers at HUD with up-to-date information about areas of frequent consumer concern;
- To put the consumer complaint data to practical use in assessing the impact of HUD policies and programs.

Since 1977 the Division has functioned under provisions of the HUD Handbook which establishes its explicit roles in the monitoring of all complaints. These provisions are currently being revised to further strengthen the role of the Division of Consumer Complaints.

Agency Interest In and Methods for Filing

Realizing that many consumers are: (1) unaware of the Departmental Consumer Complaints System, (2) unaware of the proper way to file a complaint to get timely and quality action, and (3) unaware of what the Department is capable of doing for consumers, the Division of Consumer Complaints has instituted an intensive public awareness program.

—The Division has developed a "How to Complain Guide," which outlines how and where to send complaints relating to a wide variety of housing matters.

—On a regular basis, the Division puts out press releases on the current, most common complaints to increase awareness about problems and solutions.

—The Division writes, revises and issues HUD publications based on complaint activity.

Format for Logging Complaints

According to the requirements of the Departmental Consumer Complaint Handling System, all complaints received (by letter, telephone and walk-in) must be accurately logged. Information on these logs must include name, address, date of receipt, HUD program category of complaint, the nature of the complaint, and the date when all remedies within HUD's jurisdiction have been exhausted and the consumer has been so advised.

Response Procedure

Since the staff of HUD field offices are more aware of local and state resources available to consumers in their areas, they are usually assigned responsibility for providing a reply to clearly local complaints. When a letter is referred to the field an interim letter is sent to the consumer explaining the referral, along with the name, address and telephone number of a contact and a date for the next response.

If a complaint is determined not to be within HUD's jurisdiction, every effort is made to find another agency that can provide assistance. The complaint is directly referred to the other agency and a response explaining this referral is sent to the consumer.

Evaluation of Complaint-Handling System

As part of the monitoring responsibility of the Division of Consumer Complaints, a Department-wide automated tracking system will be put in place in FY 81.

A formal monitoring process is being implemented to insure that a workable system for recording and reporting complaint data is operational in Headquarters and field offices. Final reports are written up and submitted to the Regional Administrators or Assistant Secretaries as applicable.

Every field office has a management goal, submitted by the Division of Consumer Complaints and approved by the Secretary, for resolving 95% of the consumer complaints received by the Department within 30 calendar days. This is closely monitored through a computerized system. Offices that fall below this goal are highlighted in monthly Secretarial meetings.

The importance of being timely and responsive to complaints is stressed to all HUD employees by the Division of Consumer Complaints, Consumer Complaint Coordinators, and Principal Staff. The Division of Consumer Complaints is now developing several methods to teach employees how to be responsive. A guidance manual is now being printed which outlines exactly what is expected of complaint handlers at each step of the complaint handling process. Plans are underway to develop a video package on complaint handling to be shown in every Area Office. Specific guidelines for complaint handlers are also highlighted in the Handbook.

By the 15th of every month each field and Headquarters office is responsible for submitting a statistical report on complaint activity for the previous month. These figures are categorized by HUD program category. The Division of Consumer Complaints then combines the individual reports into one monthly consumer complaint report.

On a quarterly basis each office is responsible for submitting a narrative analysis of the complaint activity during the previous 3-month period.

The quarterly narrative reports are thoroughly analyzed and a consolidated feedback report is developed which is sent to key HUD officials as well as all field offices.

The Division of Consumer Complaints highlights significant consumer complaint issues each month.

The issues are written in an issue-problem-recommendation style. The Secretary/Under Secretary's office is supportive of the consumer complaint handling system and operations and uses its authority to assure follow through by HUD offices. If program offices do not follow through on recommendations, they are required by the Secretary or Under Secretary to explain why the suggestions are not feasible.

On a regular basis the Division of Consumer Complaints surveys consumers who have written to the Department. The survey responses are analyzed to determine what the Department can do to be more effective. The analyses are sent to the program offices along with recommendations.

VI. OVERSIGHT

The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection will have authority to exercise policy direction for, and coordination and oversight of, HUD's consumer activities under the terms of this program. The Assistant Secretary will continue to report directly to the Secretary and will regularly apprise the Secretary of the potential impact on the consumers of particular policy initiatives under development or review within the Department.

The Assistant Secretary will receive substantial support and direct assistance from the Director of the Office of Consumer Affairs (a career professional) in meeting his or her oversight responsibilities.

Authority: Executive Order 12160 (44 Fed. Reg. 55787—September 28, 1979).

Issued at Washington, D.C., December 4, 1979.

Moon Landrieu,

Secretary of Housing and Urban Development, Washington, D.C.

BILLING CODE 4210-01-M

Form Approved:
OMB No. 116S79021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

DEPARTMENT OF LABOR**Office of the Secretary****DOL Consumer Programs; Plan of Action—
Executive Order No. 12160**

AGENCIES: Employment and Training Administration, Occupational Safety and Health Administration, Labor-Management Services Administration, Mine Safety and Health Administration, Employment Standards Administration, Bureau of International Labor Affairs, Bureau of Labor Statistics, and Women's Bureau.

ACTION: Proposed plan of action.

SUMMARY: The Department is proposing a plan of action for insuring that DOL Consumer programs adequately consider and address consumer needs and interests. This plan of action establishes specific guidelines for agencies to follow in establishing or reforming consumer programs to comply with the requirements of President Carter's Executive Order on Federal Consumer Programs. The Department is taking action to ensure that the consumer interest is incorporated as an integral part of its decisionmaking process and that DOL policies, programs, and rules are responsive to expressed consumer concerns.

DATE: Comments by March 10, 1980.

ADDRESS: Written comments to: Special Assistant for Consumer Affairs, U.S. Department of Labor, Room S-2018, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Judy A. Sorum, Special Assistant for Consumer Affairs, U.S. Department of Labor, Room S-2018, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210, Phone: (202) 523-9184.

Accordingly it is proposed to issue a Plan of Action for DOL Consumer Programs which reads as set forth below.

Signed at Washington, D.C. on the 27th day of November, 1979.

Ray Marshall,
Secretary of Labor.

U.S. DEPARTMENT OF LABOR**Consumer Program Plan****Table of Contents**

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I-STATEMENT OF PURPOSE

The Department of Labor is required by Executive Order No. 12160, entitled "providing for Enhancement and Coordination of Federal Consumer Programs," dated September 26, 1979, to develop and maintain an agency consumer program with:

- (1) An identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;
- (2) Effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;
- (3) Systematic development of informational materials for consumers;
- (4) Consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and
- (5) Systematic procedures for complaint handling.

This Department is committed to revising its present operating procedures to incorporate the consumer program elements mandated by the Executive Order.

The purpose of the Department's Consumer Plan is to be more responsive to consumer needs and concerns and to carry out the objectives of the Executive Order. Where the mechanisms for consumer participation already exist, they will be strengthened and where they do not exist, they will be instituted.

II. EXECUTIVE SUMMARY

In some Department agencies, procedures for consumer input already exist, and in others where programs are relatively new, procedures are in the developing stages.

A first goal of the new Department Consumer Plan will be to incorporate the five elements of Executive Order No. 12160 to enable the strengthening of basic opportunities for consumer participation throughout all of the Department's Agencies in each of the consumer impact areas.

The first section of the plan will provide for general actions that will be implemented by all the agencies in a uniform manner. There are several new actions that go beyond the mechanisms that already exist.

The second section contains the specific actions each agency with consumer impact will take as part of their consumer affairs program to implement the Department Consumer Plan.

The final section establishes a structure and organization for consumer affairs in the Department incorporating the mandate of Executive Order No. 12160. The appointment of a Special Assistant to the Secretary of Labor for the consumer affairs function is a first step. This senior level official will have sole responsibility for policy direction for, coordination and oversight of, the Department's consumer activities.

III. OPERATING UNITS INVOLVED

The Department of Labor enforces laws that protect the rights of workers to safe and healthful working conditions, a minimum hourly wage and overtime pay, unemployment insurance, worker's compensation and

freedom from employment and pay discrimination. In addition, the Department protects workers' pension rights, helps them train for and find jobs, works to strengthen free collective bargaining and keeps track of changes in employment, prices, and other national economic statistics. The Department is concerned about the quality of worklife in America and with the relationship between workers, employers and jobs. It provides a variety of services and information to workers, employers, teachers, students, business people, government officials and others. Its programs are not concerned with any specific product in the consumer sense which is available in the marketplace.

The following specific Department agencies conduct rulemaking, and provide program services and information activities that impact on consumers:

A. Employment and Training Administration (ETA)

ETA provides training, placement services, transitional public service jobs and unemployment compensation from State and local agencies to people who are unemployed or seeking new work.

1. *Comprehensive Employment and Training Program (CETA)*—Provides State and local governments with funds to design and operate job training programs to meet local needs. During periods of high unemployment these governments provide federally-funded public service jobs for unemployed workers. CETA also provides special assistance to disadvantaged workers including Indians, migrant and seasonal farm workers, offenders and older workers.

2. *Bureau of Apprenticeship and Training*—Promotes apprenticeship programs in skilled trades under the National Apprenticeship Act.

3. *Job Corps*—Provides job training and basic education for disadvantaged youth in a residential environment.

4. *Work Incentive Program (WIN)*—Helps welfare recipients get and keep jobs. WIN is conducted in cooperation with the U.S. Department of Health, Education and Welfare.

5. *U.S. Employment Service (USES)*—Directs the Federally-funded State employment service system which provides job placements through computerized job banks, counseling, testing and referral to training and offers a variety of employer services, USES also administers special programs to aid veterans and disadvantaged people.

6. *Unemployment Insurance Service*—Directs the Federal-State unemployment insurance system and other unemployment compensation programs, including those for veterans, Federal employees and persons jobless due to foreign imports or natural disasters such as floods.

7. *Office of Policy, Evaluation and Research*—Supports and conducts research into employment and training problems, develops projects to test new ways of serving workers with particular job-related needs and evaluates employment and training programs.

8. *Office of National Programs*—Provides special Federal assistance to Indians, migrant and seasonal

farmworkers, older workers, and others with particular job disadvantages.

B. Occupational Safety and Health Administration (OSHA)

OSHA develops, issues and enforces safety and health standards to protect workers on the job. OSHA inspects workplaces for standard violations, issues citations and proposes penalties for noncompliance with regulations. OSHA aids States in developing their own job safety and health plans and conducts education, training and information programs to promote workplace safety and health practices.

C. Labor-Management Services Administration (LMSA)

LMSA supervises and regulates certain union activities, protects participants' rights in private pension and welfare benefit plans, protects reemployment rights of veterans, and administers laws intended to protect employees in certain industries who may be adversely affected by Federal grant programs or other governments actions.

1. *Pension and Welfare Benefit Programs*—Administers the Employee Retirement Income Security Act (ERISA), which protects the pension and certain other benefit rights of workers in private industry. The ERISA program is jointly administered with the Internal Revenue Service and the Pension Benefit Guaranty Corporation.

2. *Labor-Management Standards Enforcement*—Enforces the Labor-Management Reporting and Disclosure Act requiring unions to make annual financial reports and to comply with standards for conducting union elections.

3. *Veterans Reemployment Rights*—Assists veterans and members of military reserve units in exercising their reemployment and other rights.

D. Mine Safety and Health Administration (MSHA)

MSHA is responsible for making working conditions for the Nation's miners as safe and healthful as possible. Safety and Health standards development activities represent the basic area of MSHA work having a substantial impact on consumers, most of whom are associated in some manner with the country's mining activities. The actual application of such standards by MSHA's enforcement, civil penalty assessment, technical assistance, approval and testing, and education and training activities is limited in terms of the numbers of consumers affected, e.g., operators, miners, etc. Because MSHA activities have a direct impact on all mining in the Nation, MSHA will handle any consumer contacts on an individual basis, as received.

E. Employment Standards Administration (ESA)

ESA enforces laws and regulations setting employment standards; provides workers' compensation to longshore, harbor workers and Federal workers injured on the job, and benefits to miners suffering from black lung and their dependents;

and enforces equal employment opportunity by government contractors for women and minority groups.

1. *Wage and Hour Division*—Enforces Federal wage and hour laws which set the minimum wage, overtime pay, child labor and record-keeping standards; enforces laws establishing wage garnishment procedures, requiring registration by farm labor crew leaders, requiring safe and healthy work conditions for farm workers, and setting wage and hour standards for Government contract work.

2. *Office of Federal Contract Compliance Programs*—Administers the Federal government's program requiring equal employment opportunity for workers regardless of race, color, sex, religion, national origin, handicap or veterans' status on Federal contract work.

3. *Office of Workers' Compensation Programs*—Provides compensation for Federal employees and other groups who suffer job-related injuries, diseases and deaths; provides compensation for maritime workers or their survivors, and compensation benefits and medical treatment to miners with black lung disease as well as benefits for their survivors.

F. Bureau of Labor Statistics (BLS)

BLS collects, analyzes and publishes data on the labor force, employment, unemployment, occupational outlook, wages, industrial relations, prices, family budgets, consumer expenditures, labor turnover, productivity, economic growth an occupational safety and health.

G. Bureau of International Labor Affairs (ILAB)

ILAB administers trade adjustment assistance program for workers adversely affected by imports, participates in bilateral and multilateral trade negotiations, conducts programs of technical cooperation with foreign countries, and helps represent the U.S. on such international agencies as the Organization for Economic Cooperation and Development (OECD).

H. Women's Bureau (WB)

The Women's Bureau develops policy and programs which have an impact on women's employment and employability, and through outreach to target groups of women with special employment-related needs, develops programs to meet those needs. It does not enforce laws, nor is it directly responsible for issuing guidelines or regulations that affect women. The Women's Bureau consumer affairs program is primarily information oriented.

IV. DEPARTMENT PLAN

A. General Department Actions

This part of the Department Plan outlines general actions the Department will take agency-wide to standardize and increase opportunities for consumer participation and representation in each of the consumer impact areas. These actions set the basic

framework within which each of the specific agencies will conduct their consumer affairs programs. This framework incorporates the basic elements for a consumer program required by Executive Order No. 12160.

1. Consumer Affairs Perspective

Consumer affairs staff will be located in the Office of the Secretary, and as appropriate, in consumer offices, public information offices, and policy planning offices of the eight major Department program units which have substantial consumer impact activity. The Office of the Secretary already has primary responsibility for the Department's consumer affairs activities.

In order to visibly show the Department's support of consumer affairs activities, the Secretary will establish a full-time, policy-level position within his immediate office. This position will be established as a Special Assistant function and assigned the responsibility of developing, coordinating, and administering the Department's Consumer Affairs Program. The Special Assistant will provide support for all Department Consumer Affairs activities and represent DOL with national consumer organizations and public interest groups. The Special Assistant additionally will serve as the principal advisor to the Secretary on how consumers perceive and react to DOL policies and regulatory decisions.

DOL will make both an organizational and resource commitment to consumer affairs. By establishing the Special Assistant as a member of the Secretary's immediate staff, DOL will ensure that the Special Assistant is apprised of the actively involved in the policy development and regulations review process. In addition, the Department will provide the Special Assistant with the staff and resources necessary for bringing consumer views to impact on issues and decisions of the Department.

In addition to the staff that DOL designates, the Department will establish a Consumer Affairs Advisory Council made up of members from each of the program units (who are at least at the Deputy Assistant Secretary level) the Deputy Solicitor, the Director of the Office of Information, Publications and Reports, and two Regional Representatives chosen by the Secretary on a rotating basis. The *Council* will meet with the Secretary on a quarterly basis and propose an agenda focusing on consumer affairs issues of concern to the public and the Agencies. The *Council* will appoint a chairperson to serve for one year.

2. Consumer Participation

The Department of Labor's consumer participation programs are designed to fulfill the following objectives:

- To provide the public with the opportunity for input into rule making and policy or program development;
- To provide consumer educational and informational exchanges;
- To provide technical assistance in the utilization of available program resources, and

• To facilitate the monitoring of program input. Specifically the Department will:

1. Assure that deadlines for public comment, submission of data, notification of intent to appear at hearings and committee meetings are reasonable and permit maximum participation by consumers.
2. Assure balanced representation of consumer viewpoints on advisory committees including the appointment of public members knowledgeable in consumer matters.
3. Increase contacts with general consumer groups to obtain information and technical data for use in rulemaking and program development.
4. Better utilize Department conferences and seminars to encourage consumer input and involvement in decisionmaking.
5. Develop new methods to involve consumers in pre-proposal stage of regulations development.
6. Hold an annual open meeting in each of our regional cities for consumers to evaluate program operations, regulations and policy.
7. Develop new procedures to expand consumer input into program and policy evaluation and to incorporate the input into the evaluation process.
8. Increase contacts with general consumer groups to encourage their input into the evaluation of existing and proposed Department programs.

3. Informational Material

The Department of Labor prepares many publications each year on its activities. It issues information on such subjects as collective bargaining, employment standards, foreign labor, labor law and administration, labor organization, employment and training, prices and living conditions, safety, wages, and youth employment. Its periodicals include the *Monthly Labor Review* and *Occupational Outlook Quarterly*.

The Department will continue to prepare consumers both to protect themselves as individuals in the marketplace and to participate effectively as advocates in the DOL policymaking process. In order to continue to accomplish this, we will prepare informational and educational consumer materials about the Department and its programs and encourage the expression of consumer view points through forums, public hearings, seminars, meetings and mailings.

DOL publications produced by program offices are reviewed for clarity and sensitivity to the consumer viewpoint and to identify where new publications are needed. Additionally, summaries of major new program initiatives or revisions are written and sent to consumers.

DOL will continue to publish a summary of significant consumer comments on proposed policy and rulemaking in the Federal Register. The Department will also develop new methods for feedback to consumers about their program and policy comments.

The Department will prepare a mailing list of general consumer organizations for use in mailing out consumer news releases and other consumer

information materials. To get on the mailing list for lists of DOL publications, consumers are asked to write to the Office of Information, Publications and Reports, U.S. Department of Labor, Washington, D.C. 20210.

Many of the Department's publications may be obtained without charge.

4. Education and Training

The Special Assistant for Consumer Affairs shall coordinate with the Assistant Secretary of Administration (or designee) and the appropriate program Assistant Secretaries (or designees) in the development of an Education and Training strategy program consistent with the spirit of the Executive Order.

(a) Staff Training

DOL will undertake a specialized training program that will give all "consumer affairs" personnel a complete understanding of the Federal Policy and DOL's specific policies and programs that are developed in response to the Executive Order.

The Special Assistant for Consumer Affairs will prepare in conjunction with the Office of Information, Publications and Reports training materials and visual presentations about the Executive Order, the new Federal policy and DOL's programs and policies developed in responses to the Order. The audiences shall be:

- Program Administrators
- Headquarters and Field Staff
- Consumer Affairs Staff
- DOL's consumers

There will be a timetable developed for implementation of this program with the goal that over the next 6 to 12 months the Department of Labor (Headquarters and field) and its consumers understand the nature of the Executive Order and its impact on their lives and work.

(b) Technical Assistance

Procedures exist specifying the period during the administrative process when citizens may affect decisionmaking. However, the lack of knowledge and understanding about DOL activities, programs and procedures may render the public's participation in the administrative process ineffective at first.

The Department will review several approaches to providing the assistance to consumers and their organizations which would enhance the effectiveness of their participation.

5. Complaint Handling

The objectives of the Department's consumer complaint system are:

1. To assure that all consumer complaints receive timely and responsive replies;
2. To provide decisionmakers at DOL with accurate information about areas of frequent consumer concern;
3. To compile and utilize consumer complaint data in assessing the impact of DOL policies and programs.

The Department is presently developing a formal complaint handling system coordinated by the Special Assistant to the Secretary for Consumer Affairs to

facilitate timely and responsive replies to all consumer complaints received in the Department, and to provide decision makers in DOL with accurate complaint information about areas of frequent consumer concern and DOL issues, policies and procedures that may require attention and review. This proposed system establishes a focal point in Headquarters and Regional Offices for effective quality control of responses to consumers; assurance of timeliness; and appraisal of system performance.

Reporting. Each DOL agency will be the focal point in the Department for the collection and analysis of consumer complaint data about their own programs which may be used by policymakers as tools to identify problems and develop policy recommendations.

Monitoring. The Special Assistant for Consumer Affairs will monitor the effectiveness of the consumer complaint handling system to assure that DOL responses are of sufficient speed and quality to give reasonable promise of substantial progress toward meeting the needs of consumers.

Analysis. Written reports from the Agency Consumer Representatives and the Special Assistant's evaluative data will be consolidated and distributed on a regular basis to Assistant Secretaries and Regional Administrators to provide feedback on complaints to them for use in assessing the impact of DOL policies and programs on the consuming public.

Accountability. The Special Assistant will monitor specific guidelines governing the handling of complaint-written, telegraphic, or personal visits.

Opportunity for Review. The Special Assistant will seek a review opportunity for consumers dissatisfied with any DOL Agency resolutions for their original complaints in those instances where administrative appeal or review systems do not exist at the program level.

Responsibility. The Assistant Secretaries and the Program Administrators will be responsible for the implementation of this system. Agency Consumer Representatives will be responsible for management of the control, reporting, and monitoring procedures necessary for the successful operation of the consumer complaint system. Responsibility for the implementation of the consumer complaint system in the Regional Offices will rest with the Regional Administrators. Regional Consumer Representatives appointed by the Regional Administrators will be responsible for management of the control, reporting, and monitoring procedures necessary for the successful operation of the consumer complaint system. The Special Assistant will monitor the overall Consumer Complaint Handling System to insure that complaints received in DOL are expeditiously routed to the program official best able to respond to the complaint. Where complaints received are not within the Department's jurisdiction, the Special Assistant will so advise the consumer, and may, if feasible, suggest alternate means or resources for seeking remedies.

B. Specific Agency Actions

This section of the Department Plan contains the specific actions each specific agency with consumer impact activity will take to implement the plan. As a minimum, each agency will incorporate into their planned action the basic elements mandated by Executive Order No. 12160.

Employment and Training Administration (ETA)

Consumer Affairs Perspective

ETA at present has assigned an information staff member the responsibility for consumer affairs and is considering a full-time consumer affairs representative whose sole responsibility will be to enhance and coordinate ETA's consumer program and participate in the review and development of consumer program policies, programs, and legislation.

Consumer Participation

ETA will undertake an active program to encourage consumer participation in the various phases of decisionmaking and improve communications with consumers in all its programs. ETA will communicate regularly with consumers and consumer groups to disseminate policy and program information and elicit comments and recommendations for consideration in decisionmaking.

ETA will notify prime sponsors of programs under the Comprehensive Employment and Training Act (CETA), apprenticeship programs registered by the Bureau of Apprenticeship Training and State Agencies of its support for consumer participation in policy and program decisions. ETA will consider the amount of consumer participation as one criterion upon which the program will be evaluated. ETA will consider knowledge in the consumer areas as a criterion in selecting public members for new advisory committees or replacing members of existing committees. ETA will respond promptly to consumer proposal.

Informational Material

ETA will continue to publish a series of consumer leaflets on current programs. Leaflets covering major program changes and new developments will be published and given wide distribution. ETA will also participate in Departmentwide programs of consumer education by (a) analyzing consumer needs as indicated by questions and problems they raise (b) developing consumer education materials and (c) providing personnel to conduct or participate in consumer education sessions.

ETA will continue to prepare news releases announcing information published in the Federal Register to be issued to the press and wire services. In some cases, depending on the nature of the notice, spot announcements will be produced for radio and television.

Education and Training

Education and training of the ETA staff in consumer affairs is unstructured at the moment, but a learning process is ongoing through daily contact with consumers involved in ETA's programs. Training on

the basic elements of the Executive Order will be provided as made available from the department level. Training will be provided on complaint handling specifically.

Complaint Handling

ETA will improve its complaint handling procedures that respond to consumer questions and complaints. Consumer questions and complaints will be handled at the point closest to their origin wherever possible. Problems that are not resolved at local State or regional levels will be referred to the National Office for handling. While each office in ETA will exercise their own methodologies for handling complaints, these efforts will be within the guidelines of the proposed Department system.

Occupational Safety and Health Administration (OSHA)

Consumer Affairs Perspective

The Office of Information and Consumer Affairs advises the Assistant Secretary for Occupational Safety and Health on information and consumer affairs matters, supports the operations of the agency's public hearings and advisory committees, and directs and guides its information and consumer affairs programs. The Director of OICA monitors on behalf of the Assistant Secretary, opportunities for the public to participate in the development of regulations, policies, and programs. This office schedules and coordinates public hearings and supports advisory committees in their development of recommendations regarding proposed regulations, programs and policies. The office also plans, develops and coordinates the distribution of informational material and coordinates consumer information activities with OSHA's ten regional offices.

Consumer Participation

OSHA's advisory committees provide an avenue for public input to the agency's decision making process. Positions on each advisory committee are apportioned to achieve a balanced representation of labor, management, government, and the public. OSHA actively encourages public participation in the proceedings of the advisory committees and their working subgroups, which are open to the public. Notification is provided by an announcement of the meetings published in the Federal Register two weeks in advance.

OSHA considers petitions for occupational health and safety standards from interested groups in the standards development activities. In some instances, an ad hoc standards advisory committee is appointed to assist in developing the proposal for a standard.

Following the public comment period on a proposal, an informal hearing is held. This hearing is conducted in an informal legal manner before an administrative law judge. The hearing is designed to furnish interested parties with the opportunity to present evidence and opinions in oral and written form. Moreover, it provides a forum for the interaction of different points of view.

Information Material

In August, 1979 OSHA published a pamphlet entitled "OSHA Publications and Training Materials" describing and telling how to obtain these publications and training materials. Over 50 free publications covering such topics as Workers' Rights, Safe Work Practices, Health Hazards, and OSHA regulations are made available.

OSHA also utilizes other media to encourage concern for occupational health and safety. The agency makes slide, slide-tape and tape programs available through the National Audiovisual Center, in Washington, D.C.

The agency is continually adding additional materials to its range of consumer education matter available to the public. Further, studies are currently being conducted of how best to make these materials rapidly available to the public and to identify new areas for consumer information.

Education and Training

The Assistant Secretary of Labor for OSHA shall issue a memorandum to the Directors of all Directorates within the agency and to the field staff explaining the Federal Consumer Policy embodied in E.O. 12160 and circulating the Executive Order to these individuals.

A determination will be made if further education or training is needed for agency personnel, particularly those in the Office of Information and Consumer Affairs.

Complaint Handling

Complaint rights for employees are detailed in the OSHA poster, which OSHA requires to be displayed in every workplace. The agency's complaint procedures are under continual scrutiny to assure appropriate, prompt response. The latest revision of OSHA's complaint handling procedures was issued on September 1, 1979. All formal complaints and informal complaints of imminent danger or extremely serious working conditions are scheduled for inspection. Informal complaints of less serious hazards are pointed out by letter to the responsible employer who must correct the hazard and inform the area director by letter that this has been done.

Labor-Management Services Administration (LMSA)

Consumer Affairs Perspective

LMSA supervises and regulates certain union activities through its Office of Labor-Management Standards Enforcement (LMSE); protects participants rights in private pension and welfare benefit plans through its Office of Pension and Welfare Benefits Programs (PWBP); and assists veterans and members of military reserve units in their reemployment rights and other job rights through the office of Veterans Reemployment Rights (OVR). At present LMSA has designated an identifiable consumer affairs representative to assist the Department's Special Assistant for Consumer Affairs.

Consumer Participation

PWBP publishes all regulations on its programs as proposals with adequate notice and time for comment by interested parties. PWBP develops and maintains contacts with consumer groups through meetings and correspondence to gain their input in the early stages of the development of regulations and policy. An Advisory Council composed of 15 members advises the Secretary of Labor on his administration of the Employer Retirement Income Security Act of 1974. LMSE publishes all regulations on their programs as proposals with adequate time for comments by interested parties. Efforts are made to obtain the views of interested parties in the early stages of the development of regulations and policy.

Because OVRP does not develop regulations or have rulemaking authority under the reemployment law, consumer participation consists primarily of getting feedback from clients about how their cases were handled and about the adequacy of their rights under the law.

Informational Material

PWBP and LMSE will continue to issue news releases on all major regulations to coincide with publication of proposals in the Federal Register. In addition to the general news media, special distribution of press releases will be made to major trade media, national and international unions, practitioner associations, general consumer organizations and small business groups. A large number of technical and general publications are designed to help these groups impacted by LMSA's activities. LMSA will also provide speakers to discuss its programs.

Education and Training

LMSA will provide for educating national and regional staff members about Executive Order 12160 and the agency's activities under it. PWBP, LMSE and OVRP field investigators and other staff personnel will attend training as necessary to assure that they are informed on new regulations and case law that may affect their complaint handling and enforcement responsibilities.

Complaint Handling

Complaints to PWBP are handled by the Office of Communications and Public Services and by field investigators as promptly and completely as possible. LMSE field investigators handle complaints regarding labor organization officer elections, trusteeships, union finances, and reports required of labor organizations, officers, union employees, employers and consultants. Complaints are investigated promptly and enforcement sought through voluntary compliance or, where necessary, through litigation. OVRP field investigators look into all complaints relating to the exercising of veterans' or reservists' reemployment rights under the federal law to determine merit.

Mine Safety and Health Administration (MSHA)

Consumer Affairs Perspective

In line with the Departmental commitments, MSHA's policy is to provide interested consumer groups, organizations, and individuals with the opportunity of having their views heard and considered relative to mine safety and health regulatory matters impacting on the mineral industries of the United States. Consumers will also be given opportunities to provide input into other areas of the decision-making processes that affect MSHA policies and programs.

The Director of Administration and Management is responsible for coordinating MSHA's consumer program. The Chief, Division of Management Research will serve as point of contact for consumer activities.

Each Administrator and Director will maintain information on the extent of consumer participation in the everyday business of MSHA.

Consumer Participation

MSHA will continue to give consumers the opportunity to obtain information and express their views by means of public meetings whenever the magnitude of a proposed action is of significant impact. Current lists of consumer groups, organizations, and individuals expressing an interest in MSHA activities, will be maintained. MSHA staff will advise the MSHA Office of Information of significant matters impacting on consumers so that local and/or national news media outlets can be utilized to inform the public.

The media of questionnaires and surveys to develop ideas on issues affecting the general public will be used to ensure that information obtained from consumers, in response to proposed actions, is given an objective and considered evaluation before decisions are reached.

Informational Material

News releases, brochures, and audiovisual materials concerning MSHA programs with considerable consumer impact activity will be expanded and distributed.

Education and Training

Staff members, both in the National office and the field, will be educated on Executive Order 12160 and the agency's activities and responsibilities under it. Employees will be informed about Federal consumer policy, in general, and MSHA consumer policy, in particular.

Complaint Handling

MSHA will provide for logging, investigating, and responding to consumer complaints, consistent with the procedures of the proposed Department System. Information will be collected on the subject matter and number of individual consumer letters, and the nature of MSHA responses; and on the volume and types of consumer complaints and nature of MSHA resolutions.

Employment Standards Administration (ESA)

Consumer Affairs Perspective

ESA administers and enforces more than 90 Federal Labor laws and programs that establish workplace standards, equal opportunity provisions and workers' compensation. These laws and programs protect the rights in one way or another of almost all the workers of the country. ESA has designated an identifiable Consumer Affairs representative, and changed the name of its Office of Information to Office of Information and Consumer Affairs, in order to provide a central point for the agency administration of its consumer affairs.

Consumer Participation

ESA will continue to put emphasis on the publicizing of proposed rulemaking published in the Federal Register, to give more consumers a better opportunity to participate in the comment stage of the regulations process.

Where appropriate, ESA will hold public hearings. The consultation process will be formalized and expanded. Public members of advisory committees will be asked to represent consumer views. Where possible, new public members will be selected to reflect consumer opinions.

ESA will assure that all public comments are fed directly into the evaluation process.

Informational Material

ESA will continue to produce and distribute radio and television public service announcements and film materials to inform consumers of their rights and responsibilities under ESA laws.

ESA will continue to disseminate news articles on subjects of consumer interest to the media.

ESA will continue to utilize an exhibit system in regional and area offices.

Press releases, pamphlets and fact sheets, motion pictures, speeches and other informational materials produced will continue to stress the information consumers should know.

Education and Training

ESA's Office of Information and Consumer Affairs, in collaboration with the ESA Division of Employee Development and Training, will be responsible for educating staff members about Executive Order 12160 and the agency's activities under it.

The Office of Information and Consumer Affairs will be made responsible for scheduling briefing sessions as necessary for policy-making personnel, for circulation of the Order and related materials throughout the agency in D.C. and the field, and for ensuring that significant changes in the structure or procedures in the consumer program will be promptly communicated to agency staff members in Washington and in the field.

Complaint Handling

ESA's complaint-handling system will be re-evaluated to assess the promptness and quality of agency responses, and to consider ways in which the

system can be improved and coordinated with the proposed Department system.

Bureau of International Labor Affairs (ILAB)

Consumer Affairs Perspective

ILAB consumer affairs staff will be located in the Office of Management, Administration, and Planning. ILAB operating units (Mainly the Office of Trade Adjustment Assistance) will afford the consumer staff an opportunity to comment on the potential impact on consumers of new regulations, policies and proposed legislation relating to the trade adjustment assistance program. Participation in these areas will take place at the development stage of such policies and legislation.

Consumer Participation

Before ILAB puts in effect regulations to implement legislative changes in the trade adjustment assistance program, consumers of the program will be provided with an opportunity to comment and make recommendations. This process will be achieved through the publication of Federal Register Notices, private mailings, and meetings with representatives of selected trade union organizations. During 1980 approximately six regional meetings with program consumers will be held, at which consumers will be given a forum to express their views on the program in person. Letters and news releases will be utilized to convey information to consumers on opportunities to present such views.

Information Material

News releases, brochures, and audiovisual materials concerning the adjustment assistance program will be distributed widely. The Director of the Office of Trade Adjustment Assistance, in consultation with the consumer affairs staff, will be responsible for planning and carrying out the ILAB consumer information program. The Director will also assume responsibility for preparing materials on public hearings and Federal Register Notices concerning such hearings.

Education and Training

Copies of Executive Order No. 12160 will be circulated to Bureau staff concerned with consumer interests. The ILAB consumer affairs staff will promptly alert concerned Bureau staff about significant changes in the structure or procedures of the ILAB consumer program. Training will be provided on complaint handling as necessary.

Complaint Handling

The Office of Trade Adjustment Assistance will respond promptly and adequately to consumer complaints, which will be filed with the Office of Trade Adjustment Assistance. Complaints about the management of the adjustment assistance program or about the specific details of an individual case will be handled by that office. Complaints will be reported to the Bureau head on patterns and policy implications, if any, of the complaints received. An analysis will be compiled of significant patterns of complaint.

The complaint handling system will undergo periodic review to evaluate the quality of agency responses, and to assure compliance with the proposed Department system.

Bureau of Labor Statistics (BLS)

Consumer Affairs Perspective

The BLS Consumer Affairs Program is primarily information-oriented. At present, BLS has assigned an information staff member the responsibility for consumer affairs.

BLS is continuing its consumer information program to help consumers understand changes in its consumer and producer price programs and to make users aware of changes in other Bureau programs.

Consumer Participation

The National Commission on Employment and Unemployment Statistics recently completed an evaluation of the Bureau's labor force statistics. BLS is reviewing recommendations for improving its productivity statistics, made by a National Academy of Sciences panel. A major revision of the Bureau's industrial price program is under way. A panel of outside experts has begun an evaluation of the Bureau's family budget program. A review of the Bureau's establishment employment survey has begun.

Informational Material

In an attempt to reach the widest consumer audience, BLS will continue to:

(a) Work with the Government Printing Office to keep the prices of BLS publications low in order to make them available to as many consumers as possible.

(b) Publish for consumer use, a monthly list of its new publications, a semi-annual publication directory, and a periodic report about Bureau programs.

(c) Issue fact sheets on its various program.

Education and Training

BLS will be responsible for educating staff members about Executive Order 12160 and the agency's activities and responsibilities under it. BLS will advise its employees about Federal consumer policy in general, and BLS consumer policy in particular.

Complaint Handling

BLS is improving handling of periodical subscriptions and publications order by the Government Printing Office. The difference components of the Bureau have their own procedures for handling consumer complaints and these will be adopted to conform to the proposed Department system.

Womens Bureau, Office of the Secretary (WB)

Consumer Affairs Perspective

WB does not specifically identify a consumer affairs staff. All WB staff will continue to work with DOL agencies to insure that the needs and concerns of the consumers (women workers) are being addressed by DOL policymakers and program planners; by

participating in the process of writing regulations and guidelines issued by DOL, and by commenting or regulations of other Federal agencies.

Consumer Participation

The Women's Bureau through its quarterly meetings with constituency groups-women's organizations; union women; community groups; and Federal, State, and local agencies-gains input from their review of agency rules, policies, and programs that are pertinent to the woman consumer.

Informational Material

WB disseminates information on subjects of consumer interests through publications (including consumer fact sheets), speeches, news releases, and written and oral correspondence. Based on consumer demand, the WB prepares new publications and revised old ones. The major responsibility for coordinating and consolidating consumer affairs information is absorbed by the Bureau's Division of Information and Publications.

WB will distribute a new exhibit on the Bureau's activities and services through its 10 regional offices and the national office for appropriate showing to the consumer.

Education and Training

WB will be made responsible for educating staff members about Executive Order 12160 and the agency's activities under it and for scheduling briefing sessions as necessary for policy making personnel.

Complaint Handling

WB procedures for handling complaints will be evaluated, improved, and coordinated with the proposed Department system.

C. ORGANIZATIONAL STRUCTURE/OVERSIGHT

Taking into consideration the comments received during the review period, and any adjustments made to the consumer perspective and oversight section of the General Department Plan, the Department will structure an oversight component containing the organizational lines of responsibility necessary to coordinate and consolidate consumer affairs activities. This section of the plan will outline the policy, organization, and responsibilities that establish the Department's overall consumer program. Amendments as necessary will be made to the existing Secretary's Order 12-76 to incorporate any new procedures into the Operating Policy of the Department. The present order already delegates authority for implementing the Department of Labor Consumer Affairs Program Plan. The Order further delegates authority and assignment of responsibility to:

- (a) Special Assistant to the Secretary
- (b) DOL Agency Heads
- (c) Regional Representatives
- (d) Agency consumer staff
- (e) Members of the Secretary's Committee on Consumer Affairs

BILLING CODE 4510-23-M

Form Approved:
OMB No. 116579021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

MERIT SYSTEMS PROTECTION BOARD**Consumer Affairs Program****AGENCY:** Merit Systems Protection Board.**ACTION:** Proposed Consumer Affairs Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Consumer Affairs Officer, Information Office, Merit Systems Protection Board, 1717 H. Street, N.W., Room 255, Washington, D.C. 20419.**FOR FURTHER INFORMATION CONTACT:** Wayne Phillips, (202) 653-7124.

SUMMARY: On September 26, 1978, the President of the United States issued Executive Order 12160 which required each agency, other than an independent Federal regulatory agency, to establish a mechanism to give consumers early and meaningful opportunity to participate in the policymaking aspects of the agency's functions.

The Merit Systems Protection Board is an independent quasi-judicial agency designed to protect the integrity of Federal merit systems against partisan political and other abuse and to ensure adequate protection for employees against unlawful abuses by agency management.

The Board was established on January 1, 1979, by Reorganization Plan No. 2. The Civil Service Reform Act of 1978, which became effective January 11, 1979, abolished the Civil Service Commission and put in its place the Office of Personnel Management which manages the Federal work force; the Federal Labor Relations Authority which deals with labor relations in the Federal establishment; and the Merit Systems Protection Board which ensures both taxpayer and the Federal employee are protected.

The Board consists of a Chair, a Vice Chair and a member, each appointed by the President and confirmed by the Senate. No more than two may be from the same political party; they serve non-renewable seven-year terms, and may be removed only for inefficiency, neglect of duty or malfeasance in office. Executive Order 12160, provides for an exemption from participation for independent Federal agencies. Even though the Merit Systems Protection Board is an independent Federal regulatory agency and is not legally required to establish a program pursuant to the Executive Order, it nonetheless believes that consumers should have an opportunity to express their views on significant aspects of the agency's policy, in keeping with the spirit of this Order.

STATEMENT OF PURPOSE

The Board is a new agency, and, since its creation, consumers and other interested persons have always had an opportunity to express their views by commenting on proposed agency regulations which are published in the Federal Register. The main purpose of this publication is to inform consumers about the Board's Consumer Affairs Program which has been established and coordinated to give consumers a

specific mechanism through which they may routinely express their views regarding the agency's policy.

I. CONSUMER AFFAIRS PERSPECTIVE

The Merit Systems Protection Board, in keeping with the spirit of Executive Order 12160, has appointed a Consumer Affairs Officer to carry out all functions relating to its consumer responsibility.

The Consumer Affairs Officer and staff will be located in the Board's Information Office which will better facilitate the coordination of the consumer affairs functions with the other function of the Board. The Consumer Affairs Officer will report directly to the Chair, participate in meetings, advise the Chair regarding the impact of proposed regulations on consumers and will have other major responsibilities as follows:

(1) to receive, coordinate and respond, as appropriate, to consumer complaints, suggestions, and expressions of concern regarding the Board's policy in matters over which the Board has jurisdiction.

(2) to bring to the attention of the Chair those consumer complaints and concerns which relate to the overall policies of the agency. This will be done by participating in senior staff meetings to brief the Chair, the Board members, and all senior staff members regarding particular concerns that have been raised by consumers. Consumer complaints and concerns will also be brought to the attention of the Chair through memoranda and periodic meetings called to address these concerns.

(3) to review and group these complaints according to subject matter and refer them to the Chair for appropriate action.

(4) to coordinate with other offices and operating units to bring to their attention those consumer complaints which relate to their specific functions.

(5) to gather from other office of the Board the information necessary to respond to complaints. Based upon the evaluation of existing policies and consumer complaints, the Chair will determine which if any of the agency's policies should be revised.

II. CONSUMER PARTICIPATION

Participation begins: (1) when a consumer responds to a proposed rule or regulation which has been published in the Federal Register, and (2) when a consumer expresses an interest in the agency's function by making a written complaint regarding one or more of the agency's policies.

The Board will distribute copies of its Federal Register notices on proposed rules and regulations to the Central Personnel Offices of Federal agencies, for their use in notifying employees of the opportunity to comment on the proposals.

With reference to proposed rules and regulations, comments and recommendations may be made by responding in writing within the time limit and in the manner set out in the Federal Register at the time the regulations or rules are published in proposed form. Once the time for responding to the proposed regulations has expired, all of the responses will be

reviewed and given full consideration during the time the final regulations are being drafted. When the final regulations are published, they will be accompanied by a preamble that discusses the major comments and issues raised by consumers.

Consumers who wish to comment on other aspects of the agency's policy may do so at any time by writing to the Merit Systems Protection Board, Consumer Affairs Officer, 1717 H Street, N.W., Room 255, Washington, D.C. 20419.

III. INFORMATIONAL MATERIALS

The Board maintains an Information Office which coordinates with the Consumer Affairs Officer and disseminates various brochures and pamphlets to be used as informational materials regarding the jurisdiction, procedures and many policy aspects of the Board's functions. These materials are useful to consumers and may be obtained from the Board's Information Office in person or by writing to the Consumer Affairs Officer, Merit Systems Protection Board, 1717 H Street, N.W., Room 255, Washington, D.C. 20419.

Materials which are available as of December, 1979, include:

- (1) Regulation on organization and procedure. These materials set out procedures for filing formal adverse action appeals with the Board, as well as for filing of cases by the Special Counsel of the Board.
- (2) Regulations regarding the Freedom of Information Act. This publication includes information on procedures for obtaining records controlled by the Board.
- (3) Regulations regarding the Privacy Act. This publication sets out procedures by which an individual may make an inquiry regarding a record, gain access to such record or amend the record.
- (4) Regulations regarding the Sunshine Act set forth procedures pursuant to the Government Sunshine Act (5 U.S.C. 552b) by which the Board will conduct open meetings. The regulations set out specifically how notices of meetings will be published in the Federal Register, how records of the meeting will be kept, how information will be provided to the public and also includes information regarding the conduct of meetings.
- (5) Organizational chart of the Merit Systems Protection Board showing the names of the various offices and/or divisions within the Board.
- (6) Civil Service Reform Act of 1978, the law which sets out the power and duties of the Board.
- (7) Question and Answer pamphlet answering the most frequently asked questions regarding the Board.

In addition to the various informational materials described above, the agency will make available to consumers who attend meetings which are opened to the public, materials which are designed to make those meetings understandable to them. For example, the materials will include the subject of the meeting and a short statement explaining the issues to be discussed.

IV. EDUCATION AND TRAINING

The Board will provide education and training to its staff on various issues and/or matters relating to consumer concerns and on policies which have a significant consumer impact.

The Consumer Affairs Officer will have responsibility to coordinate training efforts designed to educate the entire staff of the Board on such matters as: (1) the methods used to develop materials to ensure that the necessary information is included for the benefit of consumers and (2) the methods used to publish to ensure that the materials published are comprehensible to the consumer and that these materials are disseminated in such a manner designed to reach the consumer.

The educational aspects of the consumer program will also include holding meetings with various persons from several offices of the Board to acquaint these officers with any problems which consumers may be experiencing in dealing with the agency or any of its offices.

The Consumer Affairs Officer will also have the responsibility to coordinate the Board's field offices to ensure that consumer information is available in the field offices.

There will be periodic briefing sessions with the officers of the Board to discuss relevant regulations which may have an impact upon the agency's relationship with consumers.

The Consumer Affairs Officer and/or other appropriate staff of the Board will from time to time attend and participate in conferences outside of the agency to keep abreast with consumer concerns and to provide an additional mechanism for dissemination to consumers materials relating to the policymaking aspects of the Board's functions.

The Consumer Affairs Officer and staff will also attend sessions to receive training on issues and problems relating to the Board's consumer population, including intra-agency and inter-agency sessions which deal with problems relating to issues over which the Board may share overlapping jurisdiction with one or more other Federal agencies.

V. COMPLAINT HANDLING

The agency will ensure that a record of all complaints is kept for a reasonable period of time.

The record of each complaint will include (1) a complaint number, (2) the date received, (3) name and address of the person making the complaint, (4) a short statement regarding the nature of the complaint, (5) a short statement regarding the disposition of the complaint, including a notation as to whether the problem was solved, referred, or needed further action of a general nature.

When complaints are received, the Consumer Information Officer will review and analyze the complaints to determine the nature and will investigate and follow through to collect the information and/or materials necessary to respond to the consumer.

Each consumer complaint will be dealt with on an individual basis and a response given to the consumer. Even though the individual consumer will be given a response to his/her complaint, the Consumer Affairs Officer will also periodically group the complaints into various categories, depending upon the nature of the complaints, to provide statistical data to the Head of this agency and the Board members. Such data will be used to determine whether the consumer is complaining about an isolated matter or whether there exists a problem which is affecting a larger number of consumers to the extent that the policy or matter needs to be re-evaluated for possible revision.

The Consumer Affairs Officer will be at least a grade GS-15 and will be placed in the organizational structure at the level which will provide the individual with direct reporting responsibilities to the Head of the agency.

In addition, the Consumer Affairs Officer and staff will provide assistance to consumers who have questions regarding particular Board proposals and/or procedures for commenting on them.

Issued: November 26, 1979.

By Order of the Board.

Ruth T. Prokop,

Chairwoman, Merit Systems Protection Board.

BILLING CODE 6325-20-M

Form Approved:
OMB No. 116S79021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - _____
 - Informational materials _____
 - _____
 - Complaint handling _____
 - _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING

Monday
December 10, 1979

Part IV—Section G

**Veterans
Administration**

Draft Consumer Program

REGISTRATION

VETERANS ADMINISTRATION**Draft VA Consumer Affairs Program****AGENCY:** Veterans Administration.**ACTION:** Draft VA Consumer Affairs Program.

SUMMARY: The Veterans Administration has drafted a VA Consumer Affairs Program which addresses the ongoing Agency consumer activities and integrates the programs of the Departments of Medicine and Surgery, Veterans Benefits, and Memorial Affairs. The primary goal of this program is to ensure that veterans, their dependents, and their surviving beneficiaries have the opportunity to provide input to the decisionmaking process. The program described complies with the requirements established by Executive Order 12160 on Federal Consumer Programs.

EFFECTIVE DATE: Comments must be received by March 10, 1980.

ADDRESS: Written comments should be addressed to: Veterans Administration, Consumer Affairs Staff, Office of Planning and Program Evaluation (07), 810 Vermont Avenue, N.W., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Mr. Errol D. Clark, (202) 389-3496.

Approved:

John J. Leffler,

Associate Deputy Administrator.

Proposed VA Consumer Affairs Program

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H. Inspector General.

Appendix—Definitions.

VA CONSUMER AFFAIRS PROGRAM**I. PURPOSE**

This directive establishes procedures and policies for administering the VA Consumer Affairs Program and implements the requirements of Executive Order 12160, entitled "Providing For Enhancement and Coordination of Federal Consumer Programs."

II. SCOPE

The Consumer Affairs Program requirements are applicable to all VA departments, staff offices, and field stations. The Consumer Affairs Program is in support of the mission of the VA to provide benefits and services to eligible veterans, their dependents and beneficiaries. The success of the program depends upon each organizational element within the VA contributing to the program. Therefore, included in this directive are descriptions of the individual department consumer affairs programs. These are presented in Parts VIII through X. Staff offices having significant involvement in support of the consumer program are presented in Part XI. The combination of these individual programs constitutes the VA Consumer Program.

III. POLICY

It is the policy of the VA to effectively involve consumers in VA activities including the development of agency regulations, policies, and programs which have a substantial consumer interest. Such participation will recognize the VA's responsibilities to the consumer, and will help provide the VA with a broad range of views on regulations and policies, will facilitate the conduct of agency business, thus having a positive effect on the quality of services provided by the agency.

IV. GOAL

The goal of this program is to provide high quality service to consumers by increasing the VA's sensitivity to the needs and desires of veterans and their dependents, by being responsive to inquiries, by incorporating their views into the policymaking process, by ensuring their awareness of programs and opportunities available through the VA, and by evaluating the effectiveness of existing programs to assure the VA is meeting the needs of consumers as well as the mission of the VA.

V. OBJECTIVES

A. That the Administrator and senior decisionmakers be kept aware of the needs and problems of VA consumers.

B. That productive channels of communications be maintained with veterans' organizations to include technical assistance when needed.

C. That the dissemination of information on VA programs and procedures for citizen participation be effective and timely.

D. That the views of special consumer groups (e.g., minorities, handicapped, elderly, etc.) be given consideration in areas directly affecting them.

E. That all proposed agency rules, policies, programs and legislation be reviewed to determine their impact upon consumers.

F. That there be meaningful participation by consumers in the development and review of all agency rules, policies and programs.

G. That the VA educate staff members on the provisions of the Federal Consumer Program and provide special training for agency consumer affairs personnel as deemed appropriate.

H. That consumer satisfaction with each major VA program be continuously measured to determine their degree of satisfaction with the agency activity.

VI. RESPONSIBILITIES

A. General

The Veterans Administration has three departments: the Department of Medicine and Surgery, the Department of Veterans Benefits, and the Department of Memorial Affairs. Although each department is involved in providing benefits and services to veterans and their dependents, each has distinct functions. Each is, therefore, responsible for developing its own consumer affairs program consistent with the overall VA program.

Responsibility for the implementation of the Consumer Affairs Program at the operational level rests with the department heads who, using their appointed consumer affairs representatives, will be responsible for the control, reporting, and monitoring procedures necessary for the successful operation of the Consumer Affairs Program. In this regard representatives will review responses to complaints from the standpoint of timeliness and quality, and will provide guidance to employees on the handling of consumer complaints. Representatives will also bring to the attention of top management those consumer complaint issues requiring their advice or of which they should be aware.

B. Department and Staff Office Heads Are Responsible for

1. Designating a senior level individual to serve as "consumer affairs representative" for their respective elements.

2. Ensuring that the consumer affairs representative is included in decisionmaking as early as possible, and at all significant subsequent stages, in matters of substantial consumer interest.

3. Including in the Five Year Planning process sufficient funding and staff for an effective consumer involvement program designed to give consumers opportunities to participate in the organization's decisionmaking processes.

4. Managing the control, reporting, and monitoring of procedures necessary for the successful operation of VA consumer complaint handling and the Complaint/Compliment Reporting System.

5. Implementing the Consumer Affairs Program at all field stations, and ensuring that field station directors:

(a) Designate a senior level individual to serve as consumer affairs representative for their respective stations. The representatives' duties will be similar to their Central Office counterparts and related to their level of duty.

(b) Ensure that the consumer affairs representative is included in decisionmaking as early as possible, and at all significant subsequent stages, in matters of substantial consumer interest in their area of operations.

6. Ensuring that there is adequate opportunity for meaningful consumer participation when substantive changes are proposed to policies, procedures, or programs which affect consumers.

7. Producing and distributing materials to inform consumers about department programs, procedures for obtaining services or benefits, and ways to register their complaints.

8. Maintaining a meaningful outreach program for consumers.

9. Educating and training their staff on the Consumer Affairs Program purpose and objectives.

C. Department and Staff Office Consumer Affairs Representatives Are Responsible for

1. Developing, in consultation with the Agency Consumer Affairs Coordinator, a consumer affairs program tailored to their element's functions. This program shall be submitted to the department or staff office head for approval and publication.

2. Using all appropriate means to notify consumers of each proposed regulation, policy, or program having substantial consumer interest, to include coordination with the Veterans' Service Organization Liaison.

3. Monitoring and recommending improvement in his/her element's procedures for notifying consumers about hearings and public meetings; monitoring and recommending any necessary changes in locations of meetings and advance notice requirements to assure maximum consumer participation.

4. Identifying and advocating the consumer interest in appropriate issues. Carrying out this responsibility will include, but not be limited to:

(a) Ascertaining consumers' positions on relevant issues through such devices as maintaining contacts with consumer groups and analyzing consumer mail;

(b) Keeping senior officials informed of consumers' opinions, concerns, and needs;

(c) Providing consultation to staff members who draft proposed rules and regulations.

D. VA Consumer Affairs Coordinator (002)

The Associate Deputy Administrator is the Agency's Consumer Affairs Coordinator and reports directly to the Administrator of Veterans Affairs. (See Figure 1, Organization of the Veterans Administration.) He is responsible for:

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1. Coordinating all VA consumer affairs activities and ensuring that the provision of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," are implemented.

2. Providing the administrative policy direction for and oversight of VA consumer activities.

3. Reporting directly to the Administrator the potential impact on consumers of particular VA policy or program initiatives under review or development.

4. Chairing the VA Consumer Affairs Coordinating Committee which consists of the Consumer Affairs Representatives from each department and staff office. The committee will meet as needed, but at least monthly to exchange information about consumer-oriented actions within the VA; increasing efficiency, cost-effectiveness, and consistency of VA consumer affairs programs; and avoiding duplication of effort. The committee will also analyze the consumer implications of proposed changes to rules, policies and programs.

5. Providing coordination with other Government agencies on consumer/community veteran's interests to include coordination with the U.S. Office of Consumer Affairs Special Assistant to the President.

6. Supporting the interests of consumers by communicating their concerns to officials within the VA in order that such concerns may be recognized and considered in VA policies, programs, and actions.

7. Promoting consumer education/information programs and consumer involvement within the agency.

8. Ensuring that consumers have adequate opportunity for participation before significant regulations, policies, or procedures are initiated.

9. Ensuring that consumer views and concerns are adequately considered in agency decisionmaking.

E. Veterans' Service Organization Liaison (00A3) Is Responsible for

The Veterans' Service Organization Liaison (VSOL) is responsible for establishing and maintaining a systematic method of internal coordination for national-level communications between veterans' service organizations (VSOs) and the Office of the Administrator and department and staff offices of the Veterans Administration.

F. VA Consumer Affairs Staff—Office of Planning and Program Evaluation (07) Is Responsible for

1. Maintaining a Consumer Affairs Program to assist the Consumer Affairs Coordinator in the management and coordination of the VA Consumer Affairs. (See Figure 1, Organization of the Veterans Administration.)

2. Acting as point of contact for the U.S. Office of Consumer Affairs and other consumer groups, except veterans' service organizations who contact the Veterans' Service Organization Liaison.

3. Coordinating and integrating, in consultation with consumer affairs representatives, comprehensive agencywide guidelines governing the handling, classification and analysis of complaints.

4. Reviewing VA consumer policies and procedures for consistency with national consumer policy established by the President and the U.S. Office of Consumer Affairs.

5. Collaborating with department, staff offices, and Veterans' Service Organization Liaison in the development of procedures for early and meaningful participation by consumers in the development of agency rules, policies, and programs.

6. Collaborating with the Veterans' Service Organization Liaison (VSOL) activity to obtain input from veterans' organizations into the consumer program.

7. Evaluating information obtained from the Consumer Compliant/Compliment Reporting System and other feedback systems and providing such information to the Consumer Affairs Coordinator, departments and staffs.

8. Coordinating with departments and staff offices to assure VA responsiveness to complaints, and monitoring consumer feedback systems to see that views and concerns are adequately analyzed and considered in policy and regulation formulation.

9. Coordinating with the Office of Information Services to ensure that information about VA programs reaches consumers.

10. Developing a Consumer Affairs Education and Training Program.

11. Coordinating the conduct of surveys and research studies concerning the needs, interests and problems of consumers.

12. Coordinating the development of a system of statistical sampling of recipients of the agency's services to obtain a complete and comprehensive picture of consumer attitudes toward the agency and to illuminate areas where improvements could be made in the dispensing of such services.

G. Office of Human Goals (09) Is Responsible for

Identifying views of special consumer groups, such as minorities, handicapped, elderly, etc., and ensuring that such information is relayed to program officials as input for future decisions.

H. General Counsel (02) Is Responsible for

Analyzing Congressional correspondence to identify strengths and weaknesses in VA programs and ensure that such information is relayed to program officials as input for future decisions. Reviewing the proposed VA consumer actions and initiatives for legal and legislative implications and recommending any necessary changes.

I. Information Services (06) Is Responsible for

Informing consumers through the use of publications and other media forms about VA programs, including where and how to apply for benefits.

J. Controller (04) Is Responsible for

Controlling consumer reports within the agency, serving as a liaison for OMB clearance of public use

reports, providing statistical support, and preparation of agency consumer affairs budget.

K. Office of Data Management and Telecommunications (30) Is Responsible for

Providing ADP support to departments and staff offices consumer programs and activities.

L. Inspector General (50) Is Responsible for

Reviewing consumer compliant mail referred by departments and staff offices to determine if an investigation is warranted and processing complaints received from the "Employee Hot Line." As part of their audit activities, they will examine field station consumer activities.

VII. OVERVIEW OF VA CONSUMER AFFAIRS PROGRAM

A. Perspective

1. Operation of Consumer Affairs Program

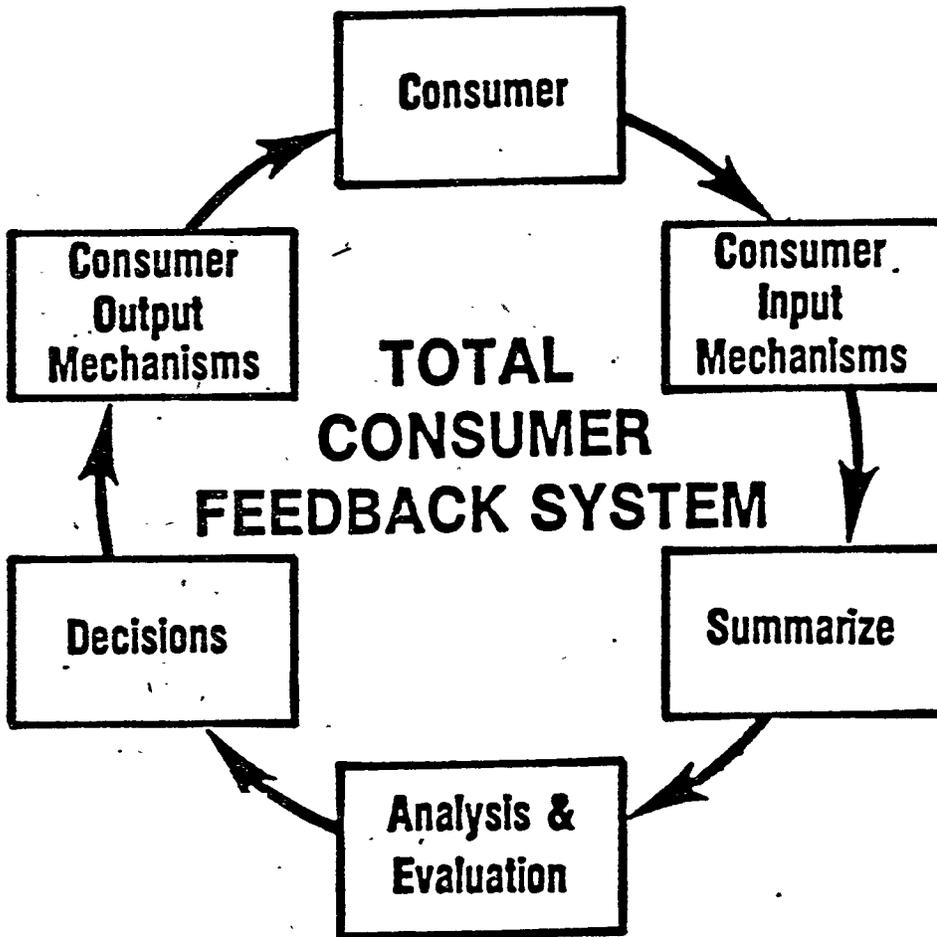
The Veterans Administration's mission is to provide service and benefits to eligible veterans and their dependents. Benefits and services are provided in a broad range of areas which include compensation and pension payments, educational and vocational rehabilitation assistance, insurance, mortgage credit assistance (home loans), burials, government monuments, health care, and hospitalization. These programs must be responsive to the needs of the recipients by providing the best service possible within the resources available. It is recognized that implementation of consumer initiatives can be accomplished only to the extent that resources are available to the Departments.

Although the VA always had the interest of its consumer as its primary concern, the consumer program brings with it a new philosophy seeking greater consumer participation in the development of rules, policies and programs. It emphasizes that the beliefs of the recipient need to be considered as an important ingredient in the decisionmaking process. This approach relies upon active consumer participation and the establishment of effective feedback mechanisms to keep each level of management and program officials informed of the needs and concerns of veterans. The process of consumer participation is shown in Figure 2, Total Consumer Feedback System. It begins with input from *consumers* expressing desires and needs through a variety of *mechanisms* (e.g., complaints, veterans' organizations' impact surveys, veteran civic councils, etc.). This information is to be *summarized* in a format meaningful to management for further *analysis and evaluation* to determine where possible problem areas or changes may be indicated. With this consumer information available, management can then make more informed *decisions* to help improve VA programs or services through *output mechanisms* which

implement changes in rules, regulations, policies, or resources.

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FIGURE 2



The veterans' organizations play an important role in the VA Consumer Program. There are over 50 national veterans' organizations representing veterans' concerns. The Veterans Administration maintains working relationships with these groups at both the national and local levels. These organizations provide one of the best sources of feedback from VA consumers, as well as effective organizations to inform consumers about VA programs. They represent the interests of VA consumers and most have program specialists who can intercede on a veteran's behalf when assistance is needed. Veterans' organizations are consulted whenever major changes in procedures are under consideration. On the national level, the primary point of contact in the VA with the veterans' organizations is a Special Assistant to the Administrator, the Veterans' Service Organization Liaison (VSOL), whose primary duty is to work with the veterans' organizations to obtain their views and assist them in obtaining information they may need.

2. VA Consumer Program Organizational Structure

The Associate Deputy Administrator has been designated as the VA Consumer Affairs Coordinator. He has direct access to the Administrator and is in a position to advise the Administrator and oversee consumer affairs activities throughout the VA. The coordinator is the agency's primary consumer affairs advocate and with the help of a consumer affairs staff, analyzes all rules, regulations, policies, and proposed legislation for consumer implications. He recommends changes as needed to make procedures and policies more responsive to consumer interests. In addition to help from the consumer staff, the Consumer Affairs Coordinator chairs the Organization and Management Improvement (OMI) committee which also functions as the Consumer Affairs Coordinating Committee. The committee members are senior level employees from each major staff and the operating departments. Major management initiatives on consumer affairs, management improvement, organizational changes, and proposed changes to regulations, policies, procedures, and legislation are brought before the committee.

Each major staff office and department in Central Office and each field facility has a consumer affairs representative responsible for consumer activities and reports directly to the department head or station director. The consumer affairs representatives act as consumer advocates resolving problems of an immediate nature, crossing organization lines when necessary. The consumer affairs representatives interact with consumer affairs personnel at all other levels in the VA Consumer Affairs Program network to resolve problems of both general and specific natures.

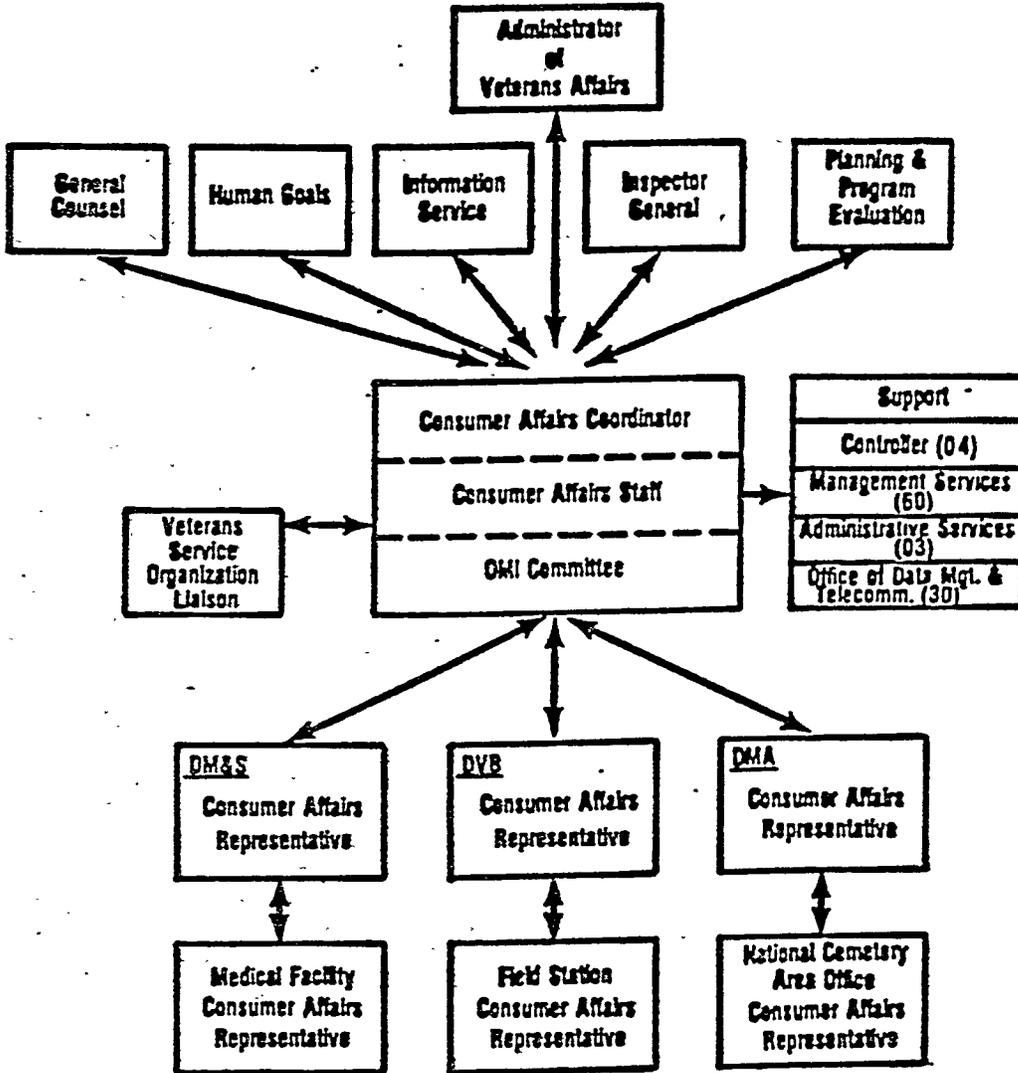
The basic interrelationships under the Consumer Affairs Program are shown in Figure 3, Operating Structure of VA Consumer Affairs Program. The specific duties and responsibilities of the Consumer Affairs Coordinator, the consumer staff, departments and staff offices are shown in Part VI, *Responsibilities*.

3. Organization of Agency Consumer Affairs Staff

The agency Consumer Affairs Staff is a separate element located in the Office of Planning and Program Evaluation. It directly supports the Consumer Affairs Coordinator (CAC). Its location in Planning and Program Evaluation gives it needed access to expertise in the areas of agency planning, special studies, and program evaluations. The staff is composed of a director, two analysts, and clerical support. Two additional staff positions are planned for FY 1981.

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FIGURE 3
OPERATING STRUCTURE
OF THE
VA CONSUMER AFFAIRS PROGRAM



The agency Consumer Affairs Staff is in continuous contact with each of the departments' consumer affairs staffs and the consumer affairs representatives for each of the staff offices. Coordination is routinely accomplished with the departments through working committees which expedite necessary actions. The staff will collaborate with department and staff representatives in the review of proposed legislation and in policies, regulations, and procedures to determine their impact on VA consumers.

B. Consumer Participation

1. General

The VA has an extensive and comprehensive system to encourage consumer participation both at the local and national levels. Responsibility for ensuring adequate participation by consumers rests with the Administrator and heads of departments and staff offices. The major methods of obtaining information from the consumer to use in the decisionmaking process are as follows:

- (a) Person-to-person contact with consumers.
- (b) Meetings and informal consultations with consumer organizations (veterans' service organizations).
- (c) Advance copies of proposed regulations, policies, and procedures sent to veterans' organizations for comment prior to release in the Federal Register.
- (d) Information obtained from complaints and proposed consumer feedback cards.
- (e) Impact, attitudinal, and opinion surveys of the recipients of benefits.
- (f) Vietnam Veteran Civic Councils at each VA Regional Office.
- (g) Representation of consumers on advisory committees.
- (h) Conferences on VA programs with participation from consumer groups.
- (i) Program evaluations to determine the effectiveness of the delivery of benefits.
- (j) Evaluation of VA facilities conducted by veterans' organizations.
- (k) On-site representatives of veterans' organizations at VA facilities who meet with the director on a regular basis.
- (l) Public appearances by VA managers before community and civic groups and professional organizations.

2. Avenues and Forms of Consumer Participation

There are many avenues and forms by which VA consumers can make their views known. The major ways are shown below:

- (a) The Veterans Administration provides opportunities for consumers to express their views at both field station and Central Office organizational levels and at several points in the agency policy making process. Some consumer contacts are direct and informal, such as a veteran inquiring about VA programs; others are formal, such as the Administrator and VA staff attending the annual conventions of national veterans' organizations.

(b) Consumers may express their opinions of VA benefits and service in a variety of ways. Inquiries, utilization of VA benefits, and general information obtained about consumers provide input into the decisionmaking process. Personal contact between VA employees and consumers provides an opportunity for input into decisionmaking; information obtained from these contacts ultimately becomes a source of agency knowledge regarding consumer concerns. To aid in this effort the VA has an extensive outreach program which includes toll-free telephone calls to all VA Regional Offices and veterans assistance personnel located at each VA Medical Center and VA Regional Office.

(c) Each department currently is developing a consumer feedback card. These are voluntary means by which consumers can express their satisfaction or dissatisfaction with the service obtained or about a program.

(d) An agency wide Complaint/Compliment Reporting System is also under development. When implemented, this system will provide computerized reports showing the number of complaints, their subject matter and source. (See Paragraph VII. E)

(e) Veterans' organizations periodically evaluate individual field station operations. Representatives of the organizations also provide on-site assistance to consumers within VA facilities. A consumer need not be a member of a veterans' organization to utilize its services. Information provided by the veterans' organizations at the local level is an important source of consumer input for decisionmakers.

3. Analysis of Consumer Concern and Stages of Consumer Participation in Decisionmaking

Consumer views are interjected at several levels when policy decisions are being made:

(a) Veterans' organizations provide the major opportunities for consumer viewpoints to be heard early in agency policy formulation processes. The organizations are consulted regularly on an informal basis and receive advance drafts of proposed changes in programs and major procedures. Veterans organizations also provide comments and analyses when they believe existing programs should be modified.

(b) Comments and suggestions are provided by third party participants (e.g., mortgage lenders, educators, and professional organizations) who interact with consumers.

(c) Individual suggestions from consumers and information received from complaint/compliment and other feedback mechanisms are used.

(d) Information is obtained from surveys and program evaluations showing where improvements or changes are needed.

(e) Each state or VA Regional Office has a Vietnam Veteran Civic Council. The councils meet quarterly to discuss local issues with a VA representative. Council recommendations for remedies to problems are forwarded to Central Office for consideration.

(f) Professional advisory committees are another mechanism for consumer input. The advisory

committees represent diverse groups, including veterans and members of the community who are prominent in the fields of medicine, education, construction, and law. The committees provide management with professional evaluations of VA programs and serve as a source of new ideas to improve VA services to consumers.

(g) VA sponsors conferences on agency programs and veteran-related issues. Experts convene to share ideas and discuss solutions to consumer problems.

C. Consumer Informational Material

Informational materials on VA programs are comprehensive and widely distributed. They are an integral part of the outreach effort. Information is provided to veterans through the following seven primary means:

1. television and radio
 2. newspapers and magazines
 3. VA pamphlets and literature
 4. Veterans Assistance Discharge System (VADS) which provides information directly to new military discharges
 5. personal contact with VA employees
 6. VA nationwide toll-free telephone system
 7. conferences with veterans' organizations
- In addition to VA publications, third party participants in VA programs (e.g., mortgage lenders) supplement VA publications by providing additional information to the potential beneficiary. Most veterans' organizations also publish monthly magazines at the national level and special material at the local level containing information about VA programs. VA surveys of veterans and dependents show that as a result of these efforts, almost all veterans receive some information about VA programs and activities and that the needed information is readily available to veterans in all parts of the country.

There is a continuous assessment of the effectiveness of informational materials being provided and they are under continuous review to update and simplify the information for VA consumers. Responsibility for developing information about the programs rests with department and program officials. As new legislation is passed or procedures are changed, program administrators are also responsible for making the necessary changes to the appropriate informational publications. Dissemination of information by radio, television, and newspapers is arranged for at both the national and local levels.

An important function of VA facilities at the local level is to disseminate information. Within the Department of Medicine and Surgery, hospitals, outpatient clinics, domiciliaries, and nursing homes furnish a full spectrum of health-care information. Regional Offices, within the Department of Veterans Benefits, are the contact points for veterans wishing to obtain information about their benefits, and serve also as distribution points for all non-medical programs. National Cemeteries, within the Department of

Memorial Affairs, furnish information on VA burial benefits.

All of the regional offices, hospitals, and cemeteries are covered by seven regional information specialists who work with the station director and program officials to develop information about VA programs for media use.

VA publications are routinely made available at convenient locations such as military installations, veterans' service organizations, libraries, universities/college campuses, and community information centers. The VA toll-free telephone system is also a source for consumers to request VA benefits information.

D. Education and Training

1. Employee Education and Training

Employee education and training includes informing all VA personnel regarding the requirements of Presidential Executive Order 12160 and the enhanced VA Consumer Affairs Program; additional education and training in consumer service for those VA personnel involved in direct contact with consumers; and specialized training and education for employees directly involved in the Consumer Affairs Program.

Training of employees is the responsibility of the departments and staff offices. Each department and staff office develops its own training program to meet the special needs of its personnel in providing the best possible service within available resources. Currently each department having public contact has a training program for employees on answering questions and on sensitivity toward the individual. The best ways to serve or care for the individual are emphasized.

A specific training program designated as Consumer Affairs is to be established by each department to include field stations. The current training programs for employees relating to consumer affairs are to be integrated into one training program. An agency training directive providing guidance for establishing departmental consumer programs will be developed and will include the requirements of the Presidential Executive Order.

2. Consumer Education and Training

Consumer education and training includes informing the consumer of the benefits and services and how to obtain them; providing technical assistance on VA matters to consumer organizations (e.g., Veterans' Organizations); and providing technical assistance and training to intermediaries through which some VA benefits are delivered (e.g., builders, educational institutions, contract health care facilities, and funeral homes).

E. Complaint Handling

A major source of consumer opinion is from complaints, most of which are received and resolved by the field stations. There is a formal written procedure to ensure that special review of complaints is made, whether it comes to the station staff, the station director, or a veterans' organization. Complaints are forwarded to the Office of the Director

to ensure prompt reply and to be certain corrective measures are taken to avoid similar complaints from other veterans. It is the policy of all VA field stations to respond immediately to complaints and to resolve them in an expeditious manner. In addition to complaints about service received, veterans, their dependents, or their beneficiaries can appeal decisions made regarding claims for benefits. In these instances, the VA instructs the consumers of the proper procedures for having the case heard by the Board of Veterans Appeal. If a VA field station discerns a pattern which indicates a consumer problem is more than local in scope, the appropriate Central Office official is contacted.

Complaints received at Central Office receive similar priority handling, each request being answered promptly and reviewed, together with other data, to determine if there is any need for change. As a result of this method, complaints received at the field stations and Central Office have influenced VA policies, procedures, and regulations.

With the implementation of the TARGET computer system, the VA has been able to provide immediate answers to consumer inquiries, and thus possibly avoid a formal complaint. This system when fully operational will allow the VA field stations to immediately make inquiries on individual veteran's status of eligibility and benefits.

Under the enhanced Consumer Affairs Program, a system is under development to collect topical data on all complaints. This data will be computerized and used to produce statistical information on "who" (e.g., veteran, Congressional, White House, professional, etc.), "what program" (e.g., DVB's housing, education, pension, DM&S's Inpatient, Dental, Contract Care, etc.; or DMA's headstone/marker, National Cemetery maintenance, etc.), and "specific concern" (e.g., timeliness, denied benefits, treatment, etc.) that are involved. With this information the VA will be able to establish a more representative picture of the views and opinions held by veterans on VA performance. This will be accomplished through the use of statistical reports showing the number and percentage of complaints during a period by facility, program area, and concern. These reports will also show the timeliness of VA's response to complaints. As a management tool for all levels of management, the information from these reports can help increase the VA's sensitivity to consumer concerns and more effectively alert management to possible problems.

Appropriateness of response will also be reviewed through a sampling procedure as part of the field station systematic analyses, the departmental station evaluations, and the Inspector General audits.

VIII. DEPARTMENT OF MEDICINE AND SURGERY CONSUMER AFFAIRS PROGRAM

A. Consumer Affairs Perspective

1. Operating Structure

The DM&S Consumer Affairs Operating Structure (Figure 4) shows the key program representatives in

the Department of Medicine and Surgery (DM&S) at each level of management.

2. Responsibilities

(a) The Chief Medical Director (CMD) has overall responsibility for development, implementation and management of the Department of Medicine and Surgery Consumer Affairs Program.

(b) Currently, the Executive Assistant to the Medical Director has been designated as the Department Consumer Affairs Representative.

(c) The Communication and Inquiries Staff, a part of CMD's immediate office, is responsible for the development, conduct and coordination of the Department program with inputs from all Department elements whose activities impact on consumer affairs.

(d) A coordinating committee on Consumer Affairs has been established to facilitate communication and cooperation in this process. The coordinating committee's members are key staff from the major operational, policy and management offices of the Department.

(e) Medical Center and Clinic Directors are responsible for the consumer affairs activities at their facility.

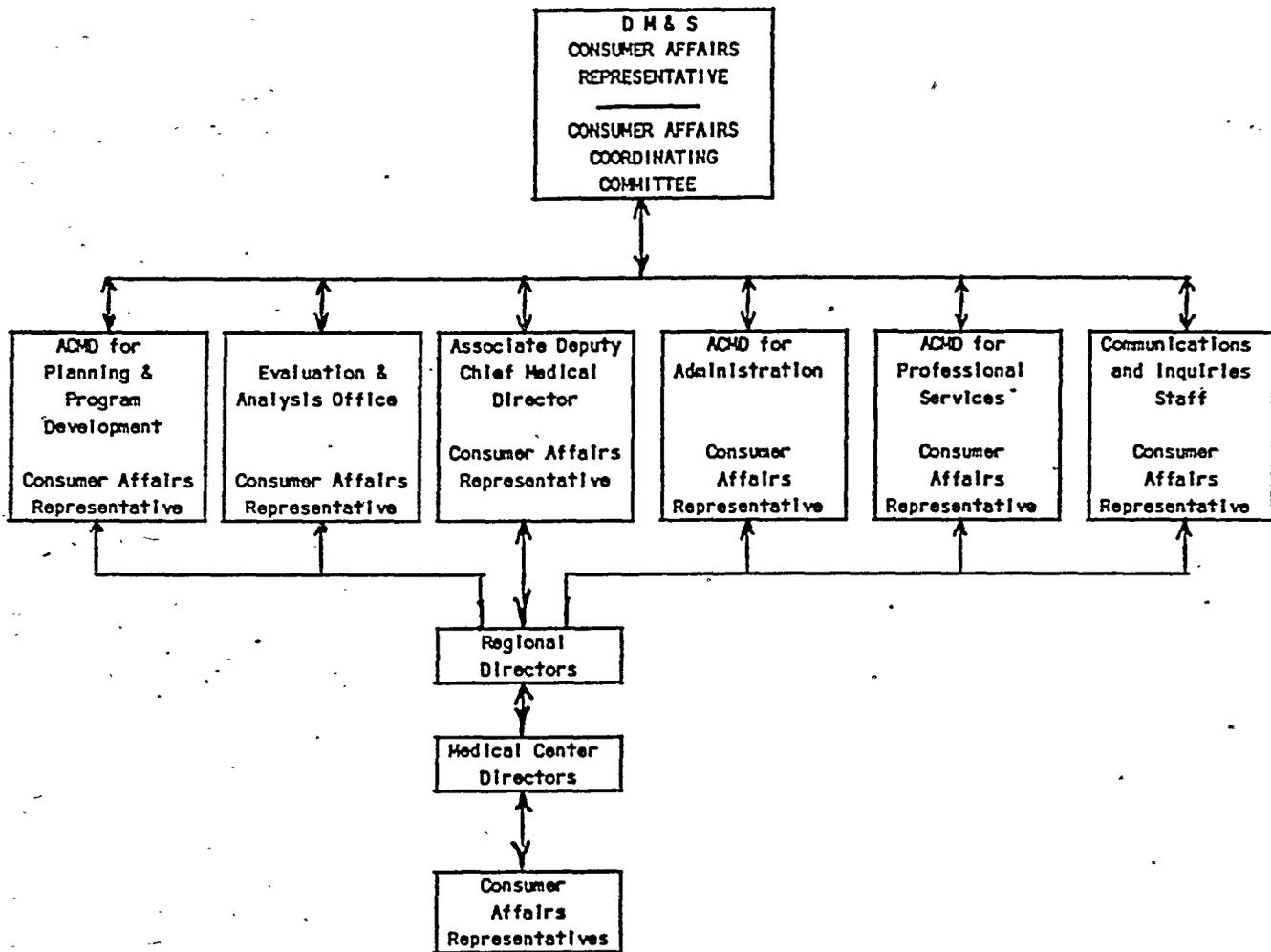
3. Department Initiatives

(a) Final development of the Complaint/Compliment Reporting System will include information on written, telephonic and personal contacts. This will provide information about consumer views at all levels of management.

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FIGURE 4

OPERATING STRUCTURE
OF THE
DM&S CONSUMER AFFAIRS PROGRAM



(b) The Patient Satisfaction Survey will be made an annual evaluation to assure still more information.

(c) The continued implementation of the Medical Administration Service education system to assure that all staff who have patient interaction responsibility are trained and have refresher courses.

(d) A program to make patient assistance personnel more identifiable will be pursued.

(e) The continued input of Veterans' Service Organizations will be sought in planning and development of new initiatives.

(f) In order to assure more structured coordination of the entire DM&S Consumer Affairs Program and a single point of contact for all involved, the Department will explore the development of a DM&S Consumer Affairs Office. This function will include coordination of the Department's efforts, evaluation of data generated and overall administration of the Department program.

B. Consumer Participation

1. Avenues and Forms of Participation

Veteran medical care consumers have significant input into the policy and program planning processes. This input comes through formal and informal channels at both the local and national levels. The VA's highly decentralized medical care system fosters rapid transmission of individual consumer concerns to appropriate management officials.

The systematic program review in the Health Services Review Organization program, observations of Patient Representatives, and reports or comments from Veterans Service Organization visits feed information to the Medical Center Director. Consumers are encouraged to participate locally through Veterans' Civic Councils, various *ad hoc* committees, and the Veterans Administration Voluntary Service program. In many facilities, representatives of various veterans' organizations are provided office space and meet regularly with key medical center officials. In addition, veterans service organizations are represented on most of the Deans Committees that serve affiliated medical centers. These veterans' organizations promote consumer interests and are a major source of consumer representation at the Central Office level.

At all levels, patient complaints are given priority attention. In addition, veterans' organization representatives, who tour or formally survey VA medical care facilities, provide written and verbal comments to the Directors. These formal reviews are used in the development of the facility's five-year plans and as a source of information which is carefully evaluated by Central Office. These reports are followed up by the Evaluation and Analysis Office to ensure that deficiencies noted are corrected. Nationally, veterans' organizations respond to proposed VA regulations. The results of patient satisfaction surveys are carefully monitored and facilities with deficiencies are required to take steps toward their correction. Also, their annual legislative packages are carefully studied. The Communication

and Inquiries Staff keeps top department managers informed of individual complaints, emerging trends, and potential consumer impact of proposed changes in policy.

Proposed changes in DM&S regulations are printed in the Federal Register for public comment. Advance copies are circulated to the veteran's organizations for comment. Consumers are also informed of available benefits and programs through service organization publications. Through attendance at local, regional and national veterans' organization meetings, DM&S officials attempt to maintain a high level of consumer awareness. This awareness is also fostered through written, telephonic, and personal contacts with individual veterans. VA officials at all levels also participate in meetings of other consumer and health planning organizations.

2. Initiatives To Be Taken

Presently, a new consumer feedback card (Tell it to the Administrator) is being developed and field tested. Following any necessary modifications, these cards will be introduced system-wide. The results of these cards will provide to both Central Office and local management an additional feedback mechanism to determine consumer satisfaction.

C. Consumer Informational Materials

1. Current Informational Materials

To facilitate consumer awareness of available medical services, the VA employs a multimedia approach in addition to the numerous veterans' organization publications to reach the widest possible audience.

The Department works closely with the agency's Information Service in developing press releases, TV and radio announcements, and a variety of informational pamphlets. These pamphlets, include "Federal Benefits for Veterans and Dependents," "Fast Facts," and "Medical Benefits—Veterans Administration" and "CHAMPVA (Civilian Health and Medical Program of the Veterans Administration)." These are available from medical centers, regional offices and veterans' organization representatives. Many other publications are also mailed to veterans on request. Information bulletins in benefits checks and hand-out materials at local facilities are used to reach directly affected groups of veterans.

2. Proposed Information Initiatives

The Code of Patient Concern is currently being revised and will be reprinted in the next few months. The Code will be widely distributed and reemphasized to both patients and employees.

Since a veteran's first impression is so vital, the Department is exploring the use of specially trained personnel in the admissions and clinic areas of the medical centers to assist patients with their health care benefits and treatment program questions. Also being explored are means of making those who can best assist the veteran more identifiable, especially in outpatient areas. Patient representatives may also require similar special identification.

D. Education and Training

1. Current Training

The Department recognizes the importance of training for medical care personnel, especially for employees in constant contact with consumers. Training of 17,000 Medical Administration Service employees has recently been completed. To assist them in being more effective in dealing with veterans' needs, both in person and through written correspondence, Medical Center Directors receive training in community affairs and communications through the Regional Medical Education Centers. Familiarizing employees with the Code of Patient Concern indicates the Department's commitment to the consumer.

2. Planned Training Initiatives

New Medical Administration Service employees receive a minimum of 30 hours of training which includes a consumer awareness component. Consumer Awareness Training is being explored as a regular part of all medical care inservice training programs. Also, special training will be provided for all employees responsible for the consumer affairs program, both at the medical facilities and in the Central Office.

Development of these new initiatives and improvements in existing programs will be a joint venture involving the medical center staff, the Department's Public Information Officer, Continuing Education and Staff Development Service, the Agency's Consumer Affairs Staff, and the Office of Personnel.

E. Complaint Handling

1. Complaint Processing

A central element in a comprehensive consumer affairs program is the prompt and effective resolution of consumer complaints. Consumer comments are a valuable management tool in the identification of strengths and weaknesses at all levels. These comments are therefore given priority attention.

Most consumer comments and complaints are resolved at the medical center level. Those comments received in Central Office are either coordinated by the Communications and Inquiries Staff or routed to the appropriate medical facility for response. Correspondence, including that sent to the field, is logged to ensure prompt response. Copies of the responses by field facilities are returned so that they can be monitored for timeliness and quality. In DM&S Central Office, the Patient Care and Administrative Inquiries Units in conjunction with medical specialists answer the bulk of the consumer mail. These units, along with the Hospital Administration Specialists in the Regional Directors' Offices, respond to telephonic inquiries received from consumers. These comments and questions which require particular expertise are referred to appropriate Department elements. Before signature, all replies are carefully reviewed by the Communications and Inquiries Staff to ensure that they are appropriate and in compliance with agency policy. Copies of all contacts are retained and monthly

reports are generated. Each medical facility follows similar procedures to ensure prompt attention and appropriateness of reply. Differences in size, complexity and clientele preclude a completely uniform system.

2. Planned Initiatives

A consumer Complaint/Compliment Reporting System is under development in conjunction with the other departments and the agency's Consumer Affairs Staff. The DM&S portion will be initially field tested at four medical centers. When implemented, this system will be the nucleus from which a comprehensive reporting system on consumer comments will be developed. Comments will be categorized by source, program involved, area of specific concern and timeliness of response. This data will be analyzed, evaluated and considered along with other factors in the decisionmaking process at Central Office and medical centers.

IX. DEPARTMENT OF VETERANS BENEFITS CONSUMER AFFAIRS PROGRAM

A. Consumer Affairs Perspective

1. Operating Structure

The DVB Consumer Affairs Operating Structure (Figure 5) depicts the organization and relationships of key consumer affairs representatives at each level of management.

2. Responsibilities

The DVB Consumer Affairs Program is the responsibility of the Chief Benefits Directors; its development and implementation are under the direct guidance of the Deputy Chief Benefits Director (DCBD), DVB's senior level Consumer Affairs Representative.

(a) The DCBD has direct access to the Chief Benefits Director and possesses the authority to make decisions regarding matters of consumer interest. The Director, Veterans Assistance Service, has been designated as DVB's alternate senior level Consumer Affairs Representative.

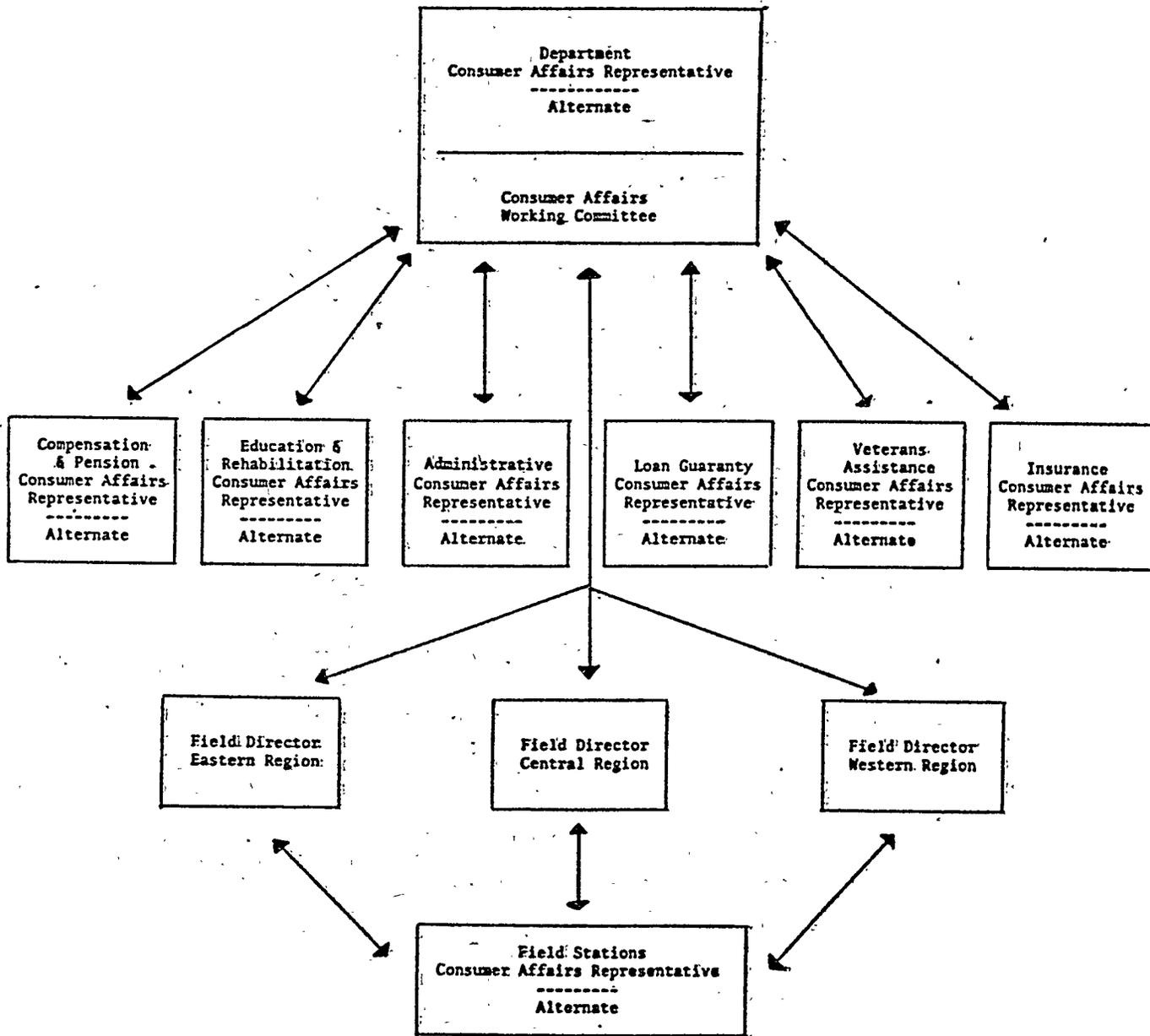
(b) A DVB working committee has been established at VA Central Office, Washington, D.C. to provide input and support to DVB's Consumer Affairs Program.

(c) Consumer Affairs Representatives and alternates have been designated in each DVB program area (Compensation and Pension, Education and Rehabilitation, Loan Guaranty, Insurance, Veterans Assistance and the Administrative Services). These representatives have responsibility for providing program expertise in the development of new consumer initiatives, providing guidance in the implementation phase, and reviewing the operation of existing consumer programs in their respective program areas.

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FIGURE 5

OPERATING STRUCTURE OF DVB CONSUMER AFFAIRS PROGRAM



(d) Each DVB field station has named the Veterans Services Officer and an alternate as Consumer Affairs Representatives who have responsibility for providing input to and implementing DVB-wide consumer programs, as well as initiating, implementing, and advertising consumer related programs tailored to the needs of their particular station, as appropriate.

(e) All Consumer Affairs Representatives provide input on the development of new programs, rules, policies, and legislative actions which involve consumerism in DVB and the VA as a whole.

3. Department Initiatives

(a) Field station Consumer Affairs Representatives will be requested to find new and innovative ways to improve service to veterans and their dependents residing within their field station jurisdiction.

(b) In coordination with the Office of Planning and Program Evaluation, DVB has developed a five-year program on consumerism which includes the following actions: (1) Implementation of a computerized Complaint Reporting System; (2) Establishment of Baseline of Service Delivery Standards; and (3) Implementation of a DVB Consumer Feedback Card System.

B. Consumer Participation

1. Avenues and Forms of Participation

Consumer participation in DVB's decisionmaking processes occurs in every phase of the Department's operations on a continuous basis. Consumer input on the need for changing rules, policies and programs is solicited through both formal and informal channels. Input leading to program changes comes from the following mechanisms/sources:

(a) Review of claims referred to Central Office by field stations.

(b) Comments from other VA departments and staff offices.

(c) Analysis of correspondence from Members of Congress and the general public.

(d) Recommendations from national veterans' service organizations; housing, education and insurance interest groups; and *ad hoc* committees.

DVB consumers can participate in the decisionmaking processes through involvement in local Vietnam Veterans Civic Councils, through correspondence, or personal visits to DVB field stations or Central Office. VA employee suggestions concerning the needs and concerns of veterans also play an important role in policy and procedure formulation.

Prior to their effective date, all proposed regulations are published in the Federal Register for public review and comment. Interested persons are invited to submit written comments, suggestions or objections regarding the proposals. Comments received are analyzed by program staffs and where appropriate incorporated into the final regulation, which is then republished in the Federal Register for additional comments before implementation.

Along with publication in the Federal Register, draft copies of new issues are regularly sent to a large number of concerned organizations for their review and comment(s). For example, an educational issue affecting the school approval process would be sent to the National Association of State Approving Agencies (NASAA) for their comments. Veterans' service organizations play an important role as consumer advocates in this process.

Consumers are given the opportunity to express their views on the effectiveness of DVB's programs and services through a variety of channels, such as, toll-free telephone service to our field stations, consumer satisfaction letters, Vietnam Veterans Civic Councils, DVB's outreach programs, Compliance surveys, and *ad hoc* committees. Also, representatives from DVB participate in consumer-oriented meetings to establish rapport with consumers and technical groups, to keep abreast of current trends and to solicit suggestions for improving service to veterans.

To ensure that consumer concerns are adequately analyzed, ongoing reviews are undertaken by each service within DVB. These include statistical quality control, systematic analysis, field station surveys, and administrative review of selected cases.

The quality control system alerts field stations of any areas needing attention on a technical basis and informs Central Office of recurring problems at local facilities. The system also acts as an indicator for possible policy or procedural changes or other corrective actions when Central Office review indicates a trend of similar problems at a number of field stations.

2. Department Initiatives

DVB is developing a consumer feedback card which will provide veterans and their dependents a means of expressing their view on the timeliness and quality of the service they are furnished at DVB offices.

A Baseline of Service Delivery Standards will be developed to measure how well DVB programs meet their mission of service to veterans and beneficiaries.

Expanding the role of the Vietnam Veterans Civic Council (VVCC) as a consumer advocate group is also being explored. As is currently done with veterans' service organizations and other concerned groups, VVCC's may be provided copies of proposed legislation and policy changes and requested to review and comment on these issues. Since a significant portion of the VVCC membership consists of potential VA beneficiaries, this could be an effective means of involving more consumers in the VA's decisionmaking processes.

C. Consumer Informational Materials

1. Current Informational Materials

Current informational materials available to DVB's consumers include a wide range of publications, pamphlets, and booklets which describe the scope of benefits that veterans and their beneficiaries are entitled to receive. Special interest publications, such as, "Your VA Counseling Service Can Help You,"

"Veteran-Student Work-Study Program," "Pointers for the Veteran Homeowner," "National Service Life Insurance," and "Minority Businesses" are also published regularly by the VA. Most of the above publications are routinely made available to military bases, veterans' service organizations, libraries, schools and community information centers, as well as all DVB field stations.

Newly discharged veterans are sent computer-generated certificates of eligibility for educational assistance and loan guaranty benefits through the computerized Veterans Assistance Discharge System (VADS), in Austin, Texas. Pamphlets describing benefits available to veterans are also included with the certificates. Six months after the initial VADS mailing, a follow-up package of similar information is sent.

DVB conducts a number of special outreach programs to assist a particular group of veterans with common types of problems. Currently, these outreach efforts are being directed to such groups as elderly veterans, educationally disadvantaged Vietnam era veterans, veterans in jeopardy of losing their homes through foreclosure, minority veteran homebuyers, and incarcerated veterans.

Career Development Centers (CDSs) which help veterans plan their career and find jobs have been established or are planned for 38 field stations located throughout the country. This program is receiving the support of the Department of Labor's Veterans Employment Representatives located in the field stations and who assist veterans in job placement.

2. Proposed Informational Materials

When DVB's publications, pamphlets and booklets are revised to reflect policy and procedural changes, they will also emphasize the importance of consumer involvement in the day-to-day operations of the VA.

D. Education and Training

1. Current Training

Veterans' Services Division personnel, located in all VA field facilities, provide information and assistance to veterans in applying for benefits from the VA and other agencies, as well as receiving complaints. Currently, these employees receive one-half hour training daily.

Adjudication personnel in DVB field stations participate in the "Venture in Progress" training program which is composed of three hours of training weekly. Additional training may be scheduled if deemed necessary by field station management.

Representatives of Central Office Loan Guaranty Service periodically conduct training sessions for field station Loan Service Representatives. Among other things, these sessions include tips to Loan Service Representatives in making contact with borrowers and how to provide financial counseling to delinquent borrowers.

2. Planned Training Initiatives

An essential element in the success of DVB's programs is through training and educating employees

to be understanding, responsive and courteous to our consumers. Actions will be taken to encourage and emphasize the need for effective employee training in all phases of DVB's operations which directly involve the consumer.

The Education and Rehabilitation Service is planning staff development training in three geographical areas in 1980 for the counseling and rehabilitation staffs. The purpose of the training will be to ensure that the practices and methods utilized in the Veterans Vocational Rehabilitation Program are in accord with modern concepts and advanced knowledge in the field of rehabilitation.

DVB will participate in three seminars on Community Relations sponsored by the Department of Medicine and Surgery in 1980. Techniques for improving communication within VA facilities and the surrounding community will be stressed.

Consumer Affairs Representatives from DVB services will meet regularly to discuss ways to improve and expand consumerism in DVB.

E. Complaint Handling

1. Complaint Processing

(a) *Central Office.* Complaint mail received in DVB is identified and analyzed according to the type of complaint and area of responsibility. Either the Chief Benefits Director's office or one of the DVB program offices logs the complaint, sets up timeliness controls, and assigns it to the appropriate office for action or forwards it to the field station of jurisdiction for action.

(b) *Field Stations.* All complaint mail received in a DVB field station is given priority handling and forwarded directly to the station Director's office. The complaint correspondence is then logged, analyzed as to type and area of responsibility, and timeliness controls set up.

Department directives provide complaint handling and analysis guidelines. For example, DVB Quality Control Manual, M20-2, requires that all complaint mail receive the personal attention of the station Director to assure prompt and correct disposition of all pertinent issues. Also required are regular studies of complaint situations to identify underlying causes which can be eliminated, and referral to Central Office of situations beyond field station control.

Loan Guaranty Divisions in each field station reported to Central Office during FY 1979 the number and status of all written complaints involving newly constructed homes. Additionally, the stations analyzed complaint mail received for a three-month period on existing, previously occupied homes according to type, frequency, and timing.

2. Planned Initiatives

DVB is currently developing a computerized Complaint Reporting System which when implemented will enable the Department to collect complaint data by Central Office Service or field station, program area, source, and specific area of concern and will also show how prompt DVB is in responding to complaints.

Computer-generated reports showing data for each of the above categories will provide management, both in Central Office and the field, and necessary information for improving the delivery of veterans' benefits.

X. DEPARTMENT OF MEMORIAL AFFAIRS CONSUMER AFFAIRS PROGRAM

A. Consumer Affairs Perspective

1. Operating Structure

The DMA Consumer Affairs Operating Structure (Figure 6) shows the key program representatives in the Department of Memorial Affairs (DMA) Consumer Affairs Program. DMA administers its Consumer Affairs Program through normal management channels, since the program is considered an essential management function of DMA staff and line managers.

2. Responsibilities

The DMA Consumer Affairs Program is the responsibility of the Chief Memorial Affairs Director; its development and implementation are under the direct guidance of the Deputy Chief Memorial Affairs Director. DMA staff and service directors are the Consumer Affairs Representatives directly responsible for the implementation of DMA programs. They are directly involved with consumer concerns on a regular basis and are responsible for responding to consumer complaints and other consumer feedback.

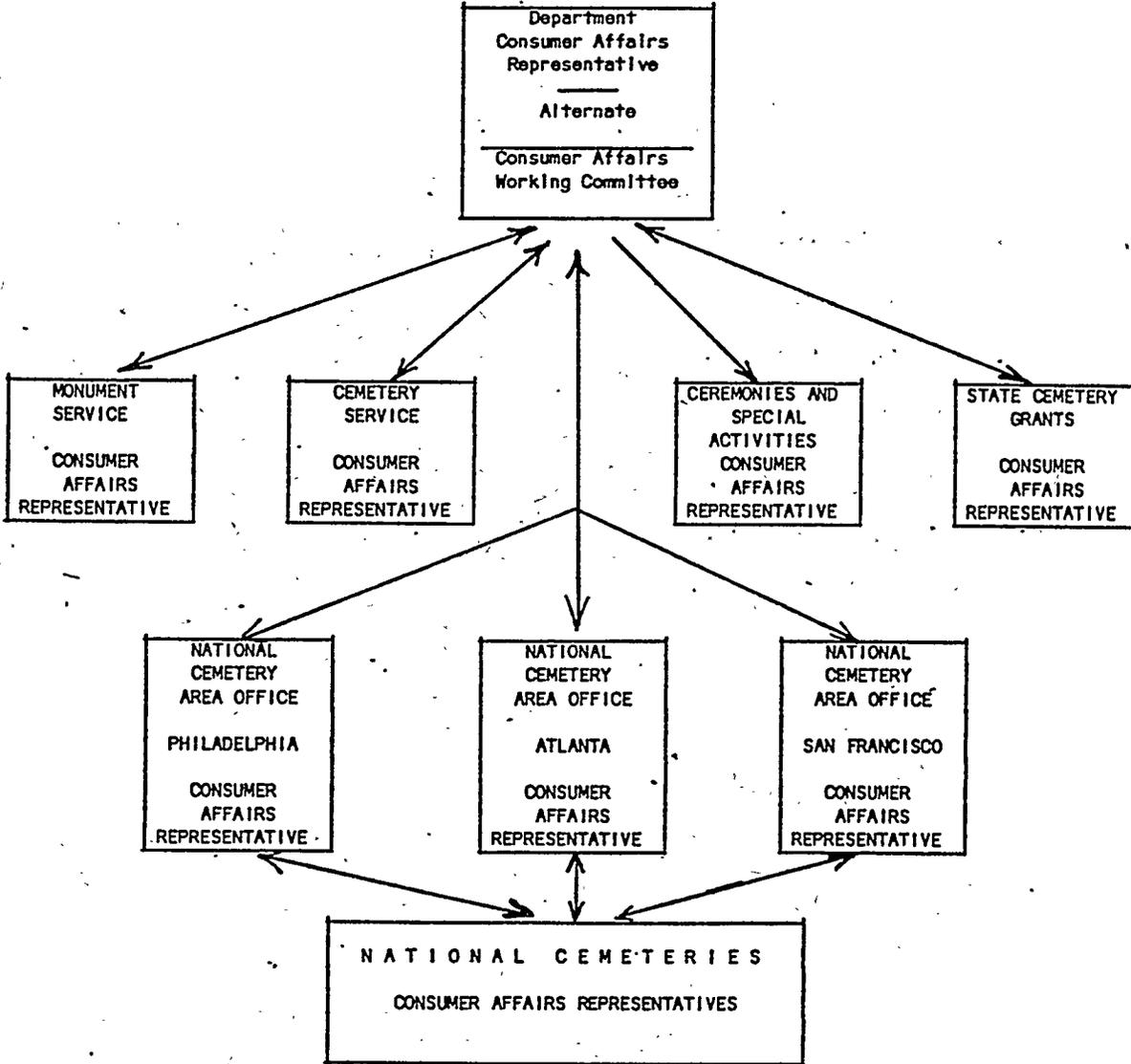
DMA organizational responsibilities for consumer affairs are vested in:

(a) *The Director, Plans and Programs Staff*, who has been designated as the DMA Consumer Affairs Representative and is responsible for coordinating the DMA Consumer Affairs Program. This individual will act as a consumer affairs advocate by ensuring the responsibilities in Paragraph VI, B & C, are accomplished.

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FIGURE 6

**OPERATING STRUCTURE
OF THE
DEPARTMENT OF MEMORIAL AFFAIRS
CONSUMER AFFAIRS PROGRAM**



(b) *DMA Staff and Service Directors* who are responsible for Consumer Affairs within their organizational elements.

(c) *National Cemetery Area Office (NCAO) Directors* who are responsible for coordinating and monitoring the Consumer Affairs Program for their respective areas.

(d) *Cemetery Directors* who implement the program at the station level.

3. Department Initiatives

In coordination with Office of Planning and Program Evaluation, DMA has developed a five-year consumer program which will incorporate the following significant actions:

(a) Develop automated consumer Complaint Reporting System.

(b) Develop baseline measurement of service delivery standards.

(c) Test and implement the National Cemetery Consumer Feedback Card.

(d) Develop, test, and implement the Headstone and Marker Consumer Feedback Card.

(e) Implement DMA Consumer Feedback Information System.

(f) Establish a quality control review system to determine appropriateness of responses to consumer complaints.

(g) Reactivate the Advisory Committee on Cemeteries and Memorials.

(h) Implement automated processing methods to provide more effective and timely benefits and services to consumers.

(i) Implement the State Cemetery Grants Program.

B. Consumer Participation

1. Avenues and Forms of Participation

Based on analysis and awareness of consumer expressions, DMA incorporates consumer viewpoints directly into the formation of its programs. Major decisions regarding Department operations are based almost entirely on consumer dissatisfaction with current operating procedures in a given area.

Proposed DMA regulations are published in the Federal Register, affording the public the opportunity to comment.

Consumers participate in the DMA decisionmaking processes through the following mechanisms:

(a) Consumer Complaint Reporting System, including complaint analysis from White House and Congressional sources, veterans' organizations, and professional sources.

(b) Appearances of Cemetery Directors and DMA program managers before community and civic groups, veterans' organizations, and professional groups (such as State or regional funeral directors' associations; cemetery associations).

(c) Review of environmental impact statements for proposed cemetery sites.

(d) Program evaluation surveys of next-of-kin, clergy, and funeral and cemetery associations.

(e) DMA participation in Vietnam Veterans' Civic Councils (established by the VA Department of Veterans Benefits).

(f) DMA participation in ongoing VA studies, such as the Survey of Veterans.

The DMA Consumer Complaint Reporting System provides for classifying the nature of complaints received. Input is reviewed by DMA management at every organizational level, including the Chief Memorial Affairs Director. This system provides opportunities for consumer participation in the DMA decisionmaking process. Consumers are informed of proposed or revised regulations through publication in the Federal Register. Proposed procedural changes at the cemetery level are coordinated with officials of local funeral homes and veterans' organizations. Proposed cemetery development projects are communicated to community groups and veterans' organizations.

2. Department Initiatives

New initiatives include the direct notification to State program officials of the State Cemetery Grants Program to assure consumer participation in the program; increased participation of Cemetery Directors in public appearance activities (hearings, meetings); increased efforts at all national cemeteries to involve the community in special observances and ceremonies (Veterans Day, Memorial Day, Vietnam Veterans Week, etc.).

The automated Consumer Complaint Reporting System will provide data for a more effective Consumer Information System to ensure consumer viewpoints are formally incorporated into the decisionmaking process.

New DMA consumer feedback mechanisms will include the consumer feedback card (national cemeteries), consumer feedback card (headstones and markers), automated consumer Complaint Reporting System, and the Advisory Committee on Cemeteries and Memorials.

C. Consumer Informational Materials

1. Current Informational Materials

Informational materials are continually revised. They cover National Cemeteries, Headstones and Markers, history and maps of individual cemeteries, and DMA Newsletters. For methods of distribution, see VII.C, Informational Materials.

2. Proposed Information Initiatives

An information bulletin on the State Cemetery Grants Program and Guidelines for Participation in State Cemetery Grants is being developed for distribution to State officials interested in participating in the State Cemetery Grants Program. The proposed State Cemetery Grants regulations appeared in the Federal Register on September 28, 1979, marking a sixty-day period for public comment.

D. Education and Training

1. Current Training

The sensitive nature of DMA programs (interments and monuments) has dictated the need for training Cemetery Directors and personnel directly involved with consumers. Each Cemetery Director and employee is evaluated in areas relating to direct dealings with the public. Special training sessions on consumer awareness are held at the Annual Directors' Conference. The presentations feature professional persons from the private sector who are skilled in the area of human relations and communication.

Continuous emphasis is placed on improving written communications as a follow-up to the VA Better Letters program, as well as oral communications, using the "VA—MAY I HELP YOU" approach.

2. Planned Training Initiatives

DMA is assembling a briefing package on the DMA Consumer Affairs Program, which will include the five-year plan on consumerism. Briefings will be given to DMA Staff and NCAO Directors. The need for training in human relations, effective writing, effective oral communications, will be emphasized to each Cemetery Director; formal training completed will be made a matter of record.

Consumerism will be a major item on the agenda of the 1980 Cemetery Directors' Conference.

Consumer Affairs briefings will be developed under the guidance of the Deputy Chief Memorial Affairs Director and the Director, Plans and Programs Staff.

DMA consumer representatives will be responsible for implementing the Consumer Affairs Program, including recommended training courses, for their respective organizational elements.

DMA Staff and NCAO Directors will receive the complete briefing package on the Consumer Affairs Plan. NCAO Directors will disseminate the briefing package at the field level and will be responsible for ensuring adequate training for cemetery personnel.

Formal training in consumerism undertaken by cemetery personnel will be reported to VACO through the NCAO's.

The minimum requirement for Consumer Affairs representatives and other DMA personnel will consist of orientation sessions on the VA Consumer Affairs Program and participation at meetings and workshops on consumerism, human relations, and communications at the annual DMA Directors' Conference.

E. Complaint Handling

1. Complaint Processing

Complaint records are maintained by assigned personnel at national cemeteries and at each VACO Staff and Service Office. Complaints are logged from correspondence, telephone calls, and personal visits. The log reflects name of complainant, type and nature of complaint, and date of response. A separate VACO log identifies special sources of complaints: Congressional referrals, White House referrals, other high-level consumer sources. The log also shows

referrals to other DMA facilities or VA organizational elements responsible for preparing replies to complainants, or to another Federal Agency.

Complaints are targeted for reply within five work days. Additional follow-up procedures have been established to ensure timely responses to White House, Congressional, or other "special" mail. Interim responses are used where needed or in cases where target date cannot be met.

2. Planned Initiatives

In April 1979, DMA established a manual Consumer Complaint Reporting System, in which complaints were classified into five separate categories. Monthly reports are tabulated, analyzed, and distributed. This system will be replaced by the automated Consumer Complaint Reporting System which provides 27 specific areas of concern in which complaints may be classified. The automated system will:

(a) produce quarterly reports and facilitate more in-depth analyses. The number and type of complaints per facility, overall timeliness of responses, and total number of complaints will be shown.

(b) distribute reports to the Chief Memorial Affairs Director, DMA Staff and Service Directors, NCAO Directors, and Cemetery Directors. Additional procedures will be developed to provide for a random review of responses to consumer complaints to assess the appropriateness and quality of response.

The aforementioned reports will constitute a means of involving the consumer in DMA plans and operations. Consumer viewpoints will be considered in improving services at the operating level, as well as in the decisionmaking process, and will be incorporated directly with DMA policies and programs.

XI. STAFF OFFICE CONSUMER ACTIVITIES

A. Veterans Service Organization Liaison

The Veterans Service Organization Liaison (VSOL) is responsible for establishing and maintaining systematic internal coordination for national-level communications between Veterans' Service Organizations (VSOs) and the Office of the Administrator and department and staff offices of the Veterans Administration. The VSOL activity augments veterans' service organization communications with program officials and is not intended to replace direct communications to VA officials.

The VSOL maintains open channels of communications, assists veterans' service organizations in matters involving the VA, and performs the following functions:

1. Provides internal administrative coordination for communications by department and staff offices with veterans' service organizations.
2. Maintains current names and addresses of veterans' service organizations.
3. Coordinates annual VA briefings for new officers of each of the major veterans' organizations.
4. Conducts an annual reception and briefing for new officers, executive staffs, and auxiliary officers of all veterans' service organizations.

5. Coordinates quarterly conferences between major organizations and the Deputy Administrator to update activities, exchange information, and discuss issues and concerns.

6. Ensures control of resolutions and important correspondence received from veterans' service organizations.

7. Provides advance notifications to veterans' service organization presiding officers and/or VSOL primary contacts about major appointments, announcements and activities of the VA as determined appropriate.

8. Assists with appointments of veterans' service organization officials to federally chartered advisory committees of the VA.

9. Provides information to the Consumer Affairs Coordinator about veterans' organizations concerns and areas of interest.

B. General Counsel

The General Counsel serves as the chief legal officer of the Veterans Administration in all matters of law and legislation and is responsible for all litigation, legal advice and legislative services. These responsibilities include: (1) review of regulations proposed by program units, to assure their legality; (2) drafting legislation for presentation to the Congress; (3) interpretation of laws affecting the VA; (4) advice, opinions, and assistance to VA officials in legal problems arising in their work; (5) litigation in local, State and Federal courts brought by or against the VA; (6) assisting the Department of Justice in litigation brought by or against the United States, involving the VA; and (7) working with Congressional Committees in legislative matters.

The Work of the General Counsel involves contact with consumers in responding to letters from the general public on legal or legislative issues. When the correspondence indicates a potential need for legislative or regulatory changes, it is reviewed with program officials who are primarily responsible for recommending such changes. The General Counsel personnel also have direct contact with claimants and witnesses in processing claims and conducting litigation under the Federal Tort Claims Act and the Medical Care Recovery Act; in commitment and guardianship proceedings involving orphans, mentally ill and incompetent persons; in insurance, education and housing programs; in criminal prosecution; in bankruptcy and probate proceedings; and in other types of cases.

The General Counsel functions in the VA Consumer Affairs Program include: (1) legal advice and services to VA officials on problems arising in their consumer affairs programs; (2) continued sensitivity to consumer impact in drafting or reviewing legislation and regulations; (3) continued sensitivity to information received from legislative, judicial, public and other sources to insure that potential weaknesses in VA programs are communicated to program officials and considered in future decisions; and (4) protecting interests of consumers by assuring that accredited

service organizations and representatives have the required qualifications.

C. Controller

The Office of Controller is responsible for coordination and submission of the Agency budget, and for the reports management function. The reports management function includes controlling reports within the agency, serving as a liaison for OMB clearance of public use reports, and providing statistical support. The Controller also prepares demographic reports for the public and for Congress as well as for VA use.

The Office of the Controller provides support to department and staff consumer affairs programs as follows:

1. Assisting with design of reports for handling consumer data.

2. Assisting in identifying consumer data already available in Agency reporting systems and studies.

3. Providing statistical assistance in surveys and consumer reporting systems (Complaint/Compliment Reporting System and Consumer Feedback Cards).

4. Inclusion of a separate consumer program exhibit in yearly budget submissions to OMB.

D. Information Services

Information Services is responsible for consumer education regarding Veterans Administration benefits. Utilizing print and electronic media, the office seeks to directly increase the awareness among veterans, their dependents, spouses and the general public of VA benefits, new benefit laws, important deadlines and changes in policies and regulations. Veterans and their dependents are encouraged to contact the VA for information and assistance.

Approximately 600 local and national news releases are distributed each year to 11,000 daily and weekly newspapers, the Associated Press, United Press International, Reuters, Copley, and other national news services. These news releases are also distributed to veterans service organizations and military publications. Written, recorded and videotaped and filmed spot announcements are distributed to 6,100 radio and television stations and a weekly news insert is distributed to the Armed Forces network. Question-and-answer features, benefit filler facts, cartoon features, magazine articles and information are prepared and sent to the print media. The office also publishes a comprehensive booklet, "Federal Benefits for Veterans and Dependents," which is disseminated to the media and public through all VA facilities, and is sold in volume by the Government Printing Office.

The service also publishes a biweekly *Public Opinion Digest* for distribution to agency officials and field stations. This condensation of critical and favorable comment on VA programs and activities serves to alert all stations to new trends, as well as potential problem areas that might impede service to consumers.

E. Office of Planning and Program Evaluation (OP&PE)

Planning and Program Evaluation is responsible for (1) coordinating and integrating Agency planning to support the agency's missions and goals, (2) identifying agency top management information requirements and developing plans for a supporting information system, (3) conducting program evaluations, special studies, and systems analyses, and (4) supporting the agency Consumer Affairs Program through coordination of plans, procedures, and consumer complaint handling and feedback information systems. The Consumer Affairs Staff is located in this office.

In addition to the functions performed by the Consumer Affairs Staff, OP&PE has the following activities related to the consumer program:

1. Conducting program evaluations and special studies of the delivery of services. These studies may be initiated as a result of an analysis of complaint mail or other feedback systems which indicate a potential problem with service or delivery of benefits.
2. Developing from the planning effort characteristics of the veteran population which could indicate that special attention is needed toward a special group of VA consumers (e.g., aging veterans).
3. Contracting for or conducting attitudinal surveys of consumer groups concerning the VA in order that attention can be given the areas which most concern veterans.
4. Coordinating and monitoring the five-year consumer planning of the departments and staff offices to ensure that the consumer initiatives approved by the Administrator are included in the Agency plan and that there is adequate planning to enhance the consumer program.

F. Office of Human Goals

The primary responsibility of the Office of Human Goals is to ensure that benefits, services, employment, training, and advancement in every element and program administered by the Veterans Administration are provided for all groups and individuals on an equal basis and in a compassionate, competent, and sensitive manner. Activities are designed to keep the agency especially attuned to the unique needs, aspirations, and concerns of those who are minority, disabled, handicapped, female, or elderly.

OHG reviews reports made by veterans' organizations as well as internal reports for indications of problem areas. It participates in conferences of minority, women's and veterans organizations and those for handicapped individuals to secure insight into how VA is perceived by specific groups of individuals. OHG receives correspondence from special interest groups, the general public, and Congress regarding programs and practices affecting equal opportunity. The Office examines the composition of the work force and other equal opportunity factors of the Veterans Administration as they relate to VA's responsiveness in providing benefits and services. For example: Do VA employees have the ability to communicate with the consumer in

a language other than English, e.g., Spanish, as needed? Is there understanding and regard by VA employees for cultural differences? Is VA meeting the religious needs of hospitalized minority veterans? What are the consumers' perceptions of the loan guaranty program and staff?

G. Office of Data Management and Telecommunications (ODM&T)

The Office of Data Management and Telecommunications provides staff offices and departments with a complete range of data processing and telecommunication services, including consultation, ADP planning, technical evaluation, systems design and development, and systems production. Since the consumer program is an Agency effort, ODM&T supports all departments and staff offices involved in the development of computerized consumer feedback systems.

ODM&T is currently providing support in the design and development of the VA Consumer Complaint/Compliment Reporting System and consumer feedback cards of the departments. When these systems are fully developed, the office will computerize the source data and produce the necessary management reports for both field stations and Central Office. In addition, ODM&T is a member of a committee working to develop new and improved computerized feedback mechanisms for the consumer.

H. Inspector General

Each of the offices under the Inspector General have specific duties and responsibilities in the area of Consumer Affairs. The Office of Investigation is responsible for handling complaint mail, including consumer complaints, referred by department and staff offices to determine if a Central Office investigation is warranted. The Risk Analysis Staff is responsible for handling the Consumer complaints it receives from the employee telephone "Hotline," General Accounting Office and Members of Congress. The Office of Audit is responsible for reviewing field station activities relating to consumer affairs.

Complaints received by the Office of Investigation or the Risk Analysis Staff that fall under the jurisdiction of department or staff offices are referred to those offices for indicated action. Department and staff offices are requested to furnish reports of actions taken to the Office of Investigation or the Risk Analysis Staff on referred complaints that are of interest to the Inspector General. Information concerning consumer complaints handled by the Office of Investigation or the Risk Analysis Staff and copies of consumer complaint mail received by these offices are forwarded to the Consumer Affairs Staff.

The mechanisms utilized by the Office of Audit in examining consumer affairs issues at medical centers or regional offices include:

1. Reviews of the facility's complaint files and the assessment of the handling of selected complaints.
2. Reviews of the facility's community-oriented activities and relations with the media.

3. Reviews of timeliness and responsiveness of replies by the Veterans Assistance and/or Medical Administration Services.

4. Reviews of the VAF 2633 files, Report of Incident, and further reviews of the system that governs this Patient Care File.

5. Interviews with representatives of Veterans' Service Organizations and Veterans' Benefits Counselors to collect their comments regarding hospital operations and any consumer problems.

6. Reviews of applications for admission to a health care facility which have been denied and the controls that are in place to determine whether proper procedures were utilized.

APPENDIX—Definitions

Consumer—Any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

Consumer Complaint—An allegation, oral (telephone and personal visit) or written, including an anonymous one, that adversely reflects upon the service, responsiveness or sensitivity of the VA, its employees or organizations or individuals having official dealings with the VA towards the needs of veterans, their dependents and beneficiaries.

VA Consumer—Veterans, their dependents, and beneficiaries as set forth in sections 101-103, Title 38, United States Code.

Veterans' Service Organization (VA Consumer Organization)—Any national group organized to serve veterans. For purposes of this operating plan, veterans' organizations shall be identical to those listed in the Administrator's Memorandum No. 00-78-16, dated November 16, 1978, entitled "Veterans' Service Organizations Liaison."

Veterans' Service Organizations Liaison (VSOL)—A staff with the primary mission of maintaining communication with veterans' organizations and obtaining their input into the VA policy, rules, and procedures.

[FR Doc. 79-36657 Filed 12-7-79; 8:45 am]

BILLING CODE 8320-01-M

ACTION**CONSUMER AFFAIRS PROGRAM**

This notice is issued to inform the public that ACTION is establishing a formal plan to correspond to the major elements of Executive Order 12160, "Providing for Enhancement and Coordination of Federal Consumer Programs," dated September 26, 1979.

1. STATEMENT OF PURPOSE

On September 26, 1979, the President of the United States signed Executive Order 12160 which requires each agency to formally establish a consumer affairs program in order to improve the management, coordination, and effectiveness of those programs on a government-wide basis.

Additionally, the Executive order contained a provision for the exemption of those agencies which do not affect the consumer.

ACTION does not have a statutorily established regulatory role in the marketplace nor does it affect the provision of property, goods, services, or credit to consumers.

However, ACTION, with its mission of assisting the poor and disadvantaged to become a part of the mainstream of American life, has utilized the consumer affairs mechanism as a primary means to achieve its goals. This is accomplished with a relatively small staff of employees backed by a much larger number of volunteers.

Thus, while the Agency has requested exemption from full compliance with the provisions of the Executive order based on its small staff and limited mission, it is committed to an active role in support of the President's consumer affairs program. To this end, ACTION is establishing a formal plan to correspond to the major elements of the Executive order. In addition, the Agency, based on its mission to assist the poor and disadvantaged, proposes to make its consumer interest programs a part of the larger Federal effort by assuming an advisory role on the President's Consumer Affairs Council and by providing a bridge between the overall Federal effort and those poor and disadvantaged citizens with whom ACTION works in its established programs.

2. CONSUMER AFFAIRS PERSPECTIVE**A. Executive Order Requirements**

Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

B. ACTION Program

Due to ACTION's relatively small size and narrow scope of activities the Agency will utilize existing organizations and staff to promote the consumer affairs perspective. The Office of Compliance, which

reports directly to the Agency Director, has been designated as the ACTION unit responsible for these activities. This office is currently assigned responsibility for and will continue to exercise its duties relative to agency inspections, audits and the EEO program.

The additional responsibility for the consumer affairs program is compatible with that office's current activities in assuring agency compliance with legal and regulatory requirements and with the coordinative role that the office now plays. In as much as the other offices will have responsibility for the operational aspects of parts of this program the Office of Compliance will exercise overall program management authority and responsibility.

While the Office of Compliance, as a primary staff office to the Agency Director, currently participates in the development and review of all rules, policies programs and legislation, the assignment of the consumer affairs program will require that the office consider that program in its deliberations. Thus, the consumer affairs perspective will specifically and automatically be a component of the Agency decision processes.

Additionally, the Assistant Director for Compliance will chair the ACTION Consumers Affairs Council which, as outlined in part 8 of this plan, will play a major role in promoting and coordinating the ACTION consumer interest activities of ACTION programs with those of other Federal agencies.

3. CONSUMER PARTICIPATION**A. Executive Order Requirement**

Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decision-making. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decision-makers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

B. ACTION Program

The "consumers" affected by ACTION programs are the poor and disadvantaged who are most likely to benefit from the Agency programs. It is this group of people who make up the grassroots organizations who shape and guide the individual Agency activities. Through their requests for volunteers, informational materials, technical assistance or funding they determine which programs best fit their needs and, in the form of "sponsoring organizations", supervise the conduct of the projects on on-going basis. Additionally, the Agency field structure through its Regional and State offices provides a direct line of communication and cooperation between Agency officials and community members/volunteers, assuring

that these individuals are provided the opportunity for expressing their concerns to Agency officials.

In order to further promote a unified consumer affairs perspective, each office with domestic concerns shall be represented on the ACTION Consumer Affairs Council. The Council shall be charged with providing a forum whereby consumer concerns may be the primary focus in the consideration of Agency rules, policies and programs.

4. INFORMATIONAL MATERIALS

A. Executive Order Requirement

Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

B. ACTION Program

The Agency currently publishes and distributes a wide variety of informational material to state, local and community organizations. These materials explain the Agency, its programs and services available and how the citizen may participate, but are not specifically oriented toward the consumer program required by the Executive Order. A list of these materials and/or copies may be obtained by writing: ACTION, Office of Recruitment and Communications, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Additionally, the Office of Recruitment and Communications will prepare an information pamphlet that describes the ACTION consumer affairs program required by the Executive Order in terms of agency responsibilities and services, procedures for consumer participation and marketplace information. This pamphlet will be distributed by July 1980 through the Agency field structure to the state, local and community organizations that sponsor Agency projects or that are potential sponsors for Agency programs.

5. EDUCATION AND TRAINING

A. Executive Order Requirement

Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

B. ACTION Program

The Agency currently provides extensive training for those staff members and volunteers who are responsible for providing Agency services to the sponsoring organizations and individuals.

Additionally, new courses will be designed and written material provided to assure that the appropriate individuals are fully versed in the requirements of the Executive Order and ACTION's implementing program. Further, the Agency will take steps to provide training and training materials regarding "consumer interests" programs as reflected in the programs of other agencies and the activities of the President's Consumer Affairs Council.

6. COMPLAINT HANDLING

A. Executive Order Requirement

Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

B. ACTION Program

The agency's public information program proposed in part 4 of this plan will serve to heighten public awareness of the agency's receptivity to complaints. Any complaints received by the Agency will be processed through the controlled correspondence system maintained by the Office of Administration and Finance. This office is responsible for logging in, routing, monitoring, and dispatching correspondence requiring special attention. While consumer complaints must be routed to the appropriate ACTION office for resolution, a copy of each complaint will also be provided to the Office of Compliance as the agency focal point for consumer affairs. All such complaints will be answered within two weeks of receipt by the Agency. The Office of Compliance will monitor this system and, as necessary, assist the appropriate program office in the investigation and reply. Additionally, the Office of Compliance will prepare periodic reports to Agency management with an analysis of the complaints and will assure that the ACTION Consumer Affairs Council is advised of the content and analysis of such complaints. Thus, consumer complaints will become a part of the policy making process by the program offices, by agency management and, specifically by the Office of Compliance and the ACTION Consumer Affairs Council.

7. OVERSIGHT

A. Executive Order Requirement

The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

B. ACTION Program

The Assistant Director for Compliance is designated as the agency senior level official responsible for the oversight of the agency's consumer activities. The Assistant Director for Compliance reports directly to the ACTION Director and currently is classified as a FSR-1. In addition to heading the Office of Compliance, the organization that comprises the consumer affairs staff, and serving as the chairman of the ACTION Consumer Affairs Council, the Assistant Director is also responsible for coordinating the individual parts of ACTION's consumer affairs program described above in parts 2 through 6 and providing policy direction to the Agency program.

8. ACTION's Consumer Affairs Council

Due to ACTION's intense interest in the success of the Federal Consumer Affairs Program and desire to be an integral part of that program the Agency shall form an ACTION Consumer Affairs Council.

A. Membership

The following Agency offices shall be represented on the Council:

- Office of Compliance.
- Office of Domestic and Anti-Poverty Operations.
- Office of Recruitment and Communications.
- Office of Administration and Finance.
- Office of Voluntary Citizen Participation.
- Office of Policy and Planning.

B. Purpose

The Council shall provide for overall coordination of the Agency's Consumer Affairs Program. In this capacity the Council shall:

- In the form of the chairman, represent ACTION on the President's Consumer Affairs Council;
- Consider the consumer complaints received by ACTION in its deliberations;
- Participate in the formulation and review of Agency rules, policies, programs and legislation;
- Act as a mechanism to transmit information received from the President's Council through the ACTION headquarters and field structure to the volunteers and community grassroots organizations.
- Act as a mechanism to transmit consumer concerns received from the volunteers and community grassroots organizations to the President's Council and other Federal Agencies.

This Agency contact for this program is Raul Rodriguez, Assistant Director for Compliance, ACTION, Washington, D.C. 20525, telephone (202) 254-5940.

Signed at Washington, D.C., this 4th day of December 1979.

Sam Brown,
Director of ACTION.

[FR Doc. 79-37728 Filed 12-7-79; 8:45 am]

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Part V

**Consumer Programs:
Economics and
Commerce**

Commerce Department.....	71270
Commodity Futures Trading Commission.....	71282
Consumer Product Safety Commission.....	71285
Federal Communications Commission.....	71292
Federal Deposit Insurance Corporation	71298
Federal Reserve System.....	71306
Federal Trade Commission	71312
Securities and Exchange Commission	71316
Treasury Department	71320

COMMERCE DEPARTMENT**AGENCY:** U.S. Department of Commerce.**ACTION:** Draft Consumer Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Office of Consumer Affairs, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Room 5889, Washington, D.C. 20230.**FOR FURTHER INFORMATION CONTACT:** Meredith M. Fernstrom, Director of Consumer Affairs, (202) 377-5001.**AUTHORITY:** Executive Order 12160.**BACKGROUND**

The major goal of the Department of Commerce is to encourage the economic progress of the United States and its citizens. Its mission encompasses a broad spectrum of programs designed to promote technological advancement, improve research and scientific development, manage and conserve the Nation's natural resources, provide the basis for the Nation's measurement standards, provide social and economic statistics and analyses, promote business and economic development, and strengthen the international and domestic trade position of the Nation.

Some programs and policies of the Department of Commerce have a direct impact on consumers: for example, the product standards work of the National Bureau of Standards, the seafood inspection program of the National Marine Fisheries Service, and the telecommunications activities of the National Telecommunications and Information Administration. Other actions have a more indirect, although no less significant, effect on consumers; these include activities of units such as the Census Bureau, the Patent and Trademark Office, the National Weather Service, and the Bureau of Economic Analysis, as well as the broad area of trade policy analysis.

In carrying out its mission of promoting economic growth, the Department must be as responsible and accountable to the consumer as it is to business. This Draft Consumer Program describes a plan for assuring that consumer needs and interests are solicited and adequately considered in decisionmaking processes of the Department. When the Draft Program is finalized, it will be implemented in the form of a Department Administrative Order.

I. CONSUMER AFFAIRS PERSPECTIVE**Office of Consumer Affairs**

The Office of Consumer Affairs (OCA), as coordinator of the Consumer Program, is authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs and legislation.

Staff Location

OCA is located in the Office of the Secretary (see Appendix A, Organizational Chart). The Director of

the OCA currently reports to the Deputy Under Secretary; this reporting channel is under review pending a Departmental reorganization which is expected to be completed by January, 1980.

Size and Resources

The OCA staff is presently limited to two professional and one secretarial positions. The staff is supplemented with college interns when available through semester-long work/study programs. A Commerce Management Information System is now under development, to be administered by the Deputy Under Secretary's Office, which the OCA can use to monitor consumer activities throughout the Department.

In order to more fully comply with the requirements of the Executive Order, a review of OCA staffing needs is being made to determine possible expansion in line with the current Departmental reorganization.

Responsibilities

The Director of the Office of Consumer Affairs presents consumer views to policy makers, facilitates consumer involvement in Department activities, and maintains contact with consumer-related organizations in the public and private sectors. The Director serves as the Department's consumer advocate in reviewing rules, policies, programs and legislation which impact the consumer, and recommends actions that are responsive to consumers' needs.

The other major responsibility of the OCA is to encourage greater responsiveness to consumer concerns from the business community. In this regard, OCA works closely with corporate consumer affairs directors, other corporate executives, and trade associations to develop policies and programs which address consumer issues. OCA's efforts currently include seminars for business, individual consultations and advice to corporate leaders, and the establishment of business-consumer "roundtables" on specific problem areas. In fiscal year 1980, a major new project will be the reissuance of consumer affairs guidelines for business which were previously developed under the auspices of the Department of Commerce.

Relationship With Other Consumer Personnel and Agency Operating Units

The following operating units are regularly involved in major policies and programs that have direct or significant consumer impact:

National Bureau of Standards (NBS)
National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA)
National Telecommunications and Information Administration (NTIA)

These operating units have developed plans for implementing the Executive Order within their agencies, as follows:

National Bureau of Standards (NBS)

NBS has designated the Director of the Center for Consumer Product Technology (CCPT) as the Bureau's

representative for consumer matters. The Director will oversee implementation of the Consumer Program within the CCPT, and will act on behalf of the Director of the National Bureau of Standards on all consumer issues within the Bureau and in conjunction with the Commerce Consumer Connection (described below) and the Office of Consumer Affairs.

National Marine Fisheries Service (NMFS)

The National Marine Fisheries Service has a Consumer Affairs Division located in the Office of Utilization and Development. Plans are currently in progress to reconstitute the Division as a Consumer Affairs Branch under a combined Seafood Inspection, Research, and Consumer Affairs Division. The Consumer Affairs Branch is planned to include 3 consumer affairs professionals, 1 economist, 1 home economist, and 1 clerical position.

The National Marine Fisheries Service also has twelve home economists and marketing specialists who are engaged in consumer development activities at the NMFS regional centers. While these regional specialists do not presently report to the Consumer Affairs Division at NMFS headquarters, there is a continuing exchange of information between the field and the headquarters.

The objective of the NMFS Consumer Affairs Division is to provide the Assistant Administrator of Fisheries with current consumer views relative to fishery policies, coordinate the activities of the Marine Fisheries Advisory Committee (MAFAC) Consumer Affairs Subcommittee, facilitate consumer involvement in fisheries activities, function as the point of contact for consumer inquiries and complaints, act as the NOAA representative in consumer related councils and committees at Departmental and interagency levels, and to coordinate citizen participation in fisheries policies. The head of this Division will serve as a consumer advocate within the Assistant Administrator's office in reviewing programs and legislation which impact on the consumer and recommend actions that are responsive to consumer needs. The Division will maintain contact with consumer and other public groups and will be responsible for consumer educational and informational activities for both consumers and fisheries related industry groups. The head of the Division is a member of the Commerce Consumer Connection.

National Telecommunications and Information Administration (NTIA)

The National Telecommunications and Information Administration was established on April 1, 1978, and does not have a consumer affairs staff at present. The Office of Planning and Policy Coordination (OPPC) has been designated as NTIA's consumer representative for purposes of compliance with the Executive Order. During fiscal year 1980, the Director of OPPC will coordinate consumer activities within NTIA. The agency is also exploring the possibility of establishing a consumer office, and will seek budget approval to do so. If funding is approved, some resources will be

devoted this fiscal year to planning for and implementing the new office.

Other Operating Units -

Other operating units of the Department which do not have consumer staffs will be directed to designate a "consumer contact person" within their agency as liaison to the OCA (See Appendix B, Department of Commerce Offices and Operating Units). This "consumer contact" should be at the highest level possible to be aware of the unit's activities which impact consumers and to have access to the agency head. Contact persons must be designated within 30 days of the effective date of the Program. These individuals will be kept apprised of the Department's Consumer Program through the Commerce Consumer Connection notices as well as through informal communication with the OCA.

Procedures for Consumer Policy Coordination

The OCA acts as the "umbrella" to coordinate all consumer participation and outreach activities in the Office of the Secretary, through the field office networks, and in the operating units. OCA will assist existing consumer staffs within the operating units in the development of their policies and programs. All appropriate means of participation in policy and program development will be used by OCA, including membership on intradepartmental task forces; representation of the Department on interagency consumer projects; consultation with operating unit officials and staffs; written comments on legislative and other proposals; circulation of proposals to consumer representatives, the media, etc. Consumer affairs staffs of operating units will carry out similar policy review functions within their agencies.

Specific procedures through which OCA will participate in policy development and review include:

1. Commerce Consumer Connection

The OCA chairs the Commerce Consumer Connection, an intradepartmental committee which meets at least monthly to review consumer-related policies and programs throughout the Department and develop recommendations for the Secretary and other officials on actions appropriate to consumers' interests. Through this mechanism, OCA will also be made aware of emerging programs or problems of consumer staffs within the operating units.

Membership of the Connection consists of representatives of the operating units' consumer staffs, and in the future will include the designated consumer contact persons from other operating units.

2. Policy and Legislation Review

The OCA will be included in the development and clearance of rules, policies, programs and legislation which have consumer implications through coordination with the Assistant Secretary for Policy and the Assistant General Counsel for Legislation. OCA will review the Department's 6-month regulatory agenda and disseminate monthly public notices of regulatory activities to consumer organizations and

consumer media. Consumer staffs of the operating units should be involved in all stages of their agency review process. OCA will work directly with operating units and consumer staffs on the development of proposed and final rules.

3. Advisory Committees

The Secretary has directed that one or more qualified consumer representatives be included in the membership of the Department's public advisory committees, except where there are statutory constraints. It is also the Department's policy to reimburse, upon request, advisory committee members, which includes consumer representatives, for travel and expenses associated with membership on advisory committees. OCA serves as a clearinghouse for locating consumer candidates for membership, and will be included in the clearance of proposed committee members to assure that adequate consumer representation occurs. The Office will conduct a survey within 30 days of the effective date of this Program, and at least annually thereafter, to determine the status of consumer representation on advisory committees.

II. CONSUMER PARTICIPATION

Where Consumer Participation Will Occur

OCA and consumer staffs of the operating units will be responsible for assuring that timely and meaningful consumer participation occurs throughout the development and review of the Department's rules, policies and programs, including the initial formative stages of the process. To provide participation at the appropriate stages of policy development, the following actions, and others as needed, will be taken:

1. Notices of proposed and final rules, programs, and policies will appear in the Federal Register.
2. Monthly notices of upcoming rulemaking activities will be disseminated to consumer representatives and consumer media by OCA.
3. Funds will be made available whenever possible to enable consumer representatives to give in-depth advice and assistance on major policy or program initiatives. (Recent examples include the Department's development of recommendations on the problem of product liability, where a series of Consumer Forums was funded; and a pilot project on voluntary consumer product information labeling, for which a national consumer organization was a consultant to the Department.)
4. Informal meetings will be arranged between Commerce officials and consumer leaders to discuss emerging or on-going problems and issues.

How Consumer Participation Will Occur

All appropriate avenues of participation in policy development and review will be made available to consumers, including, for example:

1. Written comments and oral testimony in rulemaking procedures and public hearings (Washington and regional)

2. Membership on Commerce Advisory Committees, task forces and similar working groups

3. Special briefings by Commerce personnel for consumer representatives on policy and program developments

4. Regional Forums on Regulatory Agenda

5. Commerce Consumer Forums on major issues (A proposed format has been approved and utilized for recent Consumer Forums on product liability. Future locations, frequency and level of participating Commerce officials will be determined by the nature of issues involved and the availability of resources.)

6. Mailings from OCA and/or relevant operating units to consumer groups and media to solicit specific feedback

7. Meetings between consumer and Commerce leaders to discuss specific trends or programs

Specific consumer participation activities on-going or planned during the coming year within the operating units include:

National Bureau of Standards

Sponsorship and utilization of a network of Consumer Sounding-Boards in concert with private sector standards developing organizations. The Consumer Sounding-Boards are composed of a demographic cross section of consumers convened for the purpose of providing standards-making organizations with direct consumer involvement in their programs. The Center for Consumer Product Technology is the focal point for NBS activities with the 4 Metropolitan Washington area Sounding-Boards.

National Marine Fisheries Service

Marine Fishery Advisory Committee (MAFAC)—This committee of approximately 20 representatives from industry and academia advises NOAA on fishery activities. MAFAC includes a subcommittee on consumer affairs. The NMFS Consumer Affairs Branch is active in this subcommittee.

Fishery Management Councils—NMFS Consumer Affairs personnel are actively pursuing consumer representation on the Regional Fishery Management Councils.

National Telecommunications and Information Administration

Public Participation Funding Program—The Public Telecommunications Facilities Program (PTFP) is a \$22 million dollar grant program within NTIA. To ensure enhanced public participation in this program, NTIA is developing a plan to reimburse participants in rulemaking proceedings relating to this program.

Public Telecommunications Advisory Committee on Minorities and Women—Also in connection with the PTFP program, a Public Telecommunications Advisory Committee on Minorities and Women is being planned. The purpose of this Committee is to advise NTIA concerning procedures by which the needs of minorities and women might better be served through the grant-in-aid program for public telecommunications entities administered by NTIA.

Analysis of Consumer Views

In order to ensure that consumer views are adequately analyzed and considered in policy development, operating units will be directed to document to the OCA, or to their consumer staffs, consumer comments received in the rulemaking process or on policy or program proposals, and the response provided to such comments. When substantive minority opinions exist, these should be addressed as optional considerations in recommendations to policy officials. OCA and consumer staffs of the operating units will participate in efforts to reconcile major disparities in policy recommendations, through the formal mechanism of the Commerce Consumer Connection or other informal channels. OCA will be included in the final clearance of consumer-related policies, rules, programs and legislation.

Staff Responsibilities

OCA will coordinate consumer participation responsibilities throughout the Department, in conjunction with the Office of Regulatory Economics and Policy (OREP) which oversees public participation activities under Executive Order 12044. Within 90 days of the effective date of the Program these offices will develop general guidelines for consumer participation for use by agencies which do not have consumer affairs staffs. Consumer staffs in operating units will be required to implement consumer participation procedures within their agencies.

Special Efforts To Notify Consumers

OCA and consumer staffs in the operating units, in conjunction with public affairs staffs, will conduct special efforts to notify consumers and their representatives of opportunities to participate in the Department's policy development process. Several current efforts in this regard will be continued and expanded, where possible, including:

1. Mailings of policy and program proposals to OCA's list of approximately 1,000 national, state and local consumer organizations, consumer media, and state and local government consumer agencies as well as the mailing lists of the operating units. These recipients will be requested to conduct further outreach efforts to reach their constituent groups.
2. Use of electronic media (Commerce radio tapes, appearances of consumer staffs on radio and TV programs) and print media interviews.
3. Public speaking appearances by consumer staffs.
4. For the PTFP program, NTIA plans to prepare special informational materials concerning the grant process by which it makes funds available for telecommunications facilities. This information will be distributed to individuals, public interest groups, the trade press, publishers, journals, and other media.

In addition, a major new effort to notify the public of Commerce regulatory activities is currently being developed. This effort will consist of monthly notices to be derived from the Department's "Semi-Annual Agenda of Regulations," which OCA and operating

units consumer staffs will send to appropriate consumer organizations, agencies and media. The monthly notices will provide a synopsis of upcoming activities from the Agenda of Regulations, including the agency contact person:

Funding of Consumer Participation

Special attention will be given to developing new procedures and funding sources to finance consumer participation in the Department's proceedings, where necessary. One operating unit, the National Oceanic and Atmospheric Administration, issued regulations in 1978 for funding public participation in its rulemaking proceedings (see 43 FR 17806-17812, Wednesday, April 26, 1978). The National Telecommunications and Information Administration is preparing recommendations for funding public participation related primarily to the Public Telecommunications Facilities Program (PTFP), which awards grants yearly for the development and expansion of public telecommunications services. The agency's proposed rules will appear in the Federal Register in the near future. Other operating units are being asked to explore similar funding procedures. These will be issued within 90 days of the effective date of this Program.

III. INFORMATIONAL MATERIALS

Agency Information Services

Operating units of the Department of Commerce produce a vast array of informational materials. According to the function of the unit, some materials are consumer-oriented for general public interest while others serve business or statistical purposes. In reviewing the materials presently available, the OCA has identified new efforts to be developed which are highlighted in each area required by the Executive Order. Operating units will be directed during fiscal year 1980 to evaluate the adequacy of their current information materials and make a determination as to new materials which are needed.

1. Department of Commerce Responsibilities and Services

Informational materials concerning responsibilities and services of the Department are produced by all major operating units in the form of agency newsletters, press releases, and other publications. Some units also provide conference exhibits; teacher kits; posters; radio and television spots; free film loans and tours of facilities including the National Marine Fisheries Service and the weights and measures laboratories, Center for Consumer Product Technology, Center for Fire Research and other facilities and testing laboratories of the National Bureau of Standards. NBS also conducts community outreach programs in the form of career days for secondary school students and presentations to local schools by scientists from the Science and Technology Enrichment Program (STEP).

OCA maintains a current *Inventory of Consumer Affairs Activities* which outlines the consumer-related

functions of Commerce operating units. The *Inventory* will be available upon request. During the coming year, OCA also plans to develop a Departmental brochure and a conference exhibit depicting Commerce consumer services, resources permitting. A preliminary assessment of the Department's informational activities has determined that these materials are needed to apprise consumers of the variety of Commerce services available, of the correct agency to contact regarding its services, and of the opportunities to participate in agency proceedings.

2. Marketplace Information

Due to the diverse activities of Commerce operating units, a wide variety of marketplace information is available to the public. Of broad general interest are the monthly economic trend reports; energy conservation and fire safety publications and free film loans on varied subjects from the National Bureau of Standards; fishery supply and "best buy" data which is supplied to the "National Consumer Buying Alert" and other bi-weekly and monthly publications, seafood recipes, and Truth in Menuing Guidelines from the National Marine Fisheries Service; and a series of Consumer Affairs Guidelines for business produced by a former advisory council to the Secretary of Commerce. NMFS has also provided nutritional research to Nutribank, a computer service program which provides nutritional values for recipes. Some Commerce publications are available free or at a nominal charge through the GSA Consumer Information Center at Pueblo, Colorado. Proceedings of a Consumer Dispute Resolution Conference co-sponsored by the Department and the Chamber of Commerce of the United States are available from OCA.

The Department also has extensive media liaison, distributing monthly NBS radio interviews to 500 radio stations, circulating monthly NBS reports to consumer writers and broadcast stations; and, issuing news text, black and white photographs and color transparencies on fishery products to 900 food editors and local media representatives from the NMFS.

Marketplace information on operating unit programs such as the economic data, dietary and nutritional guides, energy, and product standards and testing will continue to be developed in accordance with relevant issues and the availability of resources. OCA also plans to begin updating and reissuing the Consumer Affairs Guidelines for business and to co-sponsor other consumer dispute resolution conferences in fiscal year 1980. Operating units will be directed to produce bi-lingual versions of key consumer informational materials wherever possible.

3. Consumer Participation Information

Consumer information materials which outline general procedures for consumer participation in policy development in the Department will be made available to consumers as they are developed. Public comment will be solicited on the proposed procedures. (As cited previously, the National Oceanic and Atmospheric Administration issued regulations for

funding consumer participation in its proceedings in the Federal Register of April 26, 1978. Similar proposed regulations are expected to be issued by the National Telecommunications and Information Administration in the near future.) Also mentioned previously, OCA will issue monthly notices of Commerce regulatory activities to consumer organizations and the media. Consumer staffs will assist in reviewing their agency's proposed rules, policies and notices of such actions, to assure the use of "plain English."

Manner of Distribution

The selection of specific distribution channels for informational materials produced by the Department will be determined by the nature of the material, target audience(s), time constraints, and resource availability. In general, distribution channels will include: OCA's mailing list of state and local consumer offices, private consumer organizations, professional consumer societies, etc. Secretarial Representatives in the ten Federal Regions; the 44 District offices of the Industry and Trade Administration and other field office networks; mailing lists of news and public affairs offices and operating units; public speaking engagements of consumer staffs; media events such as the monthly NBS radio spots and NMFS quarterly mailings to food editors; and direct mail in response to requests. The information disseminated through these channels will include instructions for additional outreach efforts to the constituent groups of each channel.

Officials Responsible for Consumer Information Program

Specific responsibility for planning and carrying out the consumer information function resides with the consumer staffs within the operating units, with assistance as appropriate from public information and program staffs. OCA will consult with the Office of Public Affairs to develop Departmental consumer information activities. OCA and/or the Commerce Consumer connection will review all future consumer publications in draft stage for content and clarity.

Regional Secretarial Representatives, District and Field offices of appropriate operating units will assist in dissemination of informational materials through their facilities.

Information on Agenda of Public Meetings

Explanatory materials for open meetings will be prepared by OCA, the Office of Regulatory Economics and Policy and/or the consumer staffs of operating units, as appropriate to the meeting. Such material will include a summary of the background and issues to be discussed, key word categories, and an agency contact person.

Technical assistance materials will be publicized and distributed through such channels as Federal Register notices, the "Calendar of Federal Regulations," Commerce Secretarial Representatives, District and field offices, OCA and operating units'

consumer mailing lists, advisory committees, and the consumer media.

IV. EDUCATION AND TRAINING

Responsibilities for Educating Staff Members About Consumer Program

In order to effectively implement the Consumer Program, efforts must be made to apprise all Commerce managers and employees of the components of the Federal consumer policy and actions to be taken in the Department to comply with that policy. The Deputy Under Secretary has issued a memorandum to the Department's Secretarial Officers and Heads of Operating Units, conveying the Executive Order and directing them to make their staffs and employees aware of it. OCA will work with the heads of the agencies, the Secretarial Representatives and other District and field office networks to disseminate information regularly about the status of the Program and to solicit their comments and recommendations on its implementation. Consumer staffs in major operating units will be required to conduct similar employee education efforts within their agencies.

OCA further plans to conduct briefings on the Consumer Program for top Commerce management, through the Commerce Council, a weekly meeting of Department officials, and on an individual basis with appropriate Assistant Secretaries and Administrators. OCA will work with public affairs and personnel staffs of the operating units to develop news articles on the Program for inclusion in employee and public newsletters. Other activities designed to heighten employee awareness of the Department's consumer programs will also be developed during the coming year.

Specialized Training for Consumer Affairs Personnel

OCA and the consumer staffs of the operating units will obtain professional development through attendance at consumer-related conferences and seminars. OCA will also work with the Employee Development Division of the Department's Personnel Office to identify in-house or outside sources of training, as appropriate. It will also examine the possibility of university credits in specialized areas of concern. Specific areas in which training would be desirable include complaint handling, consumer participation procedures, consumer education techniques, preparation of print and audio visual consumer information materials, and mediation and arbitration skills. College interns receive on-the-job training and counsel in complaint handling from the Director and the consumer Affairs Specialist. Research assignments and other projects are conducted under the direct supervision of the Director.

Technical Assistance for Consumers

Operating units, with advice from OCA, will determine the staff responsibilities, procedures and types of technical assistance for consumers which are

appropriate to their programs. For example, NTIA's Public Telecommunications Facilities Program will provide technical assistance upon request to groups interested in public telecommunications, and plans to prepare special informational materials explaining the grants process to obtain funds for the telecommunications facilities. NTIA will distribute this information to individuals, public interest groups, the trade press, publishers, journals, and other media.

V. COMPLAINT HANDLING

The Department's authority in the area of consumer protection is limited to a few specific responsibilities of some of its operating units, for example, the seafood inspection program administered by the National Marine Fisheries Service, and portions of the Fair Packaging and Labeling Act administered by the National Bureau of Standards. The Department has no authority to force business or industry to resolve consumer problems of a more general nature; however, the OCA may be of assistance in mediating disputes when other efforts have failed. Future consumer information materials outlining Commerce services and responsibilities, developed by the OCA and the operating units, will include statements explaining the Department's authority in complaint handling and instructions for consumers' use in submitting complaints.

The following procedures for handling consumer complaints were developed and are practiced by the OCA. Operating units follow these basic procedures with modifications in some areas, as appropriate to that unit.

Format for Logging Complaints

DOC receives consumer complaints and requests for information through direct consumer contact, Congressional and White House referrals, assignment of miscellaneous correspondence from the Department's Executive Secretariat, or from other government agencies.

The OCA secretary logs in communications by name and date as it is received, whether by mail or telephone, assigning a reference number based on the fiscal year and a running tally; a subject matter category; the nature of the complaint; and the consumer's state of residence. The OCA Director or the Consumer Affairs Specialist reviews each communication to determine if it will be retained for action within OCA or assigned to other commerce operating units for investigation.

Investigation, Analysis and Response Procedures

In the majority of cases, OCA staff contacts the business in question directly, hears its side of the dispute, and attempts to seek resolution that is agreeable to both parties. Some complaints requiring more extensive investigation are also referred in writing to the business in question. The consumer is notified by letter or telephone of the resolution or referral of the complaint.

Many consumer inquiries involve issues which are under the jurisdiction of another Federal, state or local agency. Wherever possible, OCA contacts that agency to request referral of the complaint to a specific individual or office, and then notifies the consumer of the referral being made. On all referrals, OCA requests a report on the action taken by the agency or business to which it was referred. Variations of this process within the operating units will occur, as NBS directs its complaints for follow-up to cognizant officials from state and local weights and measures and consumer protection offices. NMFS also has established procedures for assignment of complaints, which apply for inspected versus uninspected fishery products. For example, in uninspected product complaint cases, the consumer is advised to contact the appropriate regulatory agency when applicable, the processor of the product, as well as the place of purchase. For inspected product complaints requiring investigation, the NMFS Consumer and Trade Education Specialist will forward the complaint letter, reference codes and/or a sample (i.e., foreign matter or the product in question) through the inspection program coordinator to the appropriate field office or National Inspection Laboratory. NMFS also contacts the appropriate regulatory agency and processor directly.

It is the policy of OCA to respond to the consumer within 10 business days after receipt of his or her correspondence. If resolution or referral cannot be achieved within this time, the consumer will receive an interim acknowledgment within 5 business days identifying the staff person assigned to the investigation and the expected date of completion. Requests for information and material are also subject to the same time frame. Upon resolution or referral, complaints are filed according to subject matter. Cross reference index cards which summarize the complaint are also filed separately for easy retrieval, by consumer's name, business or agency concerned, and subject matter.

OCA compiles monthly, quarterly and yearly complaint statistics by subject category, nature, State, etc. A narrative section which lists the nature of the complaint (i.e., unsatisfactory repair or service) crosses subject categories and identifies the "root" cause of the complaint. These reports are submitted on a regular basis to the Deputy Under Secretary of Commerce, the Secretarial Representatives and relevant Department officials for use in policy and program development. The data may be used to initiate new policies or programs in response to problem trends and for use in development of new consumer informational and educational materials. At NBS, recurring problem areas are noted and recommendations made to the National Conference on Weights and Measures (sponsored by NBS) for joint corrective action. Similar methods are utilized for regional problems through the four major regional associations of enforcement officials.

OCA plans to establish a centralized reporting system to monitor consumer correspondence received by other operating units and to assure consistent and

effective resolution of consumer problems. Quarterly reports from these operating units will better enable the OCA to provide policy and program recommendations.

Evaluation of Complaint-Handling System

In the future, resources permitting, the OCA will make random follow-up telephone calls to consumers to assess the results of the complaint status or resolution, particularly where complaints were referred. Consumers will be queried as to the timeliness of response and their satisfaction with the resolution.

VI. OVERSIGHT

The Director of the Office of Consumer Affairs reports to the Secretary through the Deputy Under Secretary. As described in Section I. Consumer Affairs Perspective, this reporting channel is currently under review. The responsibilities of the Director are also discussed in Section I.

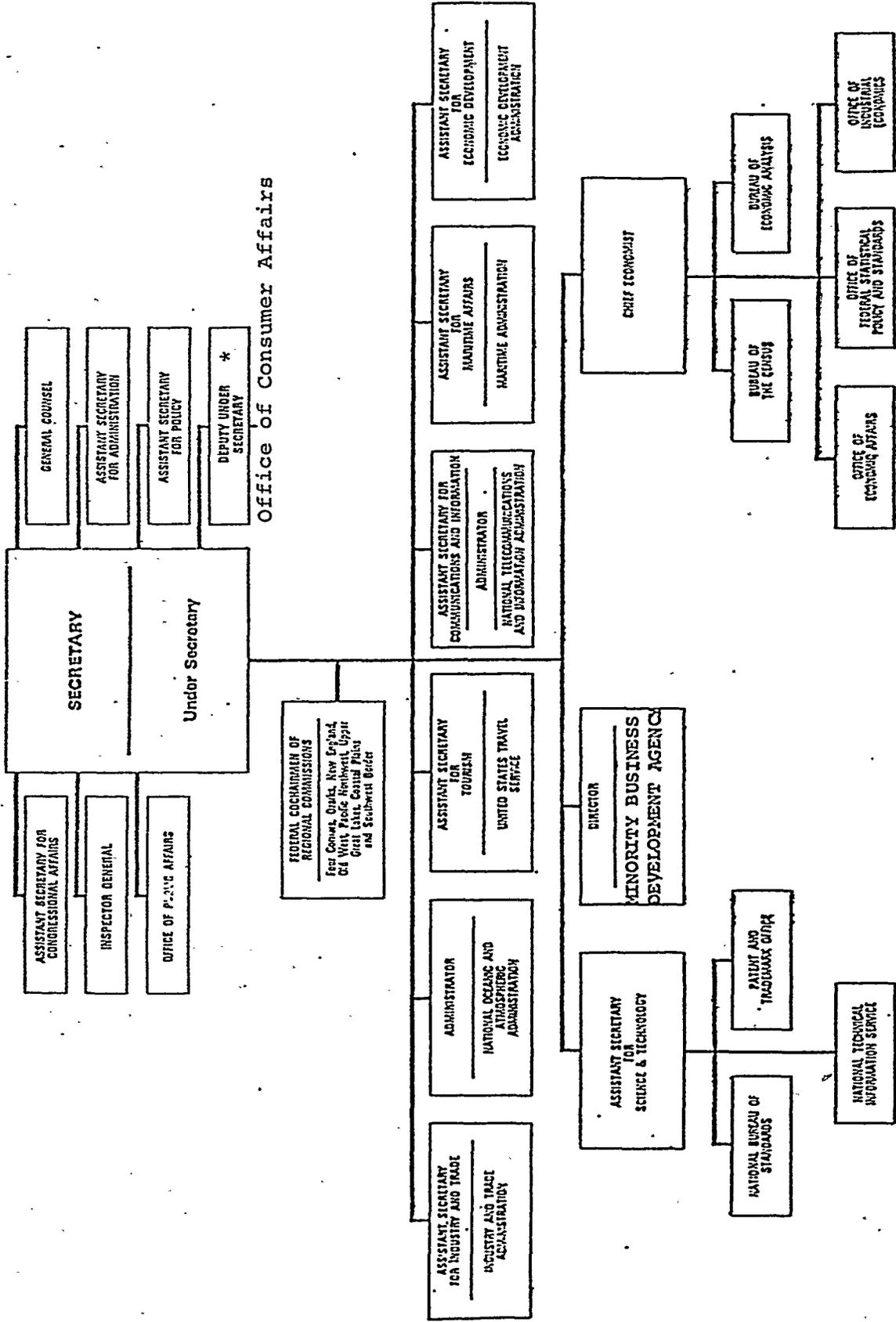
Luther H. Hodges, Jr.,
Acting Secretary of Commerce.

Meredith M. Fernstroin,
Director of Consumer Affairs.

BILLING CODE 2510-17-M

U.S. DEPARTMENT OF COMMERCE

APPENDIX A
ORGANIZATIONAL CHART



Office of Consumer Affairs

*Reorganization of D/US Office currently in progress (11/23/79)

BILLING CODE 3510-17-C

**APPENDIX B—DEPARTMENT OF COMMERCE
OFFICES AND OPERATING UNITS****Office of the Secretary**

- Under Secretary
- Deputy Under Secretary
- General Counsel
- Assistant Secretary for Policy
- Assistant Secretary for Administration
- Assistant Secretary for Congressional Affairs
- Office of Public Affairs
- Inspector General

Federal Co-Chairmen of Regional Commissions**Industry and Trade Administration****National Oceanic and Atmospheric Administration**

- National Marine Fisheries Service
- Office of Coastal Zone Management
- National Weather Service

United States Travel Service**National Telecommunications and Information
Administration****Maritime Administration****Economic Development Administration****Office of Assistant Secretary for Science and
Technology**

- National Bureau of Standards
- Patent and Trademark Office
- National Technical Information Service

Minority Business Development Agency**Office of Chief Economist**

- Bureau of the Census
- Bureau of Economic Analysis
- Office of Economic Affairs
- Office of Federal Statistical Policy and Standards
- Office of Industrial Economics

BILLING CODE 3510-17-M

Form Approved
OMB No. 116579021

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9: Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

[FR Doc. 79-30441 Filed 12-7-79; 8:45 am]

BILLING CODE 3510-17-C

Monday
December 10, 1979

Part V—Section B

**Commodity Futures
Trading Commission**

Draft Consumer Program

COMMODITY FUTURES TRADING COMMISSION**AGENCY:** Commodity Futures Trading Commission.**ACTION:** Report on consumer program.**FOR FURTHER INFORMATION CONTACT:** David Rosen, 202/254-8630 or Barbara Leventhal, 202/254-7574.

AUTHORITY: Executive Order No. 12160 established a Consumer Affairs Council and directed agencies to review and when warranted revise their procedures to assure that consumer needs are met. In voluntary compliance with the spirit of the Order, the CFTC, an independent regulatory agency, is publishing this report.

PUBLIC COMMENT: Members of the public are urged to comment on or by March 10, 1980 on this report and recommend ways in which the CFTC can strengthen its efforts in the area of consumer affairs. Comments and recommendations may be forwarded in writing or by telephone to: Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, 202-254-6314.

I. CONSUMER AFFAIRS PERSPECTIVE

The Commodity Futures Trading Commission (CFTC) was established by Congress in 1974 to, among other things, regulate futures trading and the activities of members of commodity exchanges, public brokerage houses, futures industry salespeople, commodity trading advisors and commodity pool operators. In accordance with the objectives established in the Commodity Futures Trading Commission Act of 1974, the Commission's regulatory and enforcement programs are designed to prevent deliberate market distortions and manipulations, insure fair trade practices, protect the financial integrity of the marketplace and assure the rights of customers while providing a forum for redress of their legitimate grievances. The Commission's activities have a direct impact on members of the public who buy and sell futures contracts, and farmers and other producers of commodities which are traded in the futures markets. The Commission's actions also indirectly affect consumers of goods whose prices may be influenced by prices in the futures markets. The Commission is required by statute to consider the public interest prior to taking certain regulatory actions.

In accordance with this general orientation, the Commission believes there is merit to the suggestion contained in Executive Order 12160 that agencies have identifiable, accessible personnel with responsibility for coordination and oversight of the agency's consumer activities. Although the agency is too small and its impact on consumers is too indirect to warrant the establishment of a separate full-time Office of Consumer Affairs, two senior level officials, reporting directly to the Chairman, have been designated to perform these functions in addition to their other duties. David Rosen, Director of the Office of Public Information, is responsible for coordination of contact with and dissemination of information to consumers. Barbara Leventhal, Director of Policy Review, is responsible for considering the impact on consumers

of all Commission rules and programs, throughout their development.

II. CONSUMER PARTICIPATION IN DEVELOPMENT AND REVIEW OF RULES**Policies and Programs**

Perhaps because of the indirect effect of the Commission's activities on consumers, the Commission has not experienced extensive consumer participation in the development and review of its rules, policies and programs. However, on several occasions the Commission has held public hearings in and out of Washington, D.C. in an effort to obtain the broadest possible public input in the regulatory process. In 1977, for example, the Commission undertook a unique program designed to encourage public involvement in its rulemaking process. Preparatory to drafting regulations to protect customers who trade commodity futures and commodity options, the Commission sponsored a series of nationwide newspaper advertisements and radio public service announcements appealing to farmers, producers and speculators who use the futures markets to get involved in the regulatory process by either writing to the CFTC with their ideas or participating in a series of grass roots hearings on customer protection. Despite the Commission's efforts to contact consumer organizations, farmer groups, producer organizations, state government officials, academics and individual customers, the public response was disappointing.

In 1978, the Commission conducted its second nationwide survey of farmers to determine the extent to which they understand and utilize the futures markets. The results generally confirmed those of a 1976 survey and indicated that only a small percentage (5%) of American farmers use the futures markets directly. The Chairman has recently assigned a staff member to work directly with farm groups, in order to establish a better understanding of the needs of farmers with respect to the regulation of futures trading. Further efforts to identify and reach affected consumers will be undertaken.

III. INFORMATIONAL MATERIALS

The Office of Public Information prepares and publicly disseminates a wide variety of informational materials. Each year, more than 600 press releases and advisories are distributed free of charge to everyone on the Commission's general mailing list. Several informational publications are also available on request. Recently, the Commission has produced a film and several radio and television public service announcements. Consideration is presently being given to the possible use of newspaper ads to alert the public to new schemes and frauds as they develop.

Another means of providing information to the public is the Commission's Consumer Hotline. Members of the public are encouraged to call the hotline, toll free, for information about companies selling commodity futures to make complaints about

possible violations of law. In the last quarter of fiscal 1979 alone, the hotline received more than 3,000 calls. The Commission's staff is currently considering ways in which the hotline could be made more effective.

IV. COMPLAINT HANDLING

In addition to the Consumer Hotline described above, the Commission administers a reparations system for the benefit of customers and commodity professionals. The reparations system was originally designed to provide a quick and inexpensive means of dispute resolution which members of the public could use as an alternative to exchange arbitration, or time consuming and costly litigation. Although conceptually sound, the program has experienced some difficulties because of the high volume of complaints submitted to it and a resulting backlog. In order to remedy these problems, a senior level Judicial Administrator was recently appointed and directed to explore means of streamlining and expediting the Commission's complaint handling system. The Commission will consider recommendations for improving its reparations system in the near future.

V. CONCLUSION

The Commission supports the principles embodied in Executive Order 12160 and intends to comply with the spirit of that Order in a manner consistent with its size, structure and status as an independent agency.

Issued in Washington, D.C. on November 30, 1979 by the Commission.

Jean Webb,

Deputy Secretary of the Commission.

[FR Doc. 79-37398 Filed 12-7-79; 8:45 am]

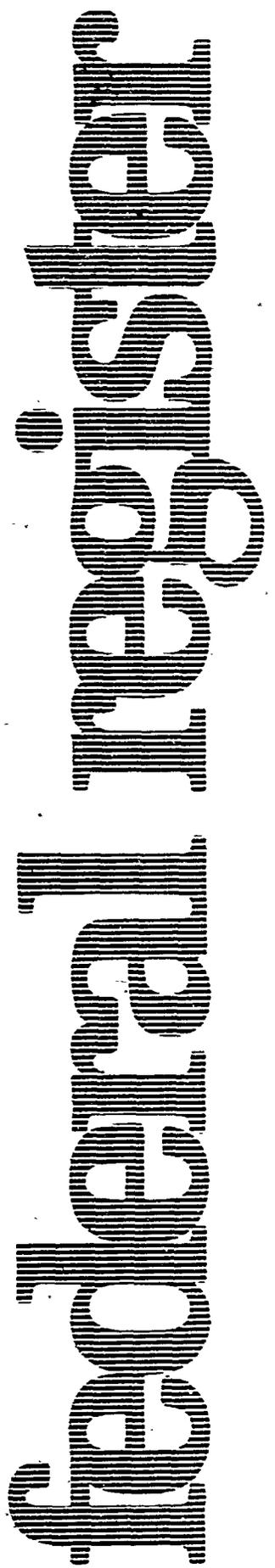
BILLING CODE 6351-01-M

Monday
December 10, 1979

Part V—Section C

**Consumer Product
Safety Commission**

Statement of Support for the President's
Executive Order No. 12160



CONSUMER PRODUCT SAFETY COMMISSION

Statement of Support for the President's Executive Order No. 12160

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of support for Executive Order.

SUMMARY: In September 1979, President Carter issued an executive order to provide for the enhancement and cooperation of federal consumer programs. The consumer Product Safety Commission, an independent agency, fully supports this effort. In this initial document, the Commission describes its activities that increase consumer participation. The Commission anticipates that it will publish a final version at a later date.

FOR FURTHER INFORMATION CONTACT: Ken Rashid, Acting Associate Executive Director for Communications, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6580.

SUPPLEMENTARY INFORMATION:

INTRODUCTION

The Consumer Product Safety Commission (CPSC), an independent federal regulatory agency, is charged with the responsibility of protecting the public against unreasonable risk of injury associated with consumer products. Since its creation, the Commission has recognized the vital role that consumers have in assisting the agency in carrying out its mission. The unique provisions of the Consumer Product Safety Act with respect to consumer participation and consumer information require the Commission to provide meaningful access to consumers and to consider their views in the development of major Commission programs. The Agency also has developed and used internal mechanisms to process inquiries and complaints to insure that the public's interests and concerns are met.

One important tool the Commission has is the regulations it promulgates. The CPSC, when developing consumer product safety standards and regulations under the consumer Product Safety Act, is directed by statute to provide for the participation of representatives of consumers and consumer organizations in the regulatory development process. The Commission has also sought consumer participation in other areas of agency rulemaking and other program activities. Additionally, Commission policies and requirements affecting the day-to-day conduct of agency business have benefited from this commitment to meaningful consumer participation.

CONSUMER AFFAIRS PERSPECTIVE

Within the CPSC, staff of the directorate for Communications, the Office of the Secretary, and the Commission's thirteen Area Offices work most directly with meeting the needs of consumers. Consumer affairs professionals in the Directorate for communications are responsible for a broad range of communications activities including the composition

and production of CPSC audio-visual and print information and education material for consumers, the dissemination of this material, and the management of the agency's coordinated efforts to alert and educate consumers about the hazards of consumer products. This latter activity necessitates the consumer affairs professionals in both Headquarters and Area Offices to be in almost constant communication with consumers and representatives of a wide range of organizations.

In 1977, the Commission established a program management system in which multidisciplinary program teams drawn from the agency's technical directorates handle regulatory development and other program issues. Consumer affairs personnel from the Directorate for Communications are included on these teams, and fully participate in the development and review of all agency rules, policies, and programs.

CONSUMER PARTICIPATION

The Commission seeks the participation of all segments of the public in its rulemaking proceedings and other activities. While industry representatives usually make certain that their views are communicated to the Commission, the expertise and views of non-industry individuals and groups, who can be affected by the rules, may be absent. Therefore, the Commission makes a special effort to encourage the widest possible participation in CPSC activities.

As one example, the CPSC has broadened public participation by conducting meetings outside of Washington, D.C. the Commission has held meetings in cities throughout the country, especially in areas where consumers might be particularly affected by a Commission project. Top agency officials—in many cases, the Commissioners—conduct these regional meetings.

In meetings, hearings, and other proceedings, consumer participation is possible only when all segments of the public are fully informed about them. The Commission notifies the public about these proceedings through its public calendar, the Federal Register, press releases, notices sent directly to interested individuals, and notices placed in periodicals.

Even if consumers are aware of Commission activities, they often lack the financial resources to participate. When consumers do participate, the degree and nature of their participation is often limited for the same reason. To address this problem, the Commission has established procedures by which qualifying consumers and other parties can be compensated for expenses incurred in participating in CPSC proceedings. These procedures apply to all of the Commission's informal notice and comment rulemaking activities, including the early stage in which the Commission obtains outside assistance in developing proposed rules. The Commission does not always specifically solicit funding requests, but consumers are welcome to submit them in every proceeding. Funding is available for transportation to CPSC meetings, payment for time spent on preparing

written comments, and all other expenses related to participation in rulemaking, such as document duplication and babysitting.

The major responsibility for administering the funding programs comes under the direction of the Commission's public participation personnel. Further information on funding is available from the Office of the Secretary (ATTN: Public Participation), Consumer Product Safety Commission, Washington, D.C. 20207

INFORMATIONAL MATERIALS

Immediately after its establishment in 1973, the Commission began public awareness programs aimed at informing consumers about its existence, its responsibilities, and the services it could provide. Some of the first consumer information material were specifically designed to make the public aware of the agency, its mission, and the ways to communicate with it.

The Commission's dedication to informing the public about consumer participation avenues is demonstrated in its activities associated with the agency's open meetings policy. Under this policy, all meetings are open to the public, unless there is a specific and compelling reason to close them. As one of the first such policies among federal agencies, it is the subject of a pamphlet and Fact Sheet and is frequently mentioned in other CPSC materials. All of these items have been widely disseminated to consumers.

The CPSC has conducted "educational diagnoses" to determine consumers' needs for product safety information. These surveys, based on a random sampling of households across the country, focused on consumers' knowledge levels and awareness of hazards in relation to dozens of consumer products. The Commission studied habits of consumers with regard to selection, use, maintenance, storage, and disposal of consumer products. The CPSC has also periodically commissioned research projects that investigate and analyze human usage factors and patterns in connection with specific consumer products.

The Commission is constantly striving to better serve the needs of consumers through its informational materials. The creation of many of the CPSC materials has often directly resulted from consumer inquiries or concerns on specific products or hazard areas. The most widely used and disseminated material, the CPSC Fact Sheets, evolved from the need to satisfy consumer inquiries received through correspondence and through our toll-free telephone Hotline (see "Inquiries and Complaint Handling").

The Commission has, from its earliest days, been committed to the principle of conducting the public's business in public with participation by all interested parties. The CPSC open meetings policy and standards development processes, mandating the opportunity for direct public participation, are examples of this commitment. Both of these examples are supported by various consumer information materials.

The identification of particular constituent groups to be reached with product safety information is

considered during the formulation of specific product safety information and education campaigns. The segments of the population that may be at highest risk of those likely to purchase or use the product are targeted as the recipients of the bulk of the Commission's planned informational activities. Additionally, the CPSC has initiated a minorities research project which is aimed, in part, at discovering what consumer products are associated with the highest number of accidents among certain minority consumers.

In its efforts to reach as many consumers as possible, the CPSC continually strives to reach and influence group or opinion leaders who can transmit information to a significant number of consumers. This "multiplier" or "ripple" effect is an efficient and productive way to reach the greatest number of consumers while expending a minimum of resources.

The Consumer Product Safety Commission uses a wide variety of mechanisms to transmit product safety information to consumers. A list of those the Commission has used is contained in Attachment I. The choice of which method to use depends on the characteristics and nature of the population segments to be reached, their size, and the type of information to be transmitted.

The Commission has completed various assessments of its informational materials and programs. Examples of some of these measures are:

- (1) Pre-testing of new materials under development.
- (2) Informal assessment by consumers in telephone, correspondence, and face-to-face conversations with staff in Headquarters and the Area Offices.
- (3) A one-year formal review of all CPSC print material based on a questionnaire accompanying all requestes for informational materials and seeking consumer viewpoints on the usefulness and timeliness of the material and whether it was shared with others.
- (4) Formal evaluations that measure the effectiveness of specific materials or approaches and/or programs.

All of these kinds of assessments are done continually in order that the CPSC may revise its old publications or consider the comments and concerns emerging from assessments in the development of any new materials.

The Commission produces a number of radio and television public service announcements annually. Each of these announcements gives the CPSC address and/or Hotline telephone numbers so that consumers can easily obtain further information. The material that is sent usually contains currently available informational materials.

As previously mentioned, the CPSC does formulate plans for specific product safety information and education campaigns. These plans are formulated yearly and provide guidance to the Commission's consumer affairs professionals in both the Headquarters and Area Office locations, on how to conduct targeted and concentrated informational efforts. The plans include: the identification of target groups, scope of effort, national consistency

requirements, overall goals, materials to be used, suggested outreach activities, time frames, reporting requirements, and indications of resources to be used. When appropriate, the plans call for the coordination of efforts with other federal agencies or entities.

The Office of the Secretary issues the CPSC Public Calendar, which lists in advance all meetings of Commission employees and non-Commission representatives in which matters of substantial interest will be discussed. Since most of the listed meetings will be open, members of the public can plan to attend meetings that interest them. The Public Calendar notice includes the intent of the meeting and the subject to be discussed, the time and location of the meeting, and the name and telephone number of the Commission employee to contact for further information. The Public Calendar, which also describes recent Commission actions and notifies the public of the matters to be considered at regularly scheduled Commission meetings and briefings, is published and mailed weekly free of charge to interested persons who request it.

EDUCATION AND TRAINING

The Directorate for Communications will be responsible for informing CPSC staff members about the Executive Order. Part of this has already been accomplished by the circulation of the Executive Order to the Commissioners and senior staff officials in the Commission's headquarters and Area Offices with accompanying instructions to notify all staff members of the Order. Additionally all of the agency's Associate Executive Directors will be briefed on the Order.

During fiscal 1980, the Directorate for Communications will help prepare an orientation session for the consumer affairs personnel in each one of the agency's thirteen Area Offices on points relating to the Executive Order. During these orientation sessions, information and procedures will be provided to the consumer affairs personnel that will aid them in being better able to offer technical assistance to consumers upon request.

INQUIRIES AND COMPLAINT HANDLING

Since December of 1973, the Consumer Product Safety Commission has collected consumer complaint and consumer contact data. What began as a "Hotline" and consumer correspondence program has evolved into an agency-wide consumer contact system which is supported by a computerized data base, "CONTACT." This data base provides computerized facilities for the collection and retrieval of consumer contact data and information. The Data is composed of public inquiries, requests for publications, complaints about products, reports of product safety hazards, and injury reports. The agency has established procedures to ensure that consumer inquiries and complaints are handled in a timely and effective manner. All CPSC Headquarters and field offices can contribute and retrieve consumer complaint data by using the

computer terminals installed in many Commission offices.

In a number of instances, consumer communications are petitions for rulemaking that identify unreasonable risks of injury presented by consumer products and lead to Commission proceedings for safety regulations.

In fiscal 1979, the agency received 500,000 inquiries and complaints from the public, an increase of over 200 percent from the previous year. Of the total inquiries and complaints, 300,000 were received on the toll-free telephone "Hotline" and 200,000 were from letters. Over 80% of the complaints and inquiries were handled in less than three weeks by the Directorate of Communications. Complaints of a technical and legal nature are referred to other CPSC units for analysis and appropriate follow-up. By the end of fiscal 1979, only 100 of the more complex letters had not been answered.

Within CPSC, the Directorate for Communications has been delegated the responsibility for maintaining the agency's CONTACT program. Both monthly reports and an annual report summarizing a full year's trends have been issued.

During the past year, CPSC has taken significant steps towards improving its consumer complaint data system by conducting training sessions for all agency offices to assure uniformity in coding and use of the data in policy making and priority setting.

Any consumer can request information and report a product hazard by writing to the U.S. Consumer Product Safety Commission, Washington, D.C. 20207. Consumers can also call the toll-free Hotline at the following numbers: Continental U.S.A. (800) 638-8328; in Maryland only, (800) 492-8363; in Alaska, Hawaii, Puerto Rico, Virgin Islands, (800) 638-8333. A teletype for the deaf is available from 8:30 a.m. to 5:00 p.m. EST on the following numbers: national (including Alaska and Hawaii), (800) 638-8270; in Maryland only, (800) 492-8104.

Dated: November 23, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

Attachment 1

CPSC Outreach Methods and Mechanisms

- Pamphlets
- Brochures
- Booklets
- Fact Sheets
- Curriculum Guides
- Teacher and Student Readings
- Discussion Leader Guides
- Counter Cards
- Transit Cards
- Posters
- Coloring Books
- Comic Books
- Newspaper Articles
- Magazine Articles
- Bill Stuffers
- TV Public Service Announcements
- Radio Public Service Announcements
- Announcer Copy
- Newsettes

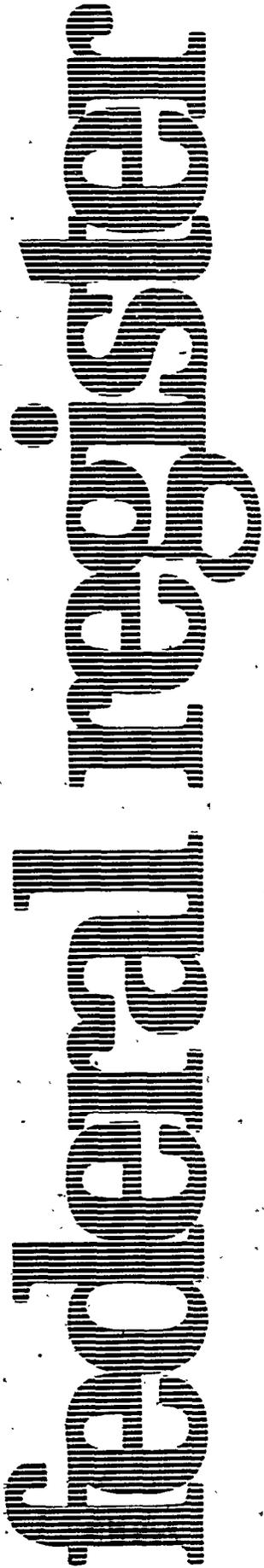
Slide-Tape Presentations
Films
Films Strips
Press Releases
Speeches
Staff Appearances on Mass Media
Consumer Hotline
Periodic Mailings
Workshops
Seminars
Public Display of Information
Exhibits
Conferences
Conventions
Hearings
Agency Newsletter
Spotmaster Service
Free Loan of Audio-Visual Materials
Consumer Information Center Distribution of Materials

[FR Doc. 79-36667 Filed 12-7-79; 8:45 am]

BILLING CODE 6355-01-M

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Monday
December 10, 1979



Part V—Section D

**Federal
Communications
Commission**

Consumer Assistance Program

FEDERAL COMMUNICATIONS COMMISSION**Consumer Assistance Program****AGENCY:** Federal Communications Commission.**ACTION:** FCC Consumer Program.

SUMMARY: The Consumer Assistance Office's program represents a blend of existing programs, future programs now in the planning stages, and a long-range forecast of programs to be tried in the future. The FCC is publishing this program as an information item only.

DATE: November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Zora Brown, Consumer Assistance Office, Federal Communications Commission, (202) 632-7000.

I. CONSUMER AFFAIRS PERSPECTIVE**A. Organization**

The FCC has an Office of Consumer Assistance. The Consumer Assistance Office serves as the focal point within the Office of Public Affairs, for responding to a variety of written, telephone and walk-in requests for information assistance from individual consumers. The Consumer Assistance Office has the responsibility for facilitating public participation in the Commission's decisionmaking processes.

B. Resources**1. Budget**

Consumer Assistance Office has an adequate operating budget. Presently, Consumer Assistance Office assists in administering an FCC-wide consumer budget of approximately \$7 million through its liaison committees and other mechanisms. Each Bureau has primary responsibility for its own budget and expends a portion for consumer programs such as complaint handling, "plain-English" publications, training programs, travel to public participation workshops and meetings and for other methods of outreach.

(a) Federal Communications Commission budget for FY 1978-1979—\$70.5 million. Consumer activity budget FCC-wide for FY 1978-1979—\$6.99 million. Consumer Assistance Office budget for FY 1977-1979—\$432,000.

2. Staff

The staff will consist of high-level professionals and paraprofessionals, and will include:

Consumer Assistance Officer
Deputy Consumer Assistance Officer (with management and program analyst responsibilities)
Consumer Assistance Specialists
Contact Representatives
Attorney(s)/Paralegal Specialist(s)
Secretary(ies)
Clerk(s)
Consultant(s)

3. Intra-Agency Relationship

(a) Consumer Assistance Office advises and assists the Chairman, Commissioners and Bureaus and Offices with respect to public participation and consumer assistance matters.

(b) CAO is a focal point for organizing briefings for international groups, schools, licensees, and other organizations.

(c) In coordination with the program bureaus and offices, CAO evaluates the effectiveness of the FCC in communicating the Commission's regulatory requirements and proposed requirements to FCC licensees and the general public. CAO develops and recommends strategies and new initiatives for solving problems in communicating with consumers of various types of communications services.

(d) CAO develops "plain-English" materials explaining FCC proposals, policies and requirements and shares responsibility for FCC publications management.

(e) CAO has opportunities to participate in the development and review of FCC rules, policies, programs and legislation. CAO receives advance copies of all open meeting Agenda items (which are staff recommendations of proposed Commission action). CAO schedules Agenda briefings with all Divisions of Public Affairs Office to apprise one another of rulemakings which may have a consumer impact.

(f) CAO will improve the FCC's consumer communications mechanisms. CAO will propose a plan to automate field offices' consumer contacts and a plan for improved dissemination of information. CAO will assist in training FOB contact representatives in handling consumer communications.

II. CONSUMER PARTICIPATION**A. Citizens Participation Policy Statement**

Develop, recommend and implement policies and objectives to encourage active participation in policymaking proceedings by the consumers of communication services, with the objective of insuring that the FCC has the benefit of a wider spectrum of information and viewpoints in its decisionmaking processes.

B. Modes of Involvement

1. Maintain liaison with individual consumers and organizations of consumers concerned with FCC regulatory activities to insure a continuing interchange of views and information on matters of common interest. Maintain liaison with other government agencies on consumer education and public participation matters.

2. Promote increased understanding of the concerns and viewpoints of consumers of communications services at all levels within the Commission.

3. Consumer Assistance Office will conduct regular discussion sessions with consumer groups, informing them of the Commission's top issues and how they can effectively participate in the Commission's rulemaking process.

C. Implementation

The Consumer Assistance Office will have primary responsibility for implementing the Commission's

consumer participation program, drawing on the resources and expertise of other Bureaus and Offices, as needed:

1. CAO will work with the General Counsel's Office to propose new guidelines for simplifying the comment and petition filing procedure.

2. Coordinating with the Office of the Secretary, CAO will propose a procedure for notification to acknowledge receipt of petitions and comments.

3. CAO will study a proposal to install an 800 telephone line, enabling consumers to file complaints and inquiries. CAO will consider an alternative proposal to install an 800 telephone line with a recording of the FCC's weekly meeting agenda.

4. CAO will continue to publish *Feedback* (a "plain-English" summary of the major consumer notices before the Commission) as well as *Actions Alert* (a weekly status report of the top issues before the Commission), and other information publications.

III. INFORMATION MATERIALS

A. Services

CAO will continue to distribute the FCC's *Open Meeting Guide*;¹ *Sunshine Agenda*;² and other materials to inform consumers about Agency procedures.

CAO will publish new bulletins and procedure manuals in "plain-English" and, where appropriate, in a bilingual format.

B. Media Usage

CAO will explore the use of the mass media and other forms of media as an appropriate distribution channel for information about FCC proposals, policies and decisions:

1. Sunday Newspaper Supplements
2. Video and Audio Taped Programs
3. Ethnic Media (i.e., Black, Hispanic, bilingual, and other special interest groups)
4. Public Service Announcements
5. Edited Tapes of major Commission Meetings
6. Participation in public affairs forums

C. Publications

1. Consumer Notices

CAO prepares periodic bulletins which give information about Commission activities that are of primary interest to the public.

2. Feedback

CAO prepares a "plain-English" summary of the major consumer related proposals before the Commission.

3. Yellow Page Ads

CAO will explore the possibility of purchasing advertising space in telephone company yellow page

supplements to publicize the availability of CAO's (and Field Office Contact Representatives) information services.

4. FCC Information Bulletins

CAO provides a wide range of information publications informing the public of its services and activities.

5. Procedure Manual

CAO distributes a pamphlet outlining the respective roles of the industry we regulate, the Commission and the concerned consumer in the establishment and preservation of quality communication services, outlining procedures available to consumers and outlining practical advice concerning their use.

6. Curriculum Materials

CAO will continue to expand its set of consumer communication course materials used to illustrate skills required for participating in FCC proceedings.

D. FCC Field Offices

1. CAO will aid in the production of FCC's Field Operation Bureau's information bulletins. CAO will aid the Field in the distribution of *Sunshine Agenda*, news releases, and public notices.

2. A facsimile machine has been installed at headquarters and Field Offices to expedite delivery of major Agency decisions to the Field Offices.

3. CAO will assist Field Operations Bureau's Public Information Specialists in conducting training sessions for FOB Contact Representatives.

IV. EDUCATION AND TRAINING

A. Staff Responsibilities

1. Consumer Assistance Office, coordinating with Bureau and Office heads, will have primary responsibility for informing FCC staff of CAO programs available for consumers seeking assistance from the FCC.

B. Procedure

1. After Commission adoption, the Chairman will issue a memorandum, along with the Executive Order and Agency guidelines, informing policymakers and other personnel of implementation plans. Each Bureau will establish procedures for complying and assisting in implementing the FCC's Consumer Program.

C. Personnel Training

1. The Consumer Assistance Office, working with the Personnel Division, will establish job descriptions and general consumer assistance training programs for the Agency.

2. CAO will establish staff positions with various specialties. The CAO staff will receive training, as needed, in consumerism, complaint handling, citizen participation and outreach efforts.

3. CAO personnel will receive training by attending consumer affairs conferences, professional development seminars and participating in programs aimed at enhancing consumer affairs/participation.

¹ A *Guide to Open Meetings* is a pamphlet designed to help those individuals attending Commission meetings to understand what is taking place during the meeting; who is participating in the meeting; and what conduct is expected.

² The *Sunshine Agenda* lists the titles and brief summary of those items to be considered at the Commission meetings. The *Sunshine Agenda* is issued seven days prior to the meeting date and briefly explains what the discussions will be about.

4. Workshops will play an integral part in CAO training programs for other staffs and groups.

D. Technical Assistance

1. As needed, those offices with responsibility for implementation and oversight programs, will provide technical assistance to consumers. CAO, through its Public Participation Workshops, will set aside a portion of its resources to discuss technical assistance needs and requirements (it will also make time available during its other programs).

2. Consumer Assistance Office employs bi-lingual personnel to aid those individuals and groups who may have difficulty communicating with FCC staff.

V. COMPLAINT HANDLING

The Consumer Assistance Office is setting up guidelines for a complaint handling and reporting system, working with coordinators within each Bureau on the design and implementation of a low-cost, modern system for facilitating timely and responsive replies to all complaints/inquiries. The reports submitted will provide decision makers at the FCC with accurate information about areas of frequent complaints/inquires.

A. Responsibilities of Complaint/Inquiry Coordinators

1. Monitoring of complaints/inquiries.

(a) Complaint/inquiry coordinator is the focal point for all complaint activity with the respective Bureaus.

2. The coordinator will oversee the timely response to all complaints and inquires.

B. Evaluation and Follow-Up

1. Coordinator will monitor responsiveness of the office.

2. On a regular basis a formal follow-up procedure with the complainant/inquirer will be established in order to measure the impact of the system from the complainant/inquirer's perspective.

(a) Conduct surveys.

(b) Regular evaluation of responses to complainants/inquiries.

C. Types of Complaints

1. Written

(a) A reasonable amount of time will be set for responding to complaints/inquiries. If a response cannot be issued within a reasonable amount of time, an informative interim reply will be issued.

(b) Each complaint/inquiry will be logged in upon receipt:

1. Complaints will be identified by program area and nature of complaint. A determination will be made as to whether the agency can assist.

2. Each complaint will be assigned a reply due date.

2. Telephone

(a) Telephone complaints will be treated in a manner similar to written complaints.

(b) Telephone calls will be included in the monthly tally of complaint activity.

(c) Reasonable time for responding to telephone complaint/inquiry is 24 hours.

(d) A written report will be made of the final disposition of a telephone complaint/inquiry.

3. Walk-in

(a) Walk-in complaints/inquiries can be logged on the same form as telephone complaints.

(b) Walk-in visitors will be immediately assisted.

D. Monthly Reporting Requirements

1. Complaint/Inquiry Coordinator will collect statistics on complaint/inquiry activity for respective offices and provide Consumer Assistance Office with appropriate reports.

(a) Indicate problem area and type of complaint/inquiry, including the number of complaints/inquiries.

(b) Number of complaints/inquiries received and resolved for the month.

2. A descriptive narrative will accompany the complaint/inquiry statistical report and include the following:

(a) Specific nature of complaint.

(b) Suggested action to be taken to correct problem areas (i.e., rule amendment, issuance of brochure, bulletin).

3. Explanation of Backlog and Overdue Responses

(a) Statistical report will include the number of complaints/inquiries received and the number resolved. If there is an extensive backlog, an explanation will be included in the narrative report.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix I—Federal Communications Commission

Dear Esther: I am responding to your October 9 request that independent federal agencies like the Federal Communications Commission, as well as executive branch agencies subject to the requirements of Executive Order 12160, send to you a copy of our Consumer Assistance program and indicate whether it meets the spirit of the President's Executive Order.

I can assure you that the FCC is working to insure that those providing communications services do so in the public interest. We are also working to insure that consumers of communications services know about our policy deliberations and how they can provide input into our decisions. We have shown that we are committed to the goals of Executive Order 12160.

I realize that the public is not always aware of the rights and responsibilities that go along with either being a user or provider of communications services. Because of this the Consumer Assistance Office was established at the FCC. We have gradually but substantially expanded the resources and role of the Consumer Assistance Office over the past three years.

Our Consumer Assistance Office's enclosed model program represents a blend of existing programs, future programs that CAO has in the planning stages, and a long range forecast of programs they intend to experiment with in the future. Your memorandum asks each agency to develop

and maintain a consumer program with, at a minimum, five elements:

- (1) an identifiable consumer affairs staff authorized to participate in the development and review of all agency rules, policies, programs, and legislation;
- (2) effective procedures for consumer participation in the development and review of all agency rules, policies, and programs;
- (3) development of information materials for consumers;
- (4) consumer affairs training for agency staff members and, to the extent considered appropriate, provision of technical assistance to consumers and their organizations; and
- (5) systematic procedures for complaint handling.

You will see from the outline of our enclosed consumer program that all five of the elements that you proposed in your memorandum are included in that program.

Because our program has been in place for some time and because we are not proposing a new program, we are not formally inviting public comments. We do, however, welcome the public's input at any time about any of the services we provide.

I am designating the Chief of the Consumer Assistance Office as the FCC's senior official responsible for our consumer program.

Sincerely,

Charles D. Ferris,
Chairman.

Hon. Esther Peterson,
Special Assistant to the President for Consumer Affairs, The White House, Washington, D.C.

[FR Doc. 79-36838 Filed 12-7-79; 8:45 am]

BILLING CODE 6712-01-M



Monday
December 10, 1979

FDIC

Part V—Section E

**Federal Deposit
Insurance
Corporation**

Consumer, Civil Rights, and Community
Relations Programs

FEDERAL DEPOSIT INSURANCE CORPORATION**AGENCY:** Federal Deposit Insurance Corporation.**ACTION:** Notice of Consumer, Civil Rights, and Community Relations Programs.**DATE:** Comments must be received by February 1, 1980.**ADDRESS:** Comments should be addressed to the Director, Office of Consumer Affairs and Civil Rights, Federal Deposit Insurance Corporation, Washington, D.C. 20429.**FOR FURTHER INFORMATION CONTACT:** Henry S. Newport, Director (202-389-4668), Thomas C. O'Neill, Chief of Consumer Affairs Branch (202-389-4213) or Robert E. Cook, Chief, Civil Rights Branch (202-389-4427) Office of Consumer Affairs and Civil Rights, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

Executive Order 12160, issued by President Carter on September 26, 1979, establishes criteria for improving the management, coordination, and effectiveness of Federal consumer affairs activities. The FDIC programs are presented as they relate to the five elements of the Executive Order.

I. CONSUMER AFFAIRS PERSPECTIVE

The Office of Consumer Affairs and Civil Rights (Office of Bank Customer Affairs) was established by the Board of Directors in April 1975 to serve as a focal point within the Corporation for protecting the interests of banks customers in nonmember banks supervised and examined by the FDIC.

Staff Location

The FDIC's Office of Consumer Affairs and Civil Rights is one of the Executive Offices. This Office is responsible for protecting the statutory rights of insured State nonmember bank customers; conveying the public's viewpoint to the Board of Directors in consumer protection/civil rights matters; encouraging, through an effective education program, bank customers to become aware of their rights and to participate in policy formulation and execution of consumer protection/civil rights enforcement program; and identifying areas for further study or research to determine the extent of consumer awareness or need for additional protection measures. Matters involving the civil rights of FDIC employees, Equal Employment Opportunity, Labor Relations, Upward Mobility and Women's Programs are handled by other offices within the FDIC.

Size and Resources

The Director of the Office of Consumer Affairs and Civil Rights serves as the primary advisor to the Board of Directors for policy development. The Director is assisted by a Staff Attorney, two other professionals and two clerical personnel. The Office has two branches: Consumer Affairs and Civil Rights. These two branches were established to promote greater specialization and expertise in consumer and civil rights matters. The entire Office has a staff of 15

professionals and eight administrative support personnel.

Statutory Responsibilities

The Office of Consumer Affairs and Civil Rights is involved with eleven pieces of Federal consumer and civil rights legislation over which the FDIC has supervisory and enforcement jurisdiction. These laws include the Truth in Lending Act, Fair Credit Billing Act, Consumer Leasing Act, Equal Credit Opportunity Act, Home Mortgage Disclosure Act, Community Reinvestment Act, Federal Trade Commission Improvement Act, Fair Housing Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, and the Electronic Fund Transfer Act. In addition, there are other laws, regulations, and policy statements affecting consumers which the Office regularly handles in its complaint processing and other functions.

Participation in Development and Review of Agency Rules, Policies, Programs, and Legislation

One of the major responsibilities of the Office is to participate in the review and development of all agency regulations, rules, policies, programs and legislation having a consumer impact. This input from the Office is requested by senior officials, including the Board of Directors. Staff members of the Office provide input by membership on various task forces and other working groups, by commenting on current issues and proposals, and by direct consultation with key officials of the FDIC.

Other Responsibilities

In carrying out its mission of protecting and promoting the bank customer interest, the Office of Consumer Affairs and Civil Rights, in addition to the input function discussed above, is involved in a number of other programs. The Office coordinates and monitors the receipt and appropriate disposition of consumer complaints and inquiries directed to the FDIC. The Office processes bank customer complaints and inquires received directly in the Washington Office and reviews and coordinates the activities of the Regional Offices in responding to consumer complaints and inquiries. This service to the bank customer has recently been expanded by installation of a toll-free telephone in the Washington Office for consumers' use in contacting the Office. The Office has also developed a Consumer Information pamphlet which is distributed to banks and consumer offices. This pamphlet summarizes the consumer and civil rights laws and provides a preprinted form for customers to use in mailing their complaints, questions, or comments to the FDIC.

For monitoring the complaint handling function, the Office has developed a sophisticated tracking system. The computer tracking system provides detailed information on complaints which is made available to field examiners for follow-up activities in individual banks. No less important, the system provides information to the various management levels of the

FDIC for both operational purposes and policy determination.

The FDIC conducts specialized examination of banks under its jurisdiction for compliance with consumer protection and civil rights laws and regulations. The Compliance Reports are reviewed by the Regional Offices and by the Consumer Affairs Section of the Division of Bank Supervision in Washington. The reports which indicate supervisory problems are reviewed by the staff of the Office of Consumer Affairs and Civil Rights. Based on these reviews, the Office may recommend formal enforcement actions and provide other input to the examination function.

In order to promote the expertise of the field examiners who conduct complaint investigations and compliance examinations, the Office is active in their training. Staff members of the Office serve as instructors at the FDIC Training Center and develop both instructional material and case problems. The staff also serve as speakers at Regional Conferences, special seminars, and other training sessions. The Office has promoted special training in Fair Housing, Community Reinvestment, and workshops for the 14 Regional Office Review Examiners (Consumer Affairs/Civil Rights).

The Office is also active in the education of bankers. Staff members have developed materials to facilitate compliance by banks and have participated in numerous seminars, conferences, and other educational forums for bankers.

Relationship With Other Consumer Personnel

Within the FDIC, the Office of Consumer Affairs and Civil Rights takes the leadership role in matters involving consumer protection and civil rights. The Office coordinates consumer and civil rights activities with the Legal Division and the Division of Bank Supervision to ensure a uniform agency approach.

In carrying out its function, the Office maintains a close working relationship with the Office of the Comptroller of the Currency, the Federal Reserve Board, Federal Home Loan Bank Board, National Credit Union Administration as well as the staffs of the Department of Housing and Urban Development and Department of Justice.

II. CONSUMER PARTICIPATION

Stages of Agency Decisionmaking (When Public Participation Begins)

Public participation usually takes place when a rule or regulation has been proposed for public comment. However, because of the direct contact by the Office with the public, ideas or suggestions for policies, programs and regulations which originate from private citizens are included in recommendations for policy changes which the Office makes to the FDIC Board of Directors.

Avenues of Participation

In order to promote the opportunity for public participation in the rulemaking process, the Board of Directors has established procedures in Subchapter A of the FDIC Rules and Regulation. The opportunity for public participation is announced in the Federal Register and also by news releases. The public is generally given 60 days to comment on proposed regulations. The name and telephone number of the staff member handling the proposal appears in the Federal Register and also in the news release.

When the Board of Directors determines it to be appropriate, hearings on proposals are held. These hearings are announced in the Federal Register and by news release. The public is invited to testify or present written comment. Transcripts of the public hearings are part of the public record and are used by staff and the Board of Directors to formulate policy.

Certain of the meetings of the Board of Directors are open to the public under the Government in the Sunshine Act. The public is invited to attend these meetings.

In order to enlarge the contact with consumers and encourage their participation in activities of the FDIC, the Office of Consumer Affairs and Civil Rights maintains liaison with both consumer and civil rights organizations. The Office maintains six mailing lists: consumer groups; consumer educators; consumer media; fair housing groups; State, county and municipal consumer protection offices; and Federal consumer protection offices. These lists include approximately 1,400 organizations. List of community and Hispanic groups are under development. The Office also receives regular input from consumers through its complaint and inquiry system. The addition of the toll-free telephone is expected to greatly expand the contacts with consumers throughout the country.

Special Programs of Citizen Participation

The Office has budgeted a Minority Consumer Outreach program. This undertaking will involve a contract initiative to design a market penetration program specifically tailored to the information needs of Blacks and Hispanics. This program is expected to improve communications with and participation by the Black and Hispanic populations. The program will also support the minority business 8(a) set-aside program of Public Law 95-507.

The Office has added a Consumer Affairs Specialist (Hispanic Liaison) staff member. This staff person will concentrate on improving contacts with Hispanic groups and individuals and will provide staff expertise for other programs.

The Office is recruiting for a Media Liaison staff member. With the addition of this staff person the Office will be able to consolidate current programs and concentrate on improving the level and effectiveness of the overall citizen participation program.

The Office has developed a new program of Community Group Interaction. This program is reflective of the FDIC's commitment to active liaison

with the public at large and community groups in particular. To more fully carry out the FDIC's rôle under the Community Reinvestment Act, the Office will provide staff to meet and speak before community groups. The Office staff will also serve as advisors to the Regional Directors in their public meetings with community and civil rights activists.

III. INFORMATIONAL MATERIALS

The FDIC publishes the following seven pamphlets describing basic areas of consumer protection for bank customers:

Truth in Lending—explains what disclosures must be made in connection with credit finance charges and annual percentage rates; protections against unauthorized credit card use; advertisement of credit terms; and cancellation rights when a credit transaction is secured by a home.

Fair Credit Billing—describes how to deal with billing errors and defective merchandise or services, and how to protect one's credit rating.

Fair Credit Reporting Act—sets forth an individual's right to information compiled by a Consumer Reporting Agency (credit bureau) and to have inaccurate information corrected or deleted from his or her file; outlines steps to take if credit, insurance or employment is denied because of an inaccurate or unfair Consumer Report.

Equal Credit Opportunity and Age—explains the extent to which a creditor can consider an applicant's age in granting or continuing credit.

Equal Credit Opportunity and Women—details how the law ensures equal treatment in determining a credit applicant's "creditworthiness" and prohibits discrimination based on sex or marital status.

Consumer Information—cites six consumer protection statutes of importance to bank customers and briefly explains the laws' requirements; contains a detachable form for a consumer's use in submitting a complaint, question or suggestion to the FDIC.

Your Insured Deposit—provides examples, in question and answer form, of insurance coverage under the FDIC's regulations.

The FDIC makes these free publications available in quantity to banks for display in their lobby/reception areas. The availability of these pamphlets has been announced by news releases and by special mailings to consumer groups and offices. The FDIC has distributed over 32,000,000 of these pamphlets.

In addition, the FDIC provides a number of other publications regarding the FDIC's operations and financial statistics on commercial and savings banks in the United States. Consumers having an interest in these publications should contact the FDIC's Information Office.

The Office of Consumer Affairs and Civil Rights has specific plans for improving and expanding its consumer materials. One of the main objectives of the Media Liaison staff person is to rewrite the pamphlets, based on psychological and effective communication principles, so that they are more understandable to the

average consumer. The pamphlets will also be issued in bilingual format (English-Spanish).

The Director of the Office of Consumer Affairs and Civil Rights has the primary responsibility for consumer education at the FDIC. The Director is assisted by the Media Liaison staff person and by the entire Office staff.

Public meetings are announced in the Federal Register and by news release. Information on how the public can participate at these meetings is contained in these announcements. The Executive Secretary of the FDIC may be contacted for specific information on hearings and on attendance at open Board meetings.

IV. EDUCATION AND TRAINING

Information on the Executive Order 12160 has been disseminated to staff of the Office, and specific aspects of the Executive Order have been discussed with the staff. The Executive Order was one of the agenda items covered at a recent seminar for the Review Examiners (Consumer Affairs/Civil Rights) who manage the consumer and civil rights activities in the 14 Regional Offices.

Staff training in the Office of Consumer Affairs and Civil Rights includes all aspects of consumer protection: complaint handling, consumer participation, consumer education, and consumer and civil rights laws and regulations.

The Director of the Office is responsible for staff training. He is assisted by the staff training coordinator whose job it is to review training needs and select appropriate training to fill these needs.

The type of training selected is based on the individual's position in the Office and on any special educational needs. New employees are assigned a senior staff member who orients the new person in all aspects of the new job. While the training is individualized, staff members generally receive four basic types of training: (1) on the job training; (2) required reading and attendance at staff training meetings; (3) attendance at formal FDIC training sessions, e.g., Consumer and Civil Rights Compliance Schools; and (4) formal educational courses offered outside the FDIC including university courses.

In addition, senior staff members participate in consumer compliance examinations and investigations in the field. Staff personnel are also members of consumer professional organizations which allow them to stay abreast of current issues and to associate with other professionals in the field.

V. COMPLAINT HANDLING

The Office of Consumer Affairs and Civil Rights has had a complaint handling system for logging in, investigating, responding to consumers, and integrating the results into the development of policy since 1975.

Public Awareness

In order to increase public awareness of the FDIC's complaint handling service, the FDIC has published and disseminated the pamphlet "Consumer

Information" which cites six Federal consumer and civil rights laws and provides a preprinted form for submitting complaints or other comments. To provide even better service to consumers, a toll-free telephone system was recently established in the Office. This service has been announced by news release and by special mailings to consumer groups and others.

Format for Logging Complaints

The Office has a standardized system for logging complaints, inquiries, and comments from consumers whether received by telephone, letter or walk in. This standardized data collection method permits easy tracking of cases and great flexibility in analyzing results for management purposes.

Investigation and Analysis

Office procedures ensure proper referrals, and the tracking system indicates the status of cases and any unusual delays in processing. Procedures also exist for investigations, types of responses, and appropriate follow-up action.

Statistical reports are generated which highlight patterns, indicate exceptions, and provide input for agency policymaking. Reports are provided to the 14 Regional Offices for use in their administration of complaint handling and for use in individual investigations of banks. Reports are furnished by key agency officials for policy formulation.

Evaluation of Complaint-Handling System

The complaint-handling system is constantly monitored by the Office to ensure the proper resolution of individual cases. Summary data is evaluated quarterly to determine the operating efficiency of the system and for patterns which suggest management action.

The Office has recently conducted a survey of complainants to determine their satisfaction with the FDIC's resolution of their requests. These responses are being coded into a computerized database for analysis and identification of any areas that may need improvement.

Oversight

In May 1979, the Board of Directors appointed Henry S. Newport as the Director of the Office of Consumer Affairs and Civil Rights. Mr. Newport has sole responsibility for policy direction and coordination of the FDIC's consumer and civil rights activities. He reports directly to the Chairman of the FDIC and is the Chairman's chief advisor in consumer and civil rights matters.

Henry S. Newport,
Director, Office of Consumer Affairs and Civil Rights.

BILLING CODE 6714-01-M

Form Approved:
OMB No. 116S79021**CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160**

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - _____
 - Informational materials _____
 - _____
 - Complaint handling _____
 - _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

[FR Doc. 79-36486 Filed 12-7-79; 8:45 am]

BILLING CODE 6714-01-C

Monday
December 10, 1979

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Part V—Section F

**Federal Reserve
System**

Consumer and Community Affairs Program

FEDERAL RESERVE SYSTEM

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of Consumer and Community Affairs Program.

FOR FURTHER INFORMATION CONTACT: Ann Marie Bray, Staff Assistant, Board of Governors of the Federal Reserve System, Washington, D.C., 202-452-3616.

A recent presidential action, Executive Order 12160, established a Consumer Affairs Council of Executive agency departments "to improve the management, coordination, and effectiveness of agency consumer programs" (44 FR 55787, September 28, 1979). These agencies were directed to prepare and publish draft consumer programs that would meet certain criteria specified in the order. Although not specifically represented on the Council, the Board is publishing a description of the components of its current consumer program, which it believes is in conformity with the President's order. The Board's report will include the areas noted in Section 1-4 of the Executive order: consumer perspective, consumer participation, informational materials, education and training, and complaint handling.

At the outset, mention should be made of the Board's Consumer Advisory Council, a forum that greatly enhances the Board's consumer and community affairs program. Creation of the Council was mandated by the Congress in the fall of 1976, at the suggestion of the Board. It was established to assist the Board in implementing legislation passed in the consumer credit protection area, and to advise and consult with the Board on any other consumer related matters.

The Council consists of approximately 30 individuals from all parts of the nation, representing a broad range of consumer and creditor perspectives. As such, it presents a unique mechanism for interaction between the Board and the public. Meetings of the Council are held quarterly and are open to the general public.

To date, the Council has considered a broad range of consumer issues, including implementation of the Electronic Fund Transfer Act and of the Board's responsibilities under the Federal Trade Commission Improvement Act to ban unfair or deceptive bank practices, cost-impact statements for Board regulations, uniform regulatory policies, right to financial privacy recommendations, and various issues concerning the implementation and enforcement of the Truth in Lending and Equal Credit Opportunity Acts.

I. CONSUMER AFFAIRS PERSPECTIVE

The Board has assigned primary responsibility for consumer-related matters to its Division of Consumer and Community Affairs (DCCA). This division is charged with assisting the Board in seeing that the interests of savers and consumers are given adequate and specific attention in considerations leading to relevant Board decisions. In addition, the division is responsible for implementing a number of specific consumer-related programs mandated to the Board by

the Congress, as well as civil rights laws having to do with consumer credit.

Currently there are eleven major pieces of legislation for which the Board has rulewriting authority or enforcement responsibility or both. These include the Truth in Lending, Fair Credit Billing, Consumer Leasing, Equal Credit Opportunity, Home Mortgage Disclosure, Community Reinvestment, Federal Trade Commission Improvement, Fair Housing, Fair Credit Reporting, Fair Debt Collection Practices, and most recently, Electronic Fund Transfer Acts.

Responsibilities

Generally the Board's responsibilities include (1) drafting, amending, and interpreting regulations that implement those laws; (2) developing and monitoring programs to enforce those laws with regard to state chartered banks that are members of the Federal Reserve System; (3) disseminating educational materials concerning the rights and responsibilities of creditors and consumers under those laws; and (4) administering its consumer complaint handling system.

The director of DCCA reports directly to the Board and is charged with making policy recommendations to the Board on matters involving consumer credit regulation, implementing Board policy directives, setting divisional priorities, and ensuring a high degree of inter- and intra-agency coordination, where appropriate, for both regulatory and compliance activities. The director monitors the Board's consumer programs, reviews proposed changes to or new consumer-oriented policy initiatives and communicates to the Board the potential effect that such actions may have upon consumers.

Size and Resources

The Board's professional staff of consumer affairs personnel is centralized in the DCCA. The staff currently consists of 4 senior level officials, 16 attorneys, 7 review examiners, 2 consumer affairs specialists, 2 staff assistants, and other general program support and clerical personnel.

The Consumer and Community Affairs legal staff has major responsibility for drafting regulations and interpretations concerning eight of the statutes listed above. This staff is also responsible for advising state member banks and the System's consumer affairs bank examiners regarding the legal interpretations of the laws listed above. In addition, the staff analyzes proposed legislation in the consumer and civil rights areas that might affect the Board's work, and prepares testimony for Congressional hearings.

The division's staff of review examiners coordinates the consumer and community affairs compliance examination program by developing examination procedures and by reviewing, evaluating, and assisting in the regulatory and compliance activities in the Federal Reserve Bank districts. The staff reviews consumer and community affairs compliance examination reports submitted by the Reserve Banks to determine the quality of the examinations, and communicates its findings to the Reserve Banks. Based

upon review of the reports and application of the statutes and regulations, the staff develops programs to eliminate inconsistencies and enhance uniformity in compliance efforts in the banking community.

The division's consumer affairs specialists are responsible for handling complaints received from consumers regarding banks and a broad range of other creditors, including merchants. This includes advising Federal Reserve Bank staff members on questions concerning complaints, and following up Reserve Bank investigations to determine the resolution of complaints. They also respond directly to requests for information, statistics and advice from consumers, and persons in federal, state and local agencies, and in the private sector. In addition, these staff members compile data for annual reports to Congress and provide information regarding consumer complaints for use by the division officials and the Board in their deliberations.

The division's staff assistants handle requests for information related to the division's work that are filed under the Freedom of Information Act, and process the division's Federal Register notices for publication. Other duties include preparing the Board's Annual Reports to the Congress on Truth in Lending, Equal Credit Opportunity, and Section 18(f) of the Federal Trade Commission Improvement Act, occasional speechwriting, providing general information services to the public, and performing ad hoc projects as the need arises.

Participation in Development and Review of Agency Rules, Policies, Programs and Legislation

The director of the division informs the Consumer and Community Affairs staff of the opportunities for its participation in the proceedings of the Board with regard to consumer matters. The division's staff provides information and input during all stages of agency decisionmaking. Generally, the question, proposal, or subject at hand is researched by the staff. Staff knowledge and expertise is then used to develop staff recommendations for submission to the Board. This involves attending public hearings, reviewing written comments from the public, meeting with agency task forces and outside representatives, applying applicable laws and regulations, reporting findings to the division's director and other officials, preparing materials for and attending the Board meetings at which decisions are made, and finally, implementing those decisions with an eye toward future improvements or changes.

II. CONSUMER PARTICIPATION

The Board has established procedures to ensure the opportunity for public participation in its rulemaking process (12 C.F.R., Part 226). Depending upon the circumstance, the opportunity for such participation is published in the Federal Register and in press release format. All press releases concerning consumer affairs proposals and other actions are routinely distributed to interested parties via a mailing list maintained by

the Board. Persons interested in being added to this list should contact the Board's Publications Services.

Written Comments on Proposals

Generally, the public is given 60 days after the proposal appears in the Federal Register to submit written comments or arguments concerning the material. The name and telephone number of the staff member handling the action appears in the Federal Register notice as well as in the press release so that question may be easily answered and additional information provided to interested members of the public.

After the comment period has closed, the Board's Division of Consumer and Community Affairs prepares for the Board a summary of the comments received. After reviewing and considering all comments received, the staff formulates recommendations and drafts language for the proposed or final regulations or amendments for submission to the Board. The staff is present at the Board meetings to explain its recommendations and to discuss considerations raised in the comment letters.

Public Hearings

In certain instances, the Board, either in response to a public request or on its own initiative, considers it appropriate to hold public hearings on a proposal. Whenever a hearing is ordered by the Board, notice is usually published in the Federal Register no less than 20 days prior to the hearing and notice appears in the form of a press release. Persons interested in testifying at the hearing are instructed to contact the Board in advance of the hearing so that appropriate scheduling can be handled. Transcripts are made of all public hearings, which become part of the public record and are used by the DCCA's staff during their deliberations on the proposals.

III. INFORMATIONAL MATERIALS

Consumers' awareness of their rights and responsibilities under the credit laws and regulations is a continuing concern of the Federal Reserve Board. To further this awareness, the Board and the Reserve Banks have prepared, and continue to prepare, written and audiovisual materials covering a range of topics of interest to consumers. Usually, the Board's involvement in the education of consumers is carried out by the Board's Office of Public Affairs and the Federal Reserve Banks in coordination with the Division of Consumer and Community Affairs.

Agency Responsibilities and Services

Several pamphlets and fact sheets outlining the purpose of the Federal Reserve System have been prepared by the Board's staff for dissemination to the public. The most comprehensive of these is *The Federal Reserve System—Purposes and Functions*. Completely rewritten and revised in 1974, this 125-page booklet provides a concise account of the responsibilities and operating techniques of the

System in the areas of monetary policy, banking and financial regulation, and international finance.

While not specifically directed toward the consumer credit regulations, this publication does present an overview of the workings of the Federal Reserve. *A Guide to Federal Reserve Regulations*, published in April 1978, is designed to provide consumers with a general understanding of the goals and scope of each Federal Reserve regulation. Copies of the individual regulations are available to consumers from the Board of Governors or from the Federal Reserve Banks.

More detailed information concerning consumer credit regulations is available through two fact sheets continually updated by the Division of Consumer and Community Affairs. The first, most recently revised in October 1979, discusses the specific regulatory and enforcement responsibilities of the Division of Consumer and Community Affairs. The second discusses unofficial staff interpretations prepared by staff members of the Board of Governors in response to questions from the public concerning the Board's consumer credit protection regulations.

Other sources of information concerning the Board's activities in the consumer credit area are the Board's Annual Reports to Congress on Truth in Lending, Equal Credit Opportunity, and Section 18(f) of the Federal Trade Commission Improvement Act (under which the Board's consumer complaint program is administered). A recent pamphlet outlining the Board's consumer complaint handling process will be discussed in the section of this report concerning complaint handling. All of the above mentioned materials are available to interested persons and some are routinely distributed to persons on the Board's general consumer affairs mailing list mentioned earlier in this report.

Marketplace Information

An important aspect of the Board's enforcement function in the area of consumer credit protection regulation is educating both creditors and consumers of their rights and responsibilities. Explanatory pamphlets are a principal method of achieving this goal.

The Board's *Consumer Handbook to Credit Protection Laws*, published in December 1978 and reprinted in April 1979, is a comprehensive compilation of information about consumers' rights under credit laws and regulations. Many different techniques were used to bring about its broad distribution. The Board sent a copy of the booklet, with instructions on how to request additional copies, to over 35,000 high schools, junior colleges, and colleges. In addition, each member of Congress received a copy as did approximately 150 Better Business Bureaus. Copies were provided in bulk to the other federal agencies that enforce the consumer credit laws and a regular distribution was made to the Reserve Banks. Copies are also being distributed through the Consumer Information Center in Pueblo, Colorado. Other selected brochures currently available

from the Board with their dates of preparation appear below:

The Equal Credit Opportunity Act and Credit Rights in Housing (1/78).

The Equal Credit Opportunity Act and Age (5/77).

The Equal Credit Opportunity Act and Women (5/77).

The Equal Credit Opportunity Act and Doctors, Lawyers, Small Retailers, and Others who may Provide Incidental Credit (5/77).

Fair Credit Billing (12/76).

If You Use a Credit Card (12/78).

Truth in Leasing (3/78).

What Truth in Lending Means to You (Rev. 4/78).

How to File a Consumer Complaint (7/78).

Since short pamphlets such as those mentioned above are suitable for classroom use, multiple copies are available without charge.

In the area of audio-visual communication, the Federal Reserve recently began national TV distribution of a film entitled *To Your Credit*. Produced by the Federal Reserve Bank of Philadelphia, this film examines common problems faced by consumers during the course of credit transactions and offers solutions by informing consumers of their rights under the many consumer credit protection laws. School, consumer and civic groups may obtain copies of this film without charge by contacting the Federal Reserve Bank of their district.

This year, the Board inaugurated teacher workshops. Topics covered include an overview of the Federal Reserve System, its consumer credit regulations, its resources available in the areas of economic and consumer education, and methods of teaching consumer education in the classroom. Some Reserve Banks have also initiated similar programs for their own districts. Along the same line, the Federal Reserve Bank of Minneapolis is developing a comprehensive consumer credit curriculum for use in high schools and colleges. The package is expected to be available in the spring of 1980.

A game entitled "You're the Banker" has been devised primarily for classroom use by the Minneapolis Reserve Bank. It familiarizes the players with the basics of banking and demonstrates the effect that banking transactions have upon the general economy. "You're the Banker" is available from that Bank's Public Information Office at a cost of \$15.00.

As part of the educational effort, staff members of the Board's Division of Consumer and Community Affairs regularly make public speaking appearances before creditor and consumer groups interested in various consumer credit topics.

Finally, a *Federal Reserve System Compliance Handbook*, published in the spring of 1979, contains explanations of federal consumer credit laws and regulations, guidelines for enforcing Regulations B and Z, System procedures for handling consumer complaints, and examiner instructions. This manual was prepared primarily for use by System examiners and state member banks.

IV. EDUCATION AND TRAINING

Staff members of the Board's Division of Consumer and Community Affairs receive regular briefings and copies of related materials concerning the Board's consumer program and policies. In addition, the staff's opportunities for professional development include participating in on-site consumer affairs bank examinations as well as attending the Board's Consumer Affairs and Civil Rights School for bank examiners, which is held 2-4 times each year.

Where needed, special seminars are conducted to familiarize staff with recent developments in areas such as civil rights enforcement. Recently, selected staff members have been conducting weekly training sessions for members of the division on topics relevant to the division's work.

V. COMPLAINT HANDLING

The Federal Reserve System continues to reply to complaints and inquiries about many areas of consumer activity. Responses range from providing consumers with information or explanations to investigating and resolving complaints against state member banks. Complaints that involve creditors or businesses not under the Board's supervisory jurisdiction and that require more than information are forwarded to the appropriate enforcement agency.

To help consumers report complaints against state member banks, the Board, in July 1978, published *How to File a Consumer Complaint*. The pamphlet explains what a consumer should do when experiencing a problem with a bank and the procedures the Board will follow in investigating the complaint. It also contains a complaint form that is addressed to the Board, and that solicits specific information about the problem.

Response Procedures

Within 15 business days of receipt of an oral or written complaint, a substantive response or an acknowledgement setting a reasonable time for a substantive response will be sent to the individual making the complaint. Complainants will also be informed if their complaint has been referred to another agency. In an ongoing effort to monitor the effectiveness of the System's efforts to resolve consumer complaints, the Board sends followup letters to individuals who contact the Board about problems concerning state members banks, asking the complainants whether they were satisfied with the promptness with which their complaints were handled, whether they found the System staff courteous, whether they were content with the resolution of the problem, and whether they would contact the Federal Reserve in the event of future problems.

Tracking Complaints

Information about all consumer complaints received by the System (the Board and the 12 Federal Reserve Banks) is manually recorded on data sheets that are later used to transfer this information to the Board's

computer system. The type of complaint, the name of the bank against which it has been lodged, and that bank's corresponding Federal Reserve district are included on the sheet. This system gives the computer program the capacity to retrieve information concerning, for example, the number of complaints on a particular topic or against a particular bank.

Board of Governors.

Theodore E. Allison,

Secretary of the Board.

November 23, 1979.

[FR Doc. 79-36820 Filed 12-7-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION**AGENCY:** Federal Trade Commission.**ACTION:** Voluntary Compliance with Executive Order No. 12160 Providing for Enhancement and Coordination of Federal Consumer Programs.**DATES:** Written comments must be received no later than January 9, 1980.**ADDRESS:** Comments should be addressed to "Consumer Program Comments," Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Room 136, Washington, D.C. 20580.**FOR FURTHER INFORMATION CONTACT:** Charles C. Shepherd, Jr., Associate Director for Consumer Education, Bureau of Consumer Protection (202) 724-1870.

On September 26, 1979, the President issued an Executive Order designed to improve the management, coordination, and effectiveness of agency consumer programs. Although the Federal Trade Commission is an independent regulatory agency not subject to this Executive Order, it has determined to comply voluntarily with the Order.

I. CONSUMER AFFAIRS PERSPECTIVE

Unlike other federal agencies which have the responsibility of policing a particular segment of the economy, such as communications or interstate transportation, the Federal Trade Commission has a responsibility of ensuring that businesses across the entire range of the economy are dealing fairly with consumers. The Commission is statutorily charged with prohibiting "unfair methods of competition" and "unfair or deceptive practices" in or affecting commerce. Accordingly, the Commission does not have just one identifiable office handling consumer affairs. Rather, the entire agency is devoted actively to furthering the interests of consumers and ensuring that the consumer affairs perspective is considered fully in the development and review of all agency rules, policies, and programs.

II. CONSUMER PARTICIPATION

Established procedures at the Federal Trade Commission ensure the early and meaningful participation by consumers, small businesses, and other interested parties in their development and review of agency law enforcement initiatives, rules, policies, and other programs.

Commission investigations often are initiated as a result of consumer inquiries. These investigations sometimes lead to adjudicative orders. In any matter where a consent order is negotiated, that order, after it is accepted by the Commission, is placed on the public record for sixty days for the receipt and consideration by the Commission of comments by interested individuals. After receipt and consideration of these comments, the Commission may decide to withdraw its acceptance of the consent order, seek a modification to it, or issue it as accepted. Information concerning these consent orders is distributed through

the agency's Office of Public Information and Office of the Secretary. Comments on accepted consent orders are received in the Office of the Secretary.

In trade regulation rulemaking proceedings, consumer participation is available through several procedures. Trade regulation rules may be commenced by the Commission upon its own initiative or pursuant to a written petition from any interested person. If a petition is not deemed sufficient to warrant beginning a rulemaking, the petitioner is expressly notified of the Commission's decision and given the opportunity to submit additional information. If a rulemaking is commenced, and initial notice of proposed rulemaking is published in the Federal Register and made available to all interested individuals. The notice includes, among other things, the substance of the proposed rule or a description of the issues involved, the reasons for the rule, and a request for comments. The rulemaking proceeding provides several opportunities for interested individuals to submit written comments on the issues and to participate in the rulemaking proceeding. Public notice of these proceedings are made through the Office of Public Information, as well as in the Federal Register.

Since 1975, the Commission has had a public participation program designed to provide compensation for certain costs incurred by individuals representing an interest in a rulemaking that otherwise would not be represented adequately in the proceeding. Recipients must represent a point of view which is necessary for a fair determination of the rulemaking issues, and be unable to bear the full costs of such representation. This program is directed by the Special Assistant for Public Participation, Office of the General Counsel. A major outreach effort involves conducting seminars or workshops to explain the rule proposal and to encourage participation in the rulemaking proceeding and applications for reimbursement from qualified persons or groups. The Commission, through its Office of Federal-State and Consumer Relations, has conducted several one-day seminars concerning specific rulemaking proceedings. Additionally, the agency has published and distributed widely two booklets designed to inform all individuals of the rulemaking and public participation programs. "Rulemaking and Public Participation Under the FTC Improvement Act" and "Applying for Reimbursement for FTC Rulemaking Participation" are available from the Office of the Secretary of the Federal Trade Commission.

III. INFORMATIONAL MATERIALS

Through its consumer education program, the Federal Trade Commission produces and distributes materials to consumers on three broad topics. Information about the agency's responsibilities and services, including descriptions of FTC law enforcement programs and the identification of program directors; semiannual publications listing investigations and reports upon which action is scheduled; and publications explaining the FTC's role in the marketplace, are updated regularly and are

available from the Office of the Secretary. Additionally, the Office of Consumer Education, Bureau of Consumer Protection, will initiate regular mailings of these informational materials to consumer organizations and to any requesters. Procedures for consumer participation also are published and cover specific programs such as public participation in rulemaking.

The Federal Trade Commission provides information on consumer rights and remedies through an assortment of publications available from the Office of the Secretary, public service announcements distributed to radio and television stations, and public service notices made available to print media. The Office of Consumer Education, Bureau of Consumer Protection, is responsible for planning and carrying out the agency's consumer information program and assessing its currency, completeness, and utility of current materials. In 1979, the Commission distributed television public service announcements on the Equal Credit Opportunity Act and the Commission's Mail Order Trade Regulation Rule. Two additional television PSA's will be prepared and distributed in Fiscal 1980. Radio PSA's on warranties laws, the cooling off rule for door-to-door sales, and the Equal Credit Opportunity Act were distributed in 1979. 1980 plans call for radio PSA's on shopping for bargains in eyeglasses, debt collection, mail order rule, and one other area. These radio PSA's also include Spanish language versions. The Commission plans to produce four print media public service notices per year; 1980 plans include notices on the mail order rule and generic drugs.

The Commission provides two types of written informational materials for consumers. These include "Facts for Consumers," which are plain language fact sheets of the law on various topics of FTC jurisdiction. Seventeen topics, such as vocational schools, gasoline saving devices, and various credit statutes, are covered. Second, the Commission produces approximately six brochures per year on trade regulation rules, statutes, or other areas of FTC jurisdiction. These brochures generally are four to six pages in length and have been issued on subjects such as care labeling, equal credit opportunity, and warranties law. A complete list of the titles of these facts sheets and brochures, as well as copies of individual fact sheets and brochures, are available from the Office of the Secretary. Additionally, many of the Commission's brochures are distributed through the Consumer Information Center of the General Services Administration.

IV. EDUCATION AND TRAINING

The Federal Trade Commission provides direct services to consumers in several areas, including processing of information requests and consumer complaints, public participation in the rulemaking program, and the consumer education program. Specialized training has been provided to the individuals staffing the information and complaints sections of the Office of the Secretary to ensure that

consumer inquiries and complaints are answered properly and expeditiously. For example, consumer complaints are assigned to paralegals with expertise in specific subject areas, such as credit, auto warranties, mail order, or land sales. The public participation and rulemaking staff has considerable expertise in the Commission's rulemaking procedure and is knowledgeable in each area in which the Commission has commenced rulemaking. Thus, the information this staff provides to the public is current and accurate. Finally, the consumer education program is staffed by professionals in the preparation and distribution of public service announcements and consumer brochures to ensure that the presentations are effective.

V. COMPLAINT HANDLING

The Office of the Secretary generally oversees the complaint handling procedures of the agency. To ensure a complete and timely response, specific complaints may be answered by staff within the Secretary's Office or may be referred to staff within the bureaus or to staff in regional offices. Paralegals with expertise in specific subject areas answer consumer inquiries in the Office of the Secretary. While the Commission does not act to resolve private controversies between consumers and businesses, the Commission does use consumer complaints in determining how to allocate the Commission's resources toward fulfilling its statutory responsibilities. In responding to or investigating complaints, staff may provide information concerning steps that are necessary to ensure compliance with existing law or provide consumers with information that will assist them in the marketplace. Information about each consumer complaint, including company name, product, and alleged violation, is captured by computer for management reports and for future policy planning. The Secretary of the Commission produces a quarterly report on the categories of the complaints received. This report lists the types of violations, the percentage of all complaints that the particular violation commanded, the rank among all types of violations, and the rank for the previous quarter.

VI. OVERSIGHT

Because the mission of the Federal Trade Commission actively furthers the interest of all consumers, it is inappropriate for the agency to have a single identifiable official whose sole responsibility is to provide direction, coordination, and oversight of the agency's consumer activities. For the purposes of voluntary compliance with the Executive Order, the following individuals are designated to report directly to the Commission on the potential impact on consumers of policy and law enforcement initiatives: Executive Director (primary responsibility for overall agency policy implementation and coordination of consumer education activities); Director, Bureau of Consumer Protection (for the Consumer Protection Mission); Director, Bureau of Competition

(Competition Mission); General Counsel (Public Participation in Rulemaking Programs).

By Direction of the Commission.

Dated: November 23, 1979.

Loretta Johnson,

Acting Secretary.

[FR Doc. 79-36843 Filed 12-7-79; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION**AGENCY:** Securities and Exchange Commission.**ACTION:** Publication of Statement Concerning Commission Consumer Affairs Activities.

SUMMARY: The Securities and Exchange Commission is issuing this release to inform the public of the nature, scope, and future direction of its consumer affairs program. The release discusses five elements of the Commission's program—the Commission's efforts to institutionalize the consumer perspective, the Commission's mechanisms for consumer participation in Commission decision-making, the Commission's dissemination of informational materials concerning its work, the Commission's program to educate and train its staff with respect to consumer interests, and the Commission's investor complaint handling procedures. In addition, the Commission is soliciting public comment concerning the effectiveness of its existing consumer affairs efforts and the specific points covered in this release.

DATE: Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, in triplicate and refer to File No. 4-228.**FOR FURTHER INFORMATION CONTACT:** Ann C. Stansbury, 202-523-3952.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is issuing this release to advise the public of the nature, scope, and future direction of its consumer affairs programs.* The Commission has long been sensitive to the need to take the views of individual investors into account in its decision-making process and to be responsive to their needs and viewpoints. In May 1976, the Commission established its Office of Consumer Affairs to institutionalize within the Commission responsibility for matters affecting the interests of individual investors. Because the Office has now been in existence for a significant length of time, the Commission believes it appropriate to obtain the views of the investing public concerning its operations.

Moreover, on September 26, 1979, President Carter issued Executive Order No. 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs." That order, which is not binding on the independent regulatory agencies like the Commission, directs the executive agencies to implement consumer affairs programs, similar to the Commission's existing consumer affairs activities. While the Commission is not subject to the executive order, it has elected to respond to the objectives of the President's directive by publishing this release concerning the Commission's existing program.

Executive Order No. 12160 asks that the agencies subject thereto promulgate a "draft consumer program" in the Federal Register. In order to assist the public in comparing the Commission's program with those now required of the executive agencies, the

Commission has set forth below a description of its program under the same five headings—consumer affairs perspective, consumer participation, informational materials, education and training, and complaint handling—as are mandatory for those agencies subject to the Executive Order.

I. CONSUMER AFFAIRS PERSPECTIVE

Information about the needs and interests of individual investors is important to the Commission's decisionmaking and to the fulfillment of its statutory purposes. In order to enhance its awareness of and responsiveness to such needs and interests, the Commission in May of 1976 established an Office of Consumer Affairs ("OCA"). OCA is responsible for processing complaints, as well as representation of the interests of individual investors as a class in matters before the Commission. For administrative purposes OCA is among those offices which report to the Executive Director, as reflected on the organization chart. The OCA, however, has independent program responsibility and may submit its views and recommendations directly to the Commission without prior review by any intermediate program manager. The Commission's OCA staff includes attorneys, consumer affairs specialists, and support staff.

OCA is apprised of opportunities for participation in policy and program development through regular contact with the staff members of other offices and divisions. OCA routinely receives copies of items scheduled for Commission consideration, which are reviewed for the potential effect on individual investors of proposed Commission action. OCA may then formulate its position on such matters and make recommendations accordingly.

OCA may participate at every level of agency decisionmaking. Such participation may be through informal discussion, exchange of memoranda, membership on agency task forces and working groups where appropriate, meetings with Commission members and their staffs, and memoranda to the Commission. Memoranda submitted to the Commission by OCA are considered together with those of other offices in decisionmaking. The staff of OCA is authorized to participate in Commission meetings in order to present recommendations and to articulate its views on matters before the Commission.

In addition to participating in policy and program development, OCA has primary responsibility within the Commission for responding to investor complaints and inquiries. OCA uses material obtained primarily from analysis of complaints to carry out its role of advising the Commission and staff about the concerns and interests of investors. Other offices, including the regional offices of the Commission, have staff members who respond to investor complaints and inquiries, and OCA frequently refers complaints to staff members who are most familiar with the subjects of complaints. OCA is, however, responsible for overall coordination of the Commission's complaint processing program.

*In the context of the Commission's activities, the word "consumer" is used to refer to individual investors.

II. CONSUMER PARTICIPATION

Investors may participate in Commission decisionmaking through the regular public comment process. Comment may be solicited through advance notices of proposed rulemaking, proposed rules and announcements of applications, in accordance with the Administrative Procedures Act. In addition, public hearings occasionally are held at various locations throughout the country in order to obtain a broad range of viewpoints on subjects of Commission rulemaking.

Participation in decisionmaking by individual investors also may take place indirectly through the Office of Consumer Affairs, which considers letters from the public to be valuable sources of information about investor interests and needs. Participation by OCA in staff discussions can result in representation of investor interests at earlier stages of decisionmaking than the public comment periods.

In the releases announcing final actions on matters for which public comment has been sought, the Commission undertakes to respond to all comments received, including those from individual investors. In this connection, the Commission may ask OCA to prepare separate analyses of investor comments for Commission consideration, as appropriate.

The Commission, through its OCA and Office of Public Affairs, strives to provide meaningful information to individual investors about opportunities for participation in agency decisionmaking for the purpose of soliciting the views of those persons who may be affected by the implementation of Commission proposals.

In general, the Commission has an ongoing system for informing the press about Commission actions, including those matters for which comment is solicited. The Commission provides information to a broad range of publications, as well as the broadcast media, which may be more accessible to individual investors than the Federal Register.

In addition, the Commission has a system for mailing proposals to interested persons to encourage submission of comments for inclusion in the public record. The Commission is interested in receiving comments and suggestions from the public regarding ways in which the Commission might communicate more effectively with and obtain the views of individual investors regarding Commission proposals.

III. INFORMATIONAL MATERIALS

The Commission recognizes that individual investors must be informed about the functions and responsibilities of the Commission in order to respond to proposed agency actions. In addition, the Commission believes that investors should be better informed about the services offered by the Commission, particularly the complaint handling functions of OCA.

The Commission has published several brochures and audiovisual materials to educate investors about aspects of the market place, the work of the

Commission, and types of fraudulent schemes of which investors ought to be aware.

The Commission plans to revise and upgrade its informational materials for the public to include more practical advice and information. With respect to services offered by the Commission, the Commission plans to update its booklet *The Work of the SEC* to include additional information about its services, including public information and complaint handling. In addition, a separate pamphlet will be published to explain the Commission's procedures for handling complaints and the type and degree of assistance that can be rendered to individuals.

Pamphlets will be distributed by the Commission's staff upon request and through the Federal Information Center in Pueblo, Colorado.

The Commission also furnishes materials to the press from time to time for the purpose of educating investors, and also to inform investors about pending Commission rulemaking proceedings, in an effort to enhance investor participation in such proceedings.

With respect to information about matters to be considered at public Commission meetings, the office responsible for an agenda item currently submits a clear, concise summary to the Office of the Secretary prior to the Commission meeting at which the item will be considered. The Secretary is responsible for making these summaries available to members of the public who attend public meetings, at the entrance to the meeting room. The summaries are required to be easily comprehensible, listing the issues expected to be considered by the Commission during the course of the discussion. An announcement is made at the opening of each public meeting that the summaries are available.

IV. EDUCATION AND TRAINING

The Commission's OCA is responsible for educating other Commission staff members about the Order and the Commission's consumer program. For example, OCA will participate in orientation programs for new personnel, for the purpose of explaining the purposes and role of OCA in the work of the Commission. In addition, information about the Order and programs concerned with individual investors will be circulated to Commission members and senior Commission staff members by memorandum.

Consumer affairs personnel assigned to OCA currently receive on-the-job training by responding to investor complaints of increasing degrees of difficulty. In addition, they are encouraged to participate in training programs on technical subjects both within and outside the Commission in order to provide more informative responses to investor inquiries and complaints. Selection of consumer affairs personnel for participation in such training programs is based primarily on budget.

V. COMPLAINT HANDLING

The Commission views investor complaints as an important source of information about investor concerns and about possible violations of the federal

securities laws. The Commission therefore seeks to heighten public awareness of the Commission's complaint handling facilities in a number of ways. For example, the Commission has a number of educational brochures for public distribution. Each brochure contains a list of regional and branch offices of the Commission, including the addresses, telephone numbers and states covered by each regional office. The brochures also provide the address and telephone numbers of the Commission's OCA and Office of Public Affairs.

From time to time the Commission issues releases regarding securities industry practices that may be harmful to investors. At the end of each such release, we advise the public to contact OCA if they have any inquiries or complaints, giving the address of the office. See, for example, Securities Exchange Act Release No. 15194 (September 28, 1978) [43 FR 46397] regarding certain practices of broker-dealers.

In addition, writers of financial columns sometimes advise investors with inquiries and complaints to contact the Commission's OCA. Any informational materials on topics of interest to individual investors which are distributed to the press will include the address of the Commission's OCA, to which complaints and inquiries may be addressed.

OCA's procedures for complaint processing are as follows: OCA requests that most complaints be in writing and be sent directly to OCA. OCA's system for logging in complaints and inquiries in standard format, including telephone complaints, is computerized. Each complaint or inquiry is assigned its own unique number and certain information is extracted from each complaint or inquiry for retention in the computer. The information includes the name of the complainant, the name of the entity involved, the type of complaint and the dates of correspondence.

Certain complaints received by OCA are forwarded to other offices, divisions or regional or branch offices of the Commission for investigation and analysis where appropriate. OCA has a system for tracking all complaints handled by the office and forwarded to other divisions and offices, including regional and branch offices, for responses. This system advises the receiving office of an expected due date (generally two to three weeks from the date of referral). A monthly computer printout advises the receiving office of all outstanding complaints.

OCA has a format for acknowledging complaints and inquiries which are forwarded to another office or division, including regional and branch offices, for responses. In most cases acknowledgments are sent within 5 days from the receipt of a complaint or inquiry. Acknowledgments are signed by a senior OCA staff member.

OCA has a format for responding to complaints and inquires which it handles. In general, it is OCA's goal to handle such correspondence within three weeks from the date received. In those matters in which a report is requested from the entity involved, OCA requests an expected date of return from the entity and, if it is not obliged, OCA sends follow-up requests. Responses are

signed by either the person handling the complaint or a senior OCA staff member. OCA receives monthly computer reports of statistics on complaints and inquiries, which are used for agency policymaking. Such reports reflect the number and types of complaints received against an entity. Other computer reports also are available to the staff.

OCA reports to the Chairman and division directors regarding the number and types of complaints received involving registered entities, and the pattern and policy implications of such complaints.

OCA has an ongoing program for assessing its own procedures. OCA has performed two surveys in the past year to determine if complainants were satisfied or not satisfied with the promptness and quality of handling of their complaints. We plan to continue these surveys in the future. OCA can also evaluate the promptness of agency responses from its computer systems for complaint handling. Certain computer reports reflect the number of days between the date on which a letter is received and the date on which a matter is closed. In addition, the system has a code for "thank you" letters, which are letters from correspondents indicating that their complaint has been satisfactorily resolved by us on their behalf.

The Commission's complaint handling system was evaluated in 1975 and reevaluated in 1978 by Technical Assistance Research Programs, Inc. (TARP) contracted by the United States Office of Consumer Affairs. In 1978, the Commission received an excellent rating on all categories involved in this study.

OVERSIGHT

The Director of the Commission's OCA reports to the Commission through the Executive Director, as described in Part I. The Director is compensated at the GS-14/15 level. The Director is responsible for coordination of all consumer affairs functions within the agency, including complaint handling and representation of consumer interests in development of agency programs. The Director interacts with other senior level staff members to see that the interests of individual investors are adequately considered in decisionmaking.

CONCLUSION

The Commission is publishing information about its consumer affairs program in order to increase public awareness and understanding of the Commission's responsibilities and services. The Commission invites public comment on the operation and structure of its program. In particular, the Commission is interested in receiving suggestions for ways in which to encourage the submission of views by interested individual investors regarding those items on which public comment is solicited.

Dated: November 26, 1979,

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-36983 Filed 12-7-79; 8:45 am]

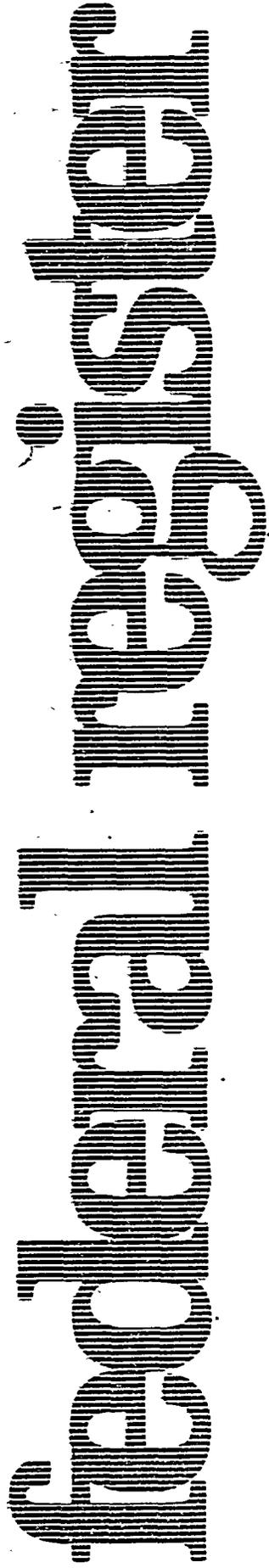
BILLING CODE 8010-01-M

Monday
December 10, 1979

Part V—Section I

Treasury Department

Draft Consumer Program



TREASURY DEPARTMENT**AGENCY:** Department of the Treasury.**ACTION:** Proposed Consumer Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Special Assistant to the Secretary (Consumer Affairs), Room 4406 Main Treasury Building, Department of the Treasury, Washington, D.C. 20220.**FOR FURTHER INFORMATION CONTACT:** Joseph Maty, 202-566-8118.**AUTHORITY:** Executive Order 12160.**I. CONSUMER AFFAIRS PERSPECTIVE****Statement of Purpose**

The purpose of the Department of the Treasury's Consumer program is to insure that persons who are affected by any Treasury-sponsored regulation, or program decision have the opportunity to present their views on the subject, and that these views are duly considered in the Department's decisionmaking process. It is Treasury's intent to more actively solicit consumer opinion, to make Treasury bureaus and offices more responsive to the consumer, and to assure that the machinery and the techniques of consumer representation within Treasury are regularly and effectively applied.

Staffing and Responsibilities

Treasury's diverse activities preclude the establishment of just a single consumer office or a single set of procedures within the Department to handle requests from consumers for information or to process complaints by consumers against Treasury's constituent units. Instead, the Department intends to continue to use its existing mechanisms and follow current lines of authority to fulfill the requirements of E.O. 12160. Additionally, the following actions will be taken to assure that the underlying philosophy and specific requirements of E.O. 12160 are carried out by program managers in the Department.

1. The Special Assistant to the Secretary (Consumer Affairs)

The position of Special Assistant to the Secretary (Consumer Affairs) has been established in the Office of the Secretary. The incumbent has the responsibility for developing consumer policies, coordinating Departmentwide consumer activities and overseeing the implementation of E.O. 12160 within the Department.

2. Consumer Monitoring Systems

Each bureau and office will have a contact person familiar with the structure and detail of the consumer effort within that organization. Current lines of authority from the Secretary to bureaus and offices shall be maintained. Bureau and office heads are charged with the responsibility of insuring that their organizations comply with the spirit and requirements of E.O. 12160. The Special Assistant to the Secretary

(Consumer Affairs) is available to advise on the development of consumer efforts within those organizations. The Special Assistant will keep the Secretary apprised as to the status of the Departmentwide effort.

3. Consumer Program Guidelines

The Secretary will issue guidelines for all Treasury bureaus to follow in planning and evaluating their consumer programs in order to assure compliance with the requirements of E.O. 12160.

Bureau consumer program plans will be made available as they are developed. Public comment will be solicited on the proposed plans and programs.

II. CONSUMER PARTICIPATION**Impact Upon Consumers**

Consumers of Treasury Department services and products fall into many categories: taxpayers, travelers, bondholders, welfare recipients, and many others. For the purpose of the Treasury Consumer Program, "consumer" means any individual (not an organization or intermediary) who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services or credit for personal, family or household purposes.

Treasury bureaus and offices fall into three categories according to the frequency of contact with, and the impact these activities have upon, consumers. These bureaus and offices are categorized by their end-user contact frequency, not by contact with intermediaries. During the implementation of E.O. 12160, additional data will be collected and analyzed to further refine these categories, but for the present Treasury's bureaus and offices may be considered as falling into three categories: High Consumer Impact; Moderate Consumer Impact; and Low Consumer Impact. Treasury bureaus and offices, regardless of which category they may be located in, are subject to the provisions of E.O. 12160 and the Treasury Consumer Program.

Treasury bureaus have consumer impact as follows:

1. High Consumer Impact

—(a) Internal Revenue Service; (b) Bureau of Alcohol, Tobacco and Firearms; (c) U.S. Customs Service; (d) Comptroller of the Currency; (e) U.S. Savings Bonds Division; (f) Bureau of Government Financial Operations; and (g) Bureau of the Public Debt.

2. Moderate Consumer Impact

—(a) Bureau of the Mint; (b) Bureau of Engraving and Printing.

3. Low Consumer Impact

—(a) U.S. Secret Service; and (b) Federal Law Enforcement Training Center.

Units of the Office of the Secretary fall into each of these categories. Examples range from the Assistant Secretary (Tax Policy) and the Assistant Secretary (Public Affairs), who have high consumer impact, to

the Special Assistant to the Secretary (National Security), who has almost no public contact or direct effect on consumers. The Special Assistant to the Secretary (Consumer Affairs) is responsible for contacting these and other offices within the Office of the Secretary to assure their compliance with E.O. 12160.

Avenues of Participation

1. Consumer Representatives

Each bureau has or will have a consumer representative or an office to handle the bureau's consumer affairs. The consumer representative will be responsible for developing consumer policies, coordinating bureauwide consumer activities and overseeing the implementation of E.O. 12160 within the bureau. Examples: The Public Affairs Division, U.S. Customs Service, monitors the implementation of E.O. 12160 within the Customs Service. The Internal Revenue Service has established the position of Problem Resolution Officer in the Office of the Commissioner. This person serves as the primary advocate for the taxpayer within the Service and will plan and administer the Servicewide Problem Resolution Program. The Office of Regulatory Enforcement's Procedures Branch, Bureau of Alcohol, Tobacco, and Firearms, is responsible for the development and implementation of and compliance with ATF's consumer affairs program.

The names and addresses of these consumer offices and representatives will be published in the Federal Register.

2. Advisory Committees

Treasury uses the services of advisory committees which are representative of such constituencies as consumers, providers, technical tax specialists, bankers and so on. The membership of the present committees and future committees will be reviewed by the Special Assistant to the Secretary (Consumer Affairs) and the Assistant Secretary (Administration) with the objective of securing consumer representation, where appropriate.

3. Public Hearings

Bureaus and offices use public hearings when substantial consumer impact is anticipated from a policy decision, or regulation.

The use of public hearings will be maintained. Where consumer participation appears limited, direct solicitation of opinion will be employed. Use of evening hearings and regional hearings away from Washington will be encouraged to obtain a full range of opinion on the issues.

4. Public Interest Groups

These groups bring a unique and specialized viewpoint to issues affecting their vital interests. Treasury program managers encourage their participation at public hearings and solicit comments from them on new programs or changes to existing programs. Solicitation of comments and continued

participation by these groups in decisionmaking will continue to be encouraged by program managers.

III. INFORMATIONAL MATERIALS

Agency Information Services

Specific responsibility for developing and implementing consumer information programs rests with the public affairs and consumer affairs staffs within Treasury bureaus. The distribution channels for information material vary depending upon the nature of the material, the audience, and the availability of resources.

1. Distribution of Consumer's Resource Handbook

The Consumer's Resource Handbook has been distributed to Treasury bureaus and offices and these organizations are being urged to maximize the use of this volume. The Special Assistant to the Secretary (Consumer Affairs) will also possess a library of materials on consumer organizations and related topics.

2. Concurrent Publication of News Releases with Federal Register Notices.

The Treasury will continue, where feasible, the practice of concurrently publishing a news release when a notice of proposed rule making is published in the Federal Register. This action will be taken to insure that the broadest audience is reached and comments are solicited from them on matters affecting their interests.

3. Public Opinion Surveys

These instruments are frequently used by Treasury bureaus and offices, e.g., the IRS solicits the opinions of taxpayers on tax matters, and the Office of Revenue Sharing requests comments from State and local government officials on matters pertaining to the General Revenue Sharing Program.

4. General Publicity

Press releases, speeches, special publications, publications in the Federal Register, and news media coverage are used by Treasury's bureaus to inform the public of Treasury's services and responsibilities. Steps have been taken by various bureaus and offices to assure that such issuances are topical, logical, and comprehensive to the consumer.

Examples

The Internal Revenue Service (IRS) relies on the mass and specialized media to alert taxpayers to tax law changes and to provide tax information which will help them correctly prepare and file their returns. Information is distributed to more than 17,000 radio and TV stations, daily and weekly newspapers, magazines and specialized publications. IRS publicity also alerts taxpayers to the large number of free tax publications available to them, the availability of IRS-toll-free telephone assistance, and to the assistance available through the Volunteer Tax Assistance (VITA) program to taxpayers who have special needs.

Other high consumer impact Treasury bureaus use similar approaches to providing information to their consumer-clients. The Special Assistant to the

Secretary (Consumer Affairs) will be involved in studying and analyzing these information programs.

IV. EDUCATION AND TRAINING

Many Treasury units have implemented measures to sensitize their employees to the needs and interests of Treasury consumers. Conversely, consumers are also being educated concerning the responsibilities of and services available from the Department.

Examples

The Internal Revenue Service (IRS) Problem Resolution Program (PRP) Handbook, IRM 1279, October 8, 1979, requires training for all IRS employees who have contact with the public on PRP criteria and procedures. The IRS conducts tax courses for specific groups of taxpayers (small business associations, victims of natural disasters, and so on) and the Secret Service conducts classes in the detection of counterfeit currency and how to safeguard against check and bond forgery. The Public Affairs Division, U.S. Customs Service, uses the services of large numbers of technical specialists to provide information to travelers and organizations in the travel industry. Treasury officials at all levels make themselves available as speakers to local groups in order to further Departmental consumer educational goals.

V. COMPLAINT HANDLING

Most written consumer complaints are answered in person, in writing, or, when appropriate, by telephone. Freedom of Information (FOI) requests from consumers are handled according to published FOI regulations and legislation. Special interest groups or individual citizens are encouraged to place their names on mailing lists for current information on programs that affect their interests. Reciprocal exchange of ideas and views is also strongly encouraged and will continue to be encouraged by the Special Assistant to the Secretary (Consumer Affairs).

Examples

The Internal Revenue Service's (IRS) Problem Resolution Program serves as an effective complaint handling system. During FY 79, 72,000 individual taxpayer problems were resolved through PRP. Each problem is systematically logged in, investigated and responded to by IRS employees. If a case cannot be resolved within five workdays, the taxpayer is contacted, advised of the status of the case and provided the name and telephone number of the IRS employee responsible for resolution of the case. A PRP case is not closed until all actions have been taken to resolve the problem. Analysis is also conducted of the underlying causes of taxpayer problems and if an organizational, procedural, or systemic problem is identified, it is corrected.

The U.S. Customs Service has a policy statement and an internal operations manual Chapter (Customs 2100-38 and 2111-02) that deals with consumer complaints. The public is made aware of the Service's complaints processing system through Customs' "courtesy program," travel industry publications and personnel, and press announcements.

VI. OVERSIGHT

Responsibilities

1. Office of the Special Assistant to the Secretary (Consumer Affairs) Responsibilities

The Special Assistant to the Secretary (Consumer Affairs) is the senior-level advisor for consumer matters to the Secretary and Deputy Secretary of the Treasury. The Special Assistant reports, on a constant basis, to the Deputy Secretary who provides general direction, establishes broad policy goals, and evaluates performance on the basis of how well objectives are achieved.

The Special Assistant to the Secretary (Consumer Affairs) has the following responsibilities:

(a) Consumer Affairs Council

Represents the Department of the Treasury of the Consumer Affairs Council performing all responsibilities assigned to individual members of the Council.

(b) Monitoring System

Develops policies, coordinates activities and oversees the implementation of E.O. 12160 within the Department.

(c) Office of the Secretary (OS)

Coordinates all consumer participation and outreach activities in the Office of the Secretary and assists bureaus which do not have consumer staffs with consumer planning, program development and outreach activities.

(d) Policy Directives

Advises Treasury officials concerning consumer goals and improvements within their respective areas, and recommends Departmental policy to the Secretary.

(e) Public Participation

Encourages or initiates public discussions on Treasury-related matters (e.g., hearings on proposed rules).

(f) Policy Review

Reviews legislation, speeches and press releases, and encourages more consumer-related content.

(g) Public Information

Works with the Office of Public Affairs and the bureaus to identify and publicize consumer programs in the Treasury and samples consumer correspondence to determine the extent to which such correspondence is sensitive to consumer needs.

(h) Procedural Review

Reviews procedures in the bureaus and serves as a consultant to the various bureaus to help improve their relationships with the consumer.

2. Bureau Responsibilities

Each bureau has the following responsibilities:

(a) Consumer Representative

Designates a contact person within the organization to act as consumer representative. The person will be

thoroughly familiar with the organization and will be at a level that assures a complete overview of consumer contact. The person shall have the responsibility for developing policies, coordinating activities and overseeing bureau or office consumer programs.

(b) Consumer Program Plan and Procedures

Prepares and has published in the Federal Register, for purposes of soliciting comments from consumers, bureau consumer program plans and procedures that implement the provisions of E. O. 12160 and appropriate Treasury guidelines.

VII. JUDICIAL REVIEW

Nothing in this Program is intended to provide new grounds for judicial review or be interpreted as superseding any existing statutory obligation regarding rulemaking.

Signed the 26th day of November, 1979.

Robert Carswell,

Acting Secretary of the Treasury.

[FR Doc. 79-36872 Filed 12-7-79; 8:45 am]

BILLING CODE 4810-25-M

Monday
December 10, 1979

FRIDAY
DECEMBER 10
1979

Part VI

**Consumer Programs:
Transportation and
Postal Service**

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CIVIL AERONAUTICS BOARD**Draft Consumer Program****AGENCY:** Civil Aeronautics Board.**ACTION:** Publication of Draft Consumer Program.**SUMMARY:** The CAB invites public comment on its draft consumer program which is being published in voluntary compliance with Executive Order 12160.**DATES:** Comments should be received by March 10, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.**ADDRESSES:** Five copies of written or typed comments should be sent to Docket 37145, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individual consumers may submit their views and comments without filing multiple copies.

Comments may be examined at the Docket Section of the Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Desta B. McDowell, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5482.**INTRODUCTION**

The Civil Aeronautics Board, with a staff of approximately 760 employees, regulates the economic aspects of air transportation. The Airline Deregulation Act of 1978 phases out regulation of domestic airline routes at the end of 1981, air fares at the beginning of 1983, and the CAB itself in 1985. The guiding principle in air travel is free competition, with the Board's main job being to assure that market forces and consumer choices determine the fares and services airlines offer. At the same time, the Board continues to put a strong emphasis on educating the public and on consumer protection activities in areas where market forces have not proved adequate.

The commitment to serve the traveling public comes from the Chairman and Members of the Board, and is transmitted from them through the entire agency. Every person who helps form agency policies must pay careful attention to what effect any decision will have on the general public, and in a very real sense the entire agency is involved in consumer affairs and consumer protection activities. Staff members who prepare the Board's rulemaking proposals, orders, and regulations must be sure they use language that ordinary people can understand.

The Bureau of Consumer Protection, a major operating bureau of the Board, was created in mid-1978. The main reasons for this reorganization were to increase the Board's ability to inform, assist and protect consumers in their dealings with the air transportation industry, to underscore the commitment to have consumer interests adequately considered in matters that come before the Board, to increase the Board's capability in the antitrust enforcement area,

and to help consumers and airlines resolve their disputes in a fair, effective and timely manner.

The Airline Deregulation Act guarantees essential air service to small communities. Under this program, the Board's Office of Community and Congressional Relations (OCCR) assists communities in seeking replacement carriers when air service dislocations occur. Regional representatives of OCCR serves as a link between the Board and State and local governments.

Given the decision made by Congress for the agency to go out of business on December 31, 1984, we will be continually reassessing our programs and priorities over the next five years. During this period, we will be studying our consumer protection role to determine what assistance consumers will need after the sunset of the Board and the best way to provide that assistance. This may involve transferring functions to other federal agencies or to state and local governments. The following program, which we are publishing at this time in voluntary compliance with Executive Order 12160, is already in place and will be revised as the needs of the public change, and as the CAB phases out its activities.

I. CONSUMER AFFAIRS PERSPECTIVE**Staff Location**

The consumer affairs staff of the CAB is located in the Bureau of Consumer Protection (BCP). This Bureau is responsible for assuring adequate evaluation and representation of consumer interests in matters that come before the Board. The Director of BCP, who reports to the Chairman of the agency, directs the Board's programs to provide consumers with information and assistance, advises the Board on the consumer interest aspects of current and proposed policies, programs and decisions, and develops and proposes to the Board positions it should take on consumer issues.

Organizational chart #1 shows the placement of the Bureau of Consumer Protection within the Board. Organization chart #2 shows the structure of the Bureau.

The principal office of the Bureau of Consumer Protection is located on the fifth floor of the Universal Building, 1825 Connecticut Avenue, N.W., in Washington, D.C. BCP regional offices are located in Chicago, Fort Worth, Miami, New York, Los Angeles, and Seattle.

Size and Resources

The Bureau of Consumer Protection is currently staffed with 70 professional and 32 clerical employees, including temporary and part-time personnel. Ninety-eight of these are permanent positions, of which 12 are assigned to antitrust enforcement on a full-time basis, 23 are involved in legal analysis and litigation activities to enforce the Federal Aviation Act and CAB regulations, 13 are involved in investigation and audit functions, and 15 are assigned to BCP regional assistance activities. The Bureau employs 12

professional consumer protection analysts who deal directly with air travellers and airlines in providing information and assistance in resolving complaints. The distribution of positions in BCP is shown in the attached staffing plan. We expect the BCP's staffing level will decrease gradually over the next five years as the agency prepares for sunset.

Responsibilities

In addition to providing a consumer affairs perspective, as described in Subsection 1-401(a) of Executive Order 12160, the Bureau of Consumer Protection works to educate, assist and protect consumers in their dealings with the airline and air travel industries. It also has responsibility for monitoring and promoting observance of the federal antitrust laws by companies under the Board's jurisdiction, and for enforcing the economic provisions of the Federal Aviation Act, and the Board's orders, regulations and other requirements.

Relationship With Other Consumer Personnel and Agency Operating Units

BCP cooperates and works with other federal, state and local government agencies in connection with a broad spectrum of antitrust and consumer issues. It also assists Congressional offices in handling and responding to individual consumer problems encountered by constituents. The Bureau is currently developing a program to transfer consumer affairs functions that may still be required after 1985 to state and local authorities and to other federal agencies.

Participation in Development and Review of Agency Rules, Policies, Programs and Legislation

BCP participates at all levels of the Board's decision-making process and is on an equal footing with other principal operating components of the agency. The Bureau is actively involved in reviewing and proposing rules, policies and programs of the agency, including recommended legislative changes, and is responsible, under delegated authority, for instituting legal actions in court and before the agency to enforce consumer protection regulations and to prevent unfair or deceptive practices in air transportation. BCP has access to and frequently calls on the expertise of other staff elements to assist in developing programs and policies for the Board.

BCP is kept fully informed of all proceedings that come before the Board through internal communications and public dockets. The staff of the Bureau receives copies of all Board orders, regulations and other publications, and has access to comments filed in the dockets.

Because the CAB is a relatively small agency, the Bureau's staff is in daily contact with the policy-making components of other bureaus and offices on a routine basis. BCP has excellent communication with other key staff components.

Through formal internal coordination procedures, BCP is consulted on policy and regulatory matters significantly affecting consumers, before submission of

staff recommendations for Board action. It is also represented on and takes active part in agency-wide task forces working on specific policy issues and programs affecting consumers. Documents prepared for Board action are routinely circulated to BCP for review and comment. The Director and professional staff members attend Board sunshine meetings in which members discuss and vote on proposals, and they participate actively in the discussion before the Board makes its final decision.

BCP has the opportunity to participate fully in all phases of the Board's decision-making process from the initial stage of policy development at the staff level, through drafting of regulations and orders, and in making recommendations to the Board for adoption of final orders and rules. However, when the Bureau intervenes or participates as a party in a formal hearing matter, its staff communicates with the Board only through briefs and other filings in the docket and does not advise the Board in a staff capacity.

BCP has the authority to propose rulemaking, institute enforcement cases, seek assessments of civil penalties for violations, and participate in other proceedings before the Board.

II. CONSUMER PARTICIPATION

When Consumer Participation in Agency Decisionmaking Begins

Part 302 of the Board's Economic Regulations (14 CFR 302) provides for broad public participation in Board proceedings. In addition to informal complaints, individuals or consumer groups may petition for rulemaking, comment on show cause orders or proposed regulations, file formal third-party enforcement complaints, and initiate other proceedings. They may also participate as a party in other docketed matters, and file written comments and testify in public hearings. If consumers disagree with a Board decision, they may file petitions asking for reconsideration.

The Board has simplified procedures for consumer participation. In rulemaking cases, individual members of the public may submit a single copy of comments or other filings in the docket, rather than the 19 usually required. The Board liberally applies the criteria for formal intervention in its proceedings to facilitate and encourage effective participation by members of the public.

In order to insure a balanced record in proceedings directly affecting the consumer interest, the Board adopted a regulation (14 CFR 304) in 1978 to provide funding for public participation. A committee made up of the Managing Director, the Director of the Office of Economic Analysis, and the General Counsel, was set up to evaluate applications and made selections for funding. The purpose of providing public participation funds is to attract points of view that otherwise would not be represented.

Information about how to apply for public participation funding was included in several Notices of Proposed Rulemaking issued by the CAB. The Board

has also published a booklet detailing the application procedure.

The Board has provided funding under this program to promote participation by public interest organizations in this field of consumer protection and the rights of the handicapped. However, the program was terminated as of September 30, 1979, due to budgetary constraints.

Avenues of Participation

Consumers and consumer groups may communicate informally with BCP and other staff elements on any matter of concern to them through correspondence, telephone or personal conferences. Informal contacts of this nature relating to a specific case are generally not allowed once a formal hearing has been instituted, under the Board's "ex parte" rules.

Regional public hearings have been held by the Board and its Office of Community and Congressional Relations to allow consumers to provide input on essential air service determinations and meetings with individual communities are held on a continuing basis to assist with air service problems. BCP's regional consumer representatives also frequently communicate with consumers through the media and participate in meetings and other public functions of consumer groups. In formal proceedings, public hearings may be conducted by administrative law judges in communities significantly affected by the matters to be decided.

When consumers become parties to formal proceedings, they may file written comments and answers to comments filed by other parties, submit evidence, and take part in hearings before an Administrative Law Judge. The Board's rules also allow limited participation by interested persons without formal intervention.

Notices of all Board proceedings are published in the *Federal Register*. In addition, the Bureau of Consumer Protection has a special mailing list including state and local consumer offices, public interest organizations, consumer reporters and travel writers, and other interested individuals, to alert them to Board actions and proposals that may significantly affect consumers. On specific subjects, the Board's staff obtains mailing lists of groups and individuals who would be likely to have a particular interest in the proceeding. In our contacts with the press, such as the attached press release on proposed rulemaking to protect handicapped travelers, we provide information about proceedings and interested consumers may send their views and comments for consideration.

III. INFORMATION MATERIALS

Agency Publications

The Board publishes a consumer guide to domestic air travel which is intended to inform and to educate the traveling public about their rights and air carrier responsibilities. The guide, "Fly-Rights," was completely revised and issued in a new format in July 1979.

Consumer booklets are available to the public free of charge through the Consumer Information Center in Pueblo, Colorado and the Board's Publication Section. Regional offices distribute copies of publications to individuals and state and local consumer groups in their respective regions. Plates are made available to any organization that wishes to reprint the booklets in quantity.

In addition, the Board publishes a monthly statistical report of consumer complaints, listing the airlines and subject matter. Other statistical reports of interest to consumers provide data about airline on-time performance and bumping records. Consumer Alerts and other press releases are issued from time to time dealing with specific topics of interest to travelers, proposed airline fare increases, travel during the holiday season, and service reductions or changes that may affect travel plans. (An example is attached.)

The Board also publishes its orders and regulations on a current basis. Single copies of these are available without charge to individual members of the public and consumer organizations on request, or on a subscription basis.

To facilitate the dissemination of information in public hearings on essential air service, the Office of Community and Congressional Relations developed a booklet explaining Board policies and procedures. The booklet has been distributed to more than a thousand community and organization officials.

The Board also requires airlines to give consumers certain information and warnings with each ticket, and to post notices in airports and ticket offices. These notices cover oversale rules and procedures, the limits imposed by carriers on their liability for lost, damaged or delayed baggage, limitations on liability for personal injury or death in international air travel, and the rights of consumers to inspect the carriers' tariffs at all airline ticket counters and offices.

Usefulness of Current Material

"Fly-Rights" gives air travelers comprehensive information about air travel in plain English. Since its publication in July 1979, it has been a best-seller at GSA's Consumer Information Center. We think "Fly-Rights" is a very useful publication, but the information is not complete since it covers only air travel within the United States.

Consumer Alert press releases are useful and timely because they provide a quick way to get information out to the public on specific current problems.

Monthly consumer complaint statistics are somewhat less useful to individuals, since the information is presented in a summary, tabular format that requires some expertise to understand and is not designed for the general public. However, newspapers frequently publish articles based on the monthly complaint summary and the Board's staff provides detailed background information to reporters calling for assistance in interpreting the statistics.

Although the Board has a policy of applying "plain English" standards to the orders and regulations it issues, most of these documents are probably not

immediately useful to many individual consumers because of their legal nature and the complexity of the material. Individuals with particular problems or disputes involving an airline, however, may find particular orders or regulations extremely helpful in obtaining resolution, and the Board's staff attempts to provide copies of the relevant documents to consumers who have made complaints or requested information from us.

Tariffs and airport and ticket notices are not very useful because of the legalistic phrasing used. Tariffs also are lengthy, complex, and poorly indexed, which makes it difficult to locate specific information about air fares or the rules governing passenger transportation.

Plans for Improvement

"Fly-Rights" is being revised to include information and advice about special features of international travel. The Board also plans to issue a pamphlet on charter flights within the next few months. The new edition of "Fly-Rights" will be developed during the coming fiscal year and revised as needed when regulations change.

A new computer system for compiling consumer complaint information is being developed and will be in place early in 1980. The monthly complaint statistics will be reformatted and include topics which should be more informative and helpful to the public.

The Bureau of Consumer Protection is conducting a comprehensive review of all the notices given to passengers through airport counter signs and material printed on ticket notices. We are especially focusing on a "plain English" approach to drafting these notices.

BCP's staff is also drafting an Advance Notice of Proposed Rulemaking soliciting comments from the industry and the public on how a plain English approach might be applied to airline-passenger contracts in place of the tariff system.

Officials Responsible for Consumer Information Program

The Bureau of Consumer Protection, under the supervision of its Director, has primary responsibility for the Board's consumer information program. Within BCP, the Policy Development and Consumer Action Divisions share the job of developing materials for publication, as assigned by the Director.

Information on Agenda of Public Meetings

The Secretary of the Board publishes a meeting announcement one week before every scheduled Board meeting. On the morning of the Board meeting, a revised agenda is made available to everyone attending the meeting. Notices are printed in the Federal Register and published in widely distributed trade publications.

Each meeting announcement contains the time, date, and place of meeting, and an agenda of each item scheduled for discussion or decision at the meeting. Each matter is identified by the title of the proceeding

or other caption, the docket number, if any, and an indication of what action is to be considered by the Board in the meeting.

IV. EDUCATION AND TRAINING

The Director of BCP or his designated representative is responsible for informing the Board and staff about the Order and the agency's activities under it. Executive Order 12160, together with a memorandum summarizing it, has been circulated to the Chairman, Members, and all other senior officials of the Board. Copies of the draft consumer program will be circulated to the Board and appropriate staff for review and comment, before adoption by the Board.

No significant changes in structure are planned at the present time, since our consumer program has been in operation for more than a year. If any changes occur in the future, the staff will be notified by desk-to-desk distribution of staff notices.

BCP management provides in-house training for consumer affairs personnel, as part of its ongoing program of staff training. All BCP staff members have received a copy of the Executive Order and the description of the Board's consumer program.

V. COMPLAINT HANDLING

During the past year, the Board has made intensive efforts to heighten public awareness about the agency's receptivity to complaints. Our field representatives sent mailings throughout their region to notify the public of the presence of a CAB office in the area and our willingness to assist consumers with air transportation problems. Field representatives made numerous contacts with the press which resulted in articles and broadcasts publicizing the regional offices. With the diminishing of CAB's activities over the next few years, we will concentrate on working with state and local agencies to educate them in the handling of air transportation complaints and to teach consumers to be their own consumer advocates.

All consumer publications and Consumer Alert press releases contain the statement that consumers may write to BCP for assistance with air transportation problems. Our staff is interviewed regularly by the press, and we make it a practice to ask reporters to include the mailing address for complaints in each article.

Format for Logging Complaints

All complaints received by BCP (written and telephone) are analyzed and coded in standard topical categories. Information is entered into a computerized system.

Consumer complaints received by the Board's Washington office are routinely directed by BCP by the mail room staff, with the exception of essential air service problems which are handled by the Office of Community and Congressional Relations. Complaints directed to regional offices are handled in the field. Consumer analysts and field representatives bring to the attention of BCP management any problems which they believe warrant field investigation.

Response Procedure

A computerized complaint-handling system keeps track of complaints from date received until date closed. Complaints involving airlines, travel agents, and tour operators are referred to the company involved with the request that they respond directly to the complainant and provide a copy of their response to BCP. A copy of the standard computer-generated acknowledgement is attached. The standard for sending routine acknowledgement letters is 15 working days from date of receipt of the complaint. Individual responses are prepared to answer requests for information and complaints about the Board's activities.

If the complaint involves an apparent violation of Board regulations, we prepare a letter to the carrier asking them to pay compromise civil penalties. Carriers are given 20 days to respond to civil penalty letters. Followup letters are generated by computer every 30 days for all pending cases. Weekly reports are submitted to the Director of BCP showing the number of new cases opened, cases closed, cases pending and acknowledgement backlog.

Monthly statistical reports are produced which tabulate the number of complaints by airline and subject category. These reports are issued as press releases.

Consumer analysts and field representatives prepare weekly narrative reports for the Director of BCP, highlighting significant consumer problems handled.

In June of 1979, BCP conducted a survey of twenty percent of the consumers who sent complaints to the Bureau during a three-month period in 1978. Similar surveys will be conducted annually.

OVERSIGHT

The Chairman of the CAB has designated the Director of the Bureau of Consumer Protection as the senior-level official to exercise policy direction for, and coordination and oversight of the Board's consumer activities. The Director of BCP is specifically responsible for the following:

- Plans, develops and directs programs to carry out the Bureau's mission.

- Advises the Board on the effects of proposed policies, programs and decisions on consumers.

- Proposes to the Board positions it should take on consumer issues.

- Approves and supervises BCP participation in Board proceedings; proceedings of other federal, state and local agencies; and litigation on behalf of BCP or the Board in federal, state or local courts as a party or intervenor.

- Maintains liaison with other federal, state and local government agencies in connection with antitrust and consumer issues.

- Represents the Board with outside groups in consumer matters. Serves as liaison with the President's Special Assistant for Consumer Affairs. Works with the Bureau of Pricing and Domestic Aviation and the Office of Community and Congressional Relations to resolve specific community

or congressional problems involving consumer interest issues.

- Provides technical and administrative direction to the organizational components of the Bureau of Consumer Protection.

- Exercises authority delegated by the Board in Parts 302 and 285 of its regulations.

- Supervises BCP's program to encourage competition among entities under the Board's jurisdiction.

- Provides the Board, its staff and the public with reports of the Bureau's activities.

Dated: November 23, 1979.

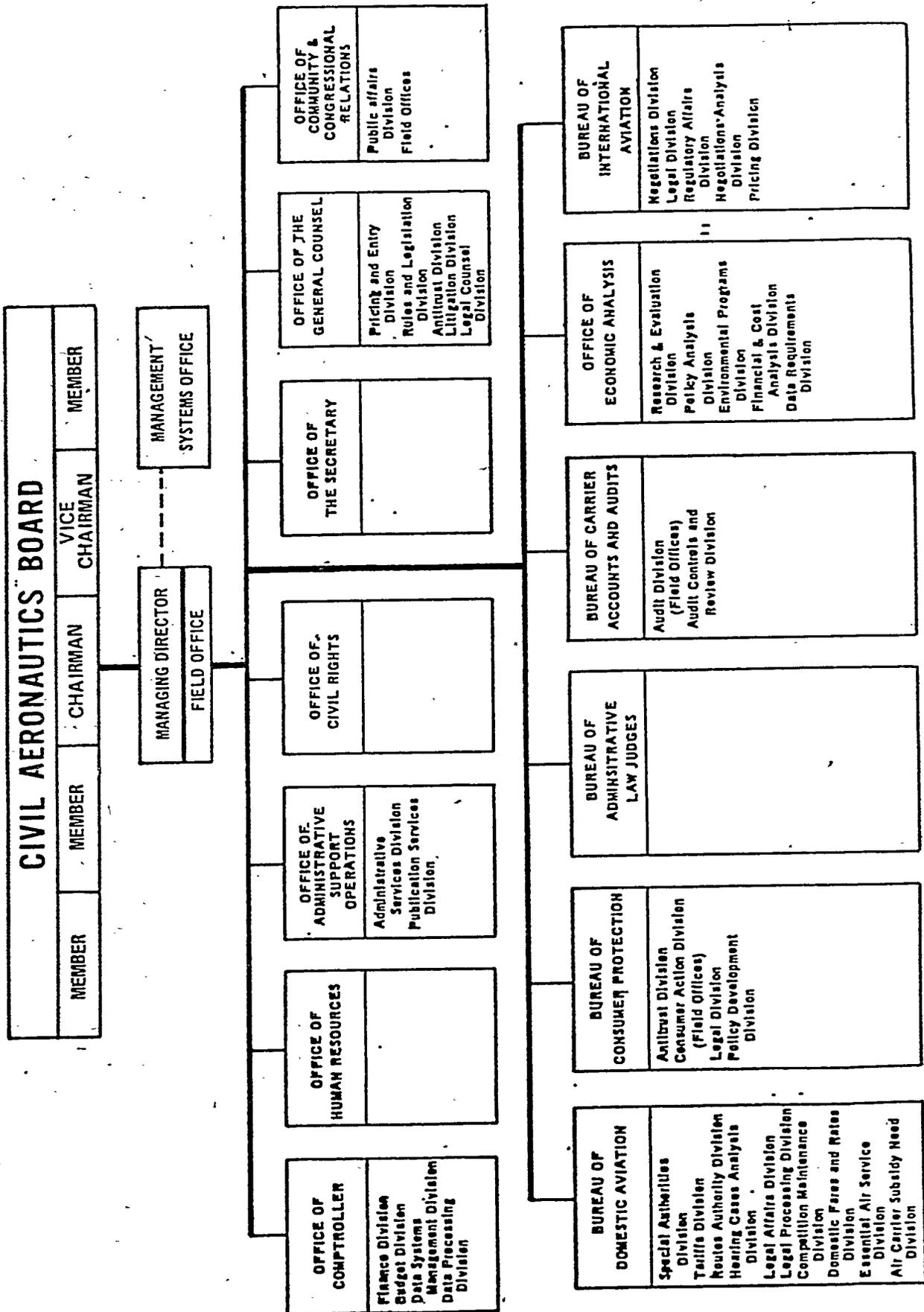
By the Civil Aeronautics Board.

Phyllis T. Kaylor,

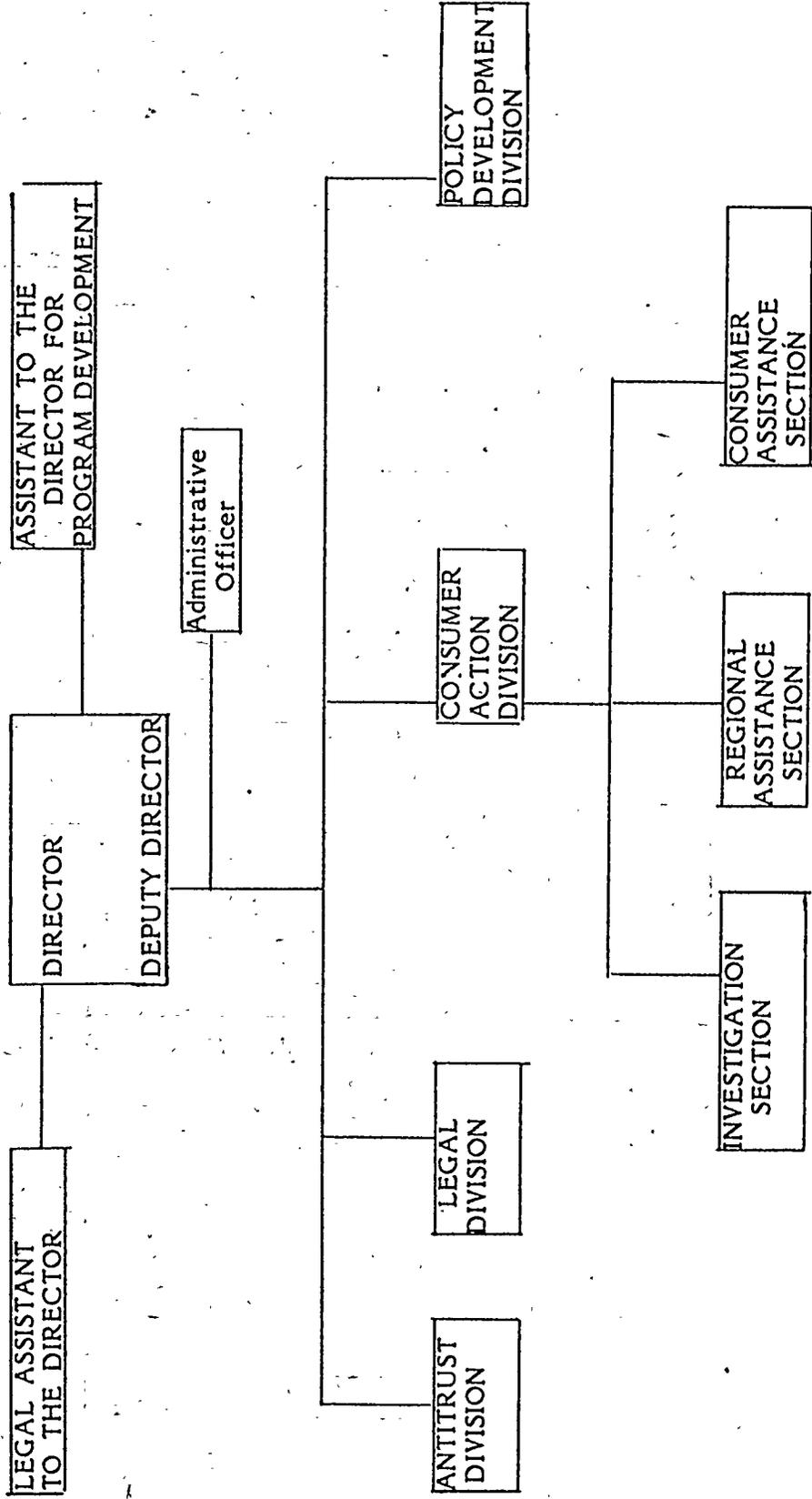
Secretary.

BILLING CODE 6320-01-M

ATTACHMENT I



BUREAU OF CONSUMER PROTECTION





CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

IN REPLY REFER TO:

B-95: 79-XXXX

December 1, 1979

Mr. John Doe
1234 American Avenue
Anywhere, New York 12345

Dear Mr. Doe:

We have received your letter about the difficulty you've had with Etcetera Airlines.

We will contact the company and ask them to review your complaint. I have asked Glenn Wienhoff, the Chief of our Consumer Action Division, to make sure you receive a response from them. If after hearing from them you have any questions, please contact Mr. Wienhoff.

If you write us about this again, please refer to the number at the top of this page so that we can locate the case in our files as quickly as possible.

Sincerely,

Reuben B. Robertson
Director
Bureau of Consumer Protection

Staffing Plan, CAB, Bureau of Consumer Protection as of October 31, 1979.

OFFICE OF THE DIRECTOR (9)

Director
Deputy Director
Assistant to the Director for Program Development
Legal Assistant to the Director
Secretaries (2)
Administrative Officer
Administrative Assistants (2)

LEGAL DIVISION (23)

Chief
Assistant Chief
Attorneys (14)
Paralegal Specialist
Clerical/Secretarial (5)
Law Clerk

ANTITRUST DIVISION (12)

Chief
Assistant Chief
Attorneys (6)
Economists (1)
Clerical/Secretarial (3)

POLICY DEVELOPMENT DIVISION (5)

Chief
Attorney
Economists (2)
Secretary

CONSUMER ACTION DIVISION (53)

Office of the Division Chief (3)

Chief
Assistant Chief
Secretary (1)

Consumer Assistance Section (22)

Chief
Assistant Chief (Vacant)
Consumer Protection Analysts (11)
Clerical/Secretarial (7)
Data Control (3)

Regional Assistance Section (15)

Chief
Assistant Chief
Field Representatives (7)
Air Transport Program Assistants (6)

Investigation Section (13)

Chief
Assistant Chief
Investigators (7)
Auditors (3)
Clerical/Secretarial (1)

BILLING CODE 6320-01-M

CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

FOR RELEASE:

Contact: Wallace C. Stefany
(202) 673-5990

ON OR AFTER
Tuesday
June 5, 1979
CAB 79-122

**CAB PROPOSES RULE BARRING UNLAWFUL DISCRIMINATION IN AIR TRANSPORTATION
OF HANDICAPPED PERSONS**

WASHINGTON, D. C. (June 5)--The Civil Aeronautics Board today asked for public comment on a rule it is proposing to prohibit unlawful discrimination in air transportation on the basis of handicap.

The Board also invited applications for public participation compensation in this rulemaking. Those applications are due by July 6, 1979.

The CAB said that its proposed rule reflects the need to insure that handicapped travelers have adequate access to air transportation and to affirm that the handicapped are protected by the adequate service and antidiscrimination provisions of the Federal Aviation Act, which apply to all airlines. As a general matter, the CAB said the air carrier should have the burden of showing that air service to the handicapped cannot be provided.

The rule would also limit the situations in which carriers could:

- (a) insist that handicapped people give advance notice of their travel,
- and (b) require a handicapped person to be accompanied by an attendant.

The CAB said that two tentative decisions are basic to the structure of these proposed rules. First, all passengers, regardless of handicap, should be given reasonable access to commercial air transportation. Second, the handicapped should be given a reasonable opportunity to use the ordinary, unaltered services of airlines.

The Board said that it believes that its rules will help set the boundaries of travelers' rights and carriers' obligations. Only significant and clearly demonstrable safety concerns or the most extreme considerations of carrier inconvenience should justify refusal to carry a handicapped passenger. Among these conditions would be contagious disease, drunkenness, and serious illness that may require immediate treatment. Handicapped people would be presumed fit to travel unless there is clear evidence to the contrary.

To make air travel truly accessible to the handicapped, the Board proposed to require carriers to accommodate travelers' desires to transport their own equipment and aids, and to have available various types of service and equipment to be provided at the traveler's request. Except for pressing safety reasons, the Board noted; the carrier could not require a handicapped passenger to accept unrequested special services.

Because it lacks sufficient information on the subject, the Board is not now proposing to require structural modifications of aircraft.

Interested persons have until Sept. 4, 1979 to submit comments to the CAB Docket Section, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

(Docket 34030)

CIVIL AERONAUTICS BOARD

WASHINGTON D.C. 20428

**CONSUMER
ALERT**

FOR RELEASE:

Contact: Wallace C. Stefany
(202) 673-5990ON OR AFTER
Friday
June 8, 1979
CAB 79-131**CAB CONSUMER UNIT OFFERS TRAVELERS ADVICE ON HOW TO MINIMIZE THE EFFECT OF
POSSIBLE FUEL-RELATED PRICE INCREASES**

WASHINGTON, D. C. (June 8)--Recent sharp price increases for jet fuel will likely be reflected in charter and regular fare prices, the Civil Aeronautics Board's Bureau of Consumer Protection (BCP) said today, but knowledgeable consumers may be able to minimize the effect on their pocketbooks.

Airlines have reported that they are experiencing substantial fuel price increases, BCP Director Reuben B. Robertson said. Supplemental (charter) carriers have indicated they will be paying as much as 75 cents a gallon for fuel in July, compared with the 45 cents a gallon paid in January. Scheduled carriers also have experienced substantial fuel price increases.

For charter passengers this will likely translate into price increases in the form of fuel surcharges, Robertson said. This can occur on short notice even after one has signed up for a tour and paid the full tour price. But whether or not a charter passenger must accept the surcharges imposed by the airline, Robertson noted, depends on the tour operator-participant contract. In many cases, the tour operator reserves the right to assess fuel-related price increases without giving the consumer the right to cancel with a full refund. Charter tour purchasers should review their contracts to see whether or not they have the option to cancel and not be subject to such increases, BCP urged.

Under new CAB consumer protection rules effective May 1, charter contracts for flights departing in July or later must limit price increases to not more than 10 percent of the total trip cost. When additional collections are greater than 10 percent, the tour operator must allow passengers to cancel without penalty. The contract must provide for increases before any additional collection can be assessed. The rule also requires that, for flights after July 1, charter participants must be given notice of any increase at least 10 days before departure.

Consumers who question whether or not an increase that the charter tour operator is passing along is really due to rising fuel costs can verify that fact by contacting the airline providing the charter transportation. Those who question whether they must pay the increase should read their contract and check with the tour operator or their travel agent.

In the case of scheduled transportation in the United States, the fare in effect on the day a ticket is purchased is the total price that a traveler has to pay. If a consumer wants to be sure that the price of the ticket will not rise, he or she should purchase the ticket as soon as possible. For scheduled international flights, the same protection is being offered to a limited extent by most, but not all, U.S. and foreign airlines.

Consumers can protect the price they will have to pay if tickets are purchased now on the carriers that offer the fare protection. Airlines that do not follow this procedure can make an additional collection when the passenger shows up to board the flight, if the fare has increased in the interim. The consumer can save money when planning for international travel by inquiring about the carrier's practice and buying the ticket to preserve the current price if the carrier offers protection for the fare now in effect. On other carriers, a passenger may be charged additional money if the fare is increased in the interim.

INTERSTATE COMMERCE COMMISSION**Consumer Affairs Activities**

November 28, 1979.

Dear Consumer: The Interstate Commerce Commission is pleased to comply voluntarily with the President's Executive Order to improve the effectiveness, management, and coordination of agency consumer affairs activities. The ICC's mission has always included consumer protection.

Over the past three years, the Commission has made great strides in developing and implementing programs to ensure the ICC's responsiveness to consumer needs. We have established a consumer complaint center, created an Office of Special Counsel to aid in addressing the public interest in transportation matters before the Commission, and improved programs providing legal and information services to consumers.

Following is a report of the ICC's consumer activities.

Sincerely,

Daniel O'Neal,
Chairman.

Enclosure.

SECTION I. CONSUMER AFFAIRS PERSPECTIVE

The Interstate Commerce Commission has specialized consumer affairs staffs located in four organizational units of the Commission: the Office of Special Counsel, the Bureau of Operations, the Bureau of Traffic, and the Small Business Assistance Office. The Office of Communications and Consumer Affairs, which reports directly to the Commission Chairman, serves as a coordinator for consumer information and outreach programs.

Part. 1. Specialized Consumer Staffs

A description of each specialized consumer staff follows:

Office of Special Counsel

The Office of Special Counsel is subject to the administrative supervision of the Chairman but, in all other respects, is not accountable to the Commission. The office is fully staffed with six attorneys and two paralegals with particular expertise in administrative law procedures and consumer issues related to transportation industries, especially those regulated by the ICC.

The Special Counsel's responsibilities are entirely to aid in the determination of the public interest in proceedings before the Commission, including formulation of agency rules, policies, programs, and legislation. The office formulates a complete record by developing evidence on the public interest, generating public participation in cases before the ICC, and counseling consumers and public representatives on transportation issues and the administrative process.

The Office of Special Counsel works closely with all other staffs performing consumer affairs functions. For example, when the Bureau of Operations schedules

informal public conferences to explore possible changes in the Commission's consumer regulations, the Special Counsel assists consumers—individuals or groups—in presenting their views.

The Bureau of traffic, which reviews all rates and charges of interstate transportation companies, furnishes the Special Counsel with a copy of each tariff rejection letter issued by the consumer tariff examining units. The Special Counsel is also furnished with a copy of each decision of the Suspension Board which suspends and investigates proposed transportation rates. In addition, the Bureau of Traffic consumer specialists advise the Special Counsel on transportation rates that have possible adverse consumer impact. All these actions are to give the Special Counsel an opportunity to provide appropriate input to the decisionmaking process on rate matters which affect consumers. ge a10de3.062

The Special Counsel works closely with the Office of Communications and Consumer Affairs (OCCA) to ensure that outreach and communications programs are effectively planned and implemented. OCCA provides planning, editorial, and information dissemination assistance.

To keep apprised of all opportunities to participate in agency proceedings, the Special Counsel attends weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, program, and policies.

The Special Counsel reviews all draft notices of proposed rulemaking. The office may also petition the Commission to institute rulemakings or other proceedings in matters of public interest. Policy statements are reviewed in draft, and the Special Counsel may comment on the draft.

The Special Counsel also reviews and comments upon proposed legislation—that which is being formulated by the Commission and that which has been introduced and on which the Commission has been asked to testify in Congressional hearings. In both cases, the Special Counsel comments from a consumer and public interest point of view prior to completion of the Commission's proposed legislative package and testimony.

Bureau of Operation' Consumer Assistance Section

The Bureau of Operations reports jointly to the Commission Chairman and the Managing Director. Within the Bureau is a Section of Consumer Assistance staffed by 4 transportation specialists and 12 consumer representatives.

The Section of Consumer Assistance operates a sophisticated consumer complaint and inquiry center, using a nationwide toll-free hotline with computer capability for logging, referral, retention, and update of complaint information. The Consumer Assistance Section is tied to six regional Consumer Assistance Centers in Boston, Philadelphia, Atlanta, Chicago, Fort Worth, and San Francisco and three subregional centers in New York, Los Angeles, and Seattle. (See Section V)

The Bureau of Operations' Section of Consumer Assistance draws upon the resources of the Commission's field staff, Small Business Assistance Office, the Special Counsel, the Bureau of Traffic, and the Office of Proceedings (which processes formal cases) to handle complaints and inquires ranging from problems encountered by consumers during an interstate move, to complaints about interstate bus or train travel, to small shippers who are unable to find transportation services, to users of railroad services who are unable to obtain freight cars or other freight services.

The Bureau of Operations initiates many of the proposals to revise, update, and change Commission policies, rules, and programs affecting consumers. For those actions not initiated by this office, the bureau director participates in weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, programs, and policies. The bureau director reviews all draft policy statements and notices of proposed rulemaking to respond to the decision-making process. Also, the bureau director reviews and comments upon proposed legislation that is being formulated by the Commission and that has been introduced and on which the Commission has been asked to testify in Congressional hearings. In both cases, the director has an opportunity to comment prior to completion of the Commission's legislative package and testimony and whenever necessary appears before Congressional committees and answers or assists in answering technical questions.

Bureau of Traffic Consumer Units

The Bureau of Traffic reports jointly to the Chairman and the Managing Director and advises the entire Commission on the publication, filing and interpretation of tariffs. The Bureau of Traffic has responsibility for reviewing and interpreting tariffs containing the rates and charges of buses, trains, trucks, inland water carriers, and surface freight forwarders and suspending rates and charges before they become effective if they appear unreasonable or unlawful.

There are six units in the Bureau of Traffic with significant consumer-oriented responsibilities. They are:

- *The Suspension Board.* The Board has a chairman and two full-time voting members and is supported by 21 transportation rate and tariff specialists. The Board analyzes protested rate changes to determine whether there is sufficient cause to suspend the effective date of the proposal pending formal investigation of its lawfulness (or reasonableness) by the Commission. The Board is empowered to suspend motor, water, and forwarder tariffs on its own initiative. The Board is a classic example of consumer protection activity.

- *The Consumer Impact Analysis Unit.* This Unit is staffed with 6 Traffic Analysts. They review newly-filed tariffs to identify rates, charges, or provisions that impact unfairly on the consumer and explore ways to eliminate items which may hinder or injure the consumer financially. The Unit provides immediate

response to tariff interpretation questions from the unsophisticated consumer and shipper.

- *The Consumer Tariff Examining Units.* The Bureau has a total of 25 tariff examiners who analyze certain tariffs in depth, searching for proposed rules, provisions, or rates which will impact unexpectedly, unfairly, and unreasonably on shippers or travelers who may not be in a position to watch tariff filings in their own behalf. "Bad" proposals are rejected out of hand and do not become effective.

- *The Tariff Integrity Board.* This Board was established in October 1979 to provide an expedited procedure for tariff users who wish to challenge unlawfully established rates. The Tariff Integrity Board is designed to afford a fast, effective remedy to rates and charges which were unlawfully established. The Board is empowered to order such tariffs stricken from the files.

- *The Special Docket Board.* Assistant consumers in obtaining refunds of freight charges which are unreasonable.

- *The Special Permission Board.* This Board acts on transportation companies' requests to file experimental or incentive rates or to advance the effective date of rate reductions.

The Bureau of Traffic answers inquiries on transportation rates and charges received on the ICC nationwide toll-free hotline. The Bureau of Traffic works closely with the Office of Communications and Consumer Affairs to disseminate information on ICC rate actions that impact on consumers, using all available media tools.

To keep apprised of all opportunities to participate in agency proceedings, the Bureau of Traffic director attends weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, programs, and policies.

From the point of view of providing as much consumer protection as possible, the Bureau of Traffic director reviews all draft notices of proposed rulemaking and policy statements and comments on them prior to their submission to the Commission for a vote and public release. The Traffic director also reviews and comments upon proposed legislation—that which is being formulated by the Commission and that which has been introduced and on which the Commission has been asked to testify in Congressional hearings—prior to completion of the Commission's proposed legislative package and testimony. In all cases, the Bureau's focus is on the projected impact of the legislation upon consumers.

Small Business Assistance Office

The Small Business Assistance Office (SBAO) reports directly to the Chairman and advises the entire Commission on small business concerns.

The office is staffed with one permanent attorney, one rotating attorney, one paralegal, and one program analyst. SBAO has a specific consumer constituency—small carriers, owner-operators, small shippers, new entrants, and minority truckers. The functions performed by SBAO range from advising and assisting

small business entities and individuals in understanding and coping with regulatory procedures to providing the Commission with a broad perspective of the impact of its decisions on small businesses and individuals.

SBAO, the Bureau of Operations and the Office of Proceedings (the ICC office which processes formal cases) work together in resolving small businesses' transportation problems. SBAO and Proceedings answer inquiries from small businesses on obtaining operating rights—licenses to perform interstate transportation. The ICC nationwide toll-free hotline is used to receive telephone inquiries and complaints from small businesses.

The Small Business Assistance Office conducts an informational outreach program to its consumer constituency. The office has prepared and disseminated a series of public advisory booklets designed to answer some basic questions on the transportation industry and to help resolve problems small businesses confront in entering the trucking business. SBAO also designed a nationwide ICC small business conference program. Six conferences have been conducted in different regions of the country. Since its creation in June 1977, the office has responded to over 30,000 complaints and requests for assistance. Additionally, SBAO works closely with the Office of Communications and Consumer Affairs to disseminate information on ICC actions that impact small businesses, using all available media tools including press releases, public service announcements, and interviews targeted particularly at small business trade newspapers and magazines.

To keep apprised of all opportunities to participate in agency proceedings, the Small Business Assistance Office Director attends weekly management meetings chaired by the Commission Chairman designed to ensure that ICC officials are aware of plans to change, initiate, or review rules, programs, and policies. The SBAO director reviews all draft notices of proposed rulemaking and policy statements to make comments prior to their submission to the Commission for a vote and public release. The SBAO director also reviews and comments upon proposed legislation—that which is being formulated by the Commission and that which has been introduced and on which the Commission has been asked to testify in Congressional hearings. In both cases, the SBAO makes input prior to finalization of the Commission's proposed legislative package and testimony.

Part 2. Coordination

The Office of Communications and Consumer Affairs serves as the Chairman's coordinator for consumer activities. The Office provides a readily accessible contact point for the general consuming public. Its functions include:

- participates in developing consumer policy and program objectives;
- develops and implements a comprehensive consumer information program designed to keep the

public informed of Commission actions affecting individual consumers;

- reports to the Chairman and advises the President's Office of Consumer Affairs on ICC consumer programs, policies, and initiatives;
- assists specialized consumer staffs in preparing informational and outreach materials to ensure full consumer participation in agency programs and proceedings.

The Office of Communications and Consumer Affairs (OCCA) is fully staffed with 5 communications and consumer affairs professionals, two para-professionals, one administrative officer, and one clerk. Its responsibilities include the Commission's general media program as well as the consumer information and coordination program.

OCCA communicates directly with the Commission Chairman and all office managers to ensure that the office is apprised of all agency rules, policies, programs, and legislation and is given an opportunity to comment—either in writing or orally—on all agency plans.

OCCA participates in the development of policies and programs, and often assists in drafting the initial language for internal agency review.

The office participates on internal agency task forces and working groups which initiate ideas for rule, policy, program, and legislative change and is active in all meetings with key agency officials.

SECTION II. CONSUMER PARTICIPATION

Interstate Commerce Commission procedures encourage and allow for early and meaningful consumer participation in the development and review of agency rules, policies, and programs.

Part 1. The ICC's Office of Special Counsel

The Office of Special Counsel was established in November 1978 to ensure that the public interest is fully represented in ICC proceedings. The Special Counsel's principal mission is to assist both the Commission and the public by ensuring that the Commission has a complete record before it—complete from the public viewpoint—so that it will be able to make a fully-informed decision. The Special Counsel has input at all stages of the decisionmaking process to Commission rules, policies, and programs.

The Special Counsel performs its mission primarily by:

- participating in appropriate Commission proceedings;
- petitioning the Commission to institute rulemakings and other proceedings in matters of public interest;
- counselling and assisting members of the public in obtaining information, dealing with the Commission and its complex regulatory procedures, and complying with the Commission's rules and regulations;
- assisting the Commission in ascertaining the public viewpoint to incorporate consumer concerns in the preparation of congressional testimony, policy formulations, and proposed legislative packages;

—acting as a “suggestion box” where members of the public can easily channel ideas relating to the public interest; and

—representing consumers, individuals and groups, or other parties who may have been unjustly treated by an ICC-regulated company or industry.

In its efforts to generate a balanced record in Commission proceedings the Special Counsel acts in an outreach capacity, as an advocate, or some combination of both. The outreach function includes locating, notifying, and assisting consumers, small businessmen, and other persons not familiar with Commission procedures, to enable them to make their views known effectively—either informally, in formal written comments, or orally at hearings. The advocacy role places the Special Counsel in the posture of a “party” to a formal commission administrative proceeding. Frequently, the Office will be an advocate at the same time it performs an outreach service. For example, it will obtain testimony (either oral or written) from individual consumers and incorporate that testimony into the Office’s case to be presented to the Commission.

The most significant criterion for the Special Counsel’s involvement in cases before the Commission is whether important public viewpoints will be represented without participation by the Special Counsel. The Office’s goal is to ensure that the interests of parties who have a very real stake in the outcome of the proceeding are adequately represented. For example, in proceedings involving the household goods moving industry, which the ICC regulates, many individuals move only once or twice in a lifetime and have neither expertise nor incentive to intervene formally in an ICC proceeding. Their moving experiences, taken as a group, however, can provide the Commission decisionmakers with valuable guidance in making necessary changes to the rules and regulations governing the interstate moving industry. Also, passengers of the intercity bus industry are generally the young, the old, and the poor, and are not usually capable of representing themselves in cases such as major rate changes. As a last example, the general consuming public is affected by almost everything the motor carrier (trucking) industry does, because the cost of transportation is a factor in the retail price of many goods. No effective consumer group, however, regularly participates in major motor carrier proceedings before the Commission, and the Special Counsel is charged with ensuring that the public interest is represented.

The Special Counsel, in conjunction with the Commission’s Office of Communications and Consumer Affairs, will take affirmative action to ensure consumers are notified of opportunities to participate in agency decisionmaking. Press releases will be targeted to consumer reporters nationwide or to specific locales, if the particular Commission action has a regional rather than nationwide impact. Television and radio public service announcements will be used to encourage consumer contacts with the

Special Counsel when that Office is attempting to obtain evidence in particular rulemakings or cases.

Consumers who have written or telephoned the Commission with complaints or suggestions will be individually contacted through letter campaigns when their contributions could be valuable to the Special Counsel’s formulation of a position in a particular proceeding. Additionally, the Special Counsel has staff available at many Commission conferences (regular meetings of the Commission), Administrative Law Judges’ hearings, and informal staff conferences throughout the Nation to assist individual consumers and groups in understanding the purpose of the meeting or hearing, how they may participate or have their views included, and the administrative procedures under which the Commission must operate.

Notification of these conferences, hearings, and meetings is made through the Office of Communications and Consumer Affairs which prepares press releases or media announcements for nationwide dissemination and a weekly calendar of Commission events available to consumers requesting to be on the mailing list. Also, for each Commission conference, oral argument before the Commission, and informal staff conference, OCCA prepares a complete public information kit describing the agenda items, options available to the Commission, background information on specific cases which will be discussed, and general ICC information.

Part 2. Informal Conferences and Meetings

Another avenue provided by the Commission to consumers wishing to participate in the formulation of ICC programs, policies, and rules is staff-conducted informal conferences. Informal conferences are chaired by senior staff officials who report to the Commission. Conferences will be scheduled upon recommendations by senior program officials on subjects that have direct consumer impact.

For example, the Bureau of Operations has specific oversight responsibility for the Commission’s regulation of the interstate moving industry. To initiate a review of the regulations through which the ICC supervises the moving industry, the Commission recently scheduled a series of informal conferences in five cities across the Nation. The conferences were designed to provide a forum in which consumers and industry representatives could address necessary changes to the way in which the ICC regulates the moving industry.

All informal conferences will be publicized by the Office of Communications and Consumer Affairs, using press releases with nationwide dissemination, radio and television public service announcements, and wire service reports. The Office of Special Counsel will also contact public and consumer representatives to interest them in participating in such events.

Part 3. Administrative Procedures for Consumer Comment

All major policy and rule changes are made available to the public for comment in the form of draft policy statements or notices of proposed rulemaking. These are published in the Federal Register. Press releases will continue to be issued announcing the proposals and encouraging all interested persons to submit written comments, in accordance with the Administrative Procedures Act. Additionally, the Office of Special Counsel notifies consumer representatives of proceedings with public impact.

SECTION III. INFORMATIONAL MATERIALS

This section outlines the current and proposed procedures for production and distribution of materials to inform consumers about: (1) the ICC's responsibilities and services, (2) procedures for consumer participation in ICC proceedings, and (3) the transportation marketplace. A task force will be established to study the ICC's needs for consumer information, to develop further information programs, and to review the consumer information program on a regular basis. Procedures will be established to make available understandable materials to consumers attending open agency meetings.

Part 1. Needs Assessment and Information Plans

A special task force will be created consisting of the Directors of the Office of Communications and Consumer Affairs (Chairman); Small Business Assistance Office; Bureaus of Operations and Traffic; and the Special Counsel. This task force will study the need for consumer information about the agency's responsibilities and services, procedures for consumer participation, and the transportation marketplace.

The task force will report to the ICC Chairman by June 30, 1980, on consumer information needs, identifiable constituent groups, current materials assessment, dissemination strategies, and new methods of outreach. Other issues to be considered include methods for determining issues, goals, and priorities; coordination of actions with the Consumer Affairs Council; coordination with other federal agencies with similar missions; mechanisms for monitoring progress; budget and staff resources; timelines for producing information materials; and methods of evaluation.

Part 2. Constituent Groups

The special task force will identify specific constituent groups which should be reached with consumer information. For example, the specialized consumer staffs at the ICC have identified the following constituent groups:

- Office of Communications and Consumer Affairs—general public
- Special Counsel— all consumers and public/consumer representatives
- Small Business Assistance Office—small truckers, small shippers, independent owner-operators,

minority truckers, new entrants in the transportation business

Bureau of Operations—consumers moving their household goods interstate; bus and train travelers, and users of rail freight transportation

Bureau of Traffic—small shippers, small carriers, and consumers affected by transportation rate changes.

The Commission's present consumer program considers various constituent groups and their informational needs when planning dissemination of consumer materials.

Part 3. Outreach Methods

The Office of Communications and Consumer Affairs (OCCA) will work with all Commission specialized consumer staffs to ensure that outreach and communications programs are effectively planned and implemented. OCCA will continue to produce routinely brochures, press releases, video tape presentations, press conferences, articles for publication in periodicals and journals, fact sheets, and consumer briefings.

Radio and television public service announcements have been produced to inform consumers of assistance available from the ICC. Television and radio PSA's currently in circulation deal with the household goods industry and encourage consumers to contact the Commission's toll-free "hotline" if they encounter a problem with an interstate move. These PSA's, with a five-year shelf life, have been disseminated to the major media markets in the country, have been targeted to the areas where moves are concentrated, and are redisseminated each year just prior to the spring/summer peak moving season.

Efforts are made by the agency to place the Chairman, Commissioners and staff on public affairs media programs, often in conjunction with a speaking engagement outside Washington, D.C.

A consumer toll-free "hotline"—in operation 12 hours each workday—is a critical component of the ICC's complaint handling system.

Small Business Assistance Workshops designed to help small businesses in their dealings with the ICC and the transportation industry have been held in six major cities and the Bureau of Operations has conducted informal conferences nationwide to review railroad freight car shortages and ICC regulations of the moving industry. Opportunities for other consumer-oriented workshops, educational forums and town meetings will be considered by the consumer information task force.

The Office of Special Counsel consistently informs public and consumer representatives, as well as individual consumers, of Commission proceedings and programs of interest or assistance.

Part 4. Assessment of Current Materials

The Commission has available a publication—*In The Public Interest*—which outlines the responsibilities of the ICC. It serves as an historical document and lists some of the services provided by the ICC but not extensively. The brochure will be republished by the

close of the fiscal year, with a concentrated emphasis on available services.

The Commission's Annual Report to Congress, published each April, includes actions taken during the preceding fiscal year to assist and protect consumers.

A series of Public Advisories has been published to advise the consumer on various aspects of the transportation marketplace. These advisories cover a wide range of subjects including: transportation of small shipments; filing of loss and damage claims; how to enter the trucking business; and rights, responsibilities, and remedies of the independent truck driver.

The ICC also widely distributes an informational booklet dealing with consumers' rights when moving their household goods interstate. This publication, which the agency requires movers to give to their prospective customers, also contains a consumer questionnaire which assists the ICC in resolving problems in household goods moving. This booklet will be updated in early 1980.

Each year, the agency publishes two performance reports on the 20 largest interstate moving companies. These reports can assist consumers in selecting a moving company. Information in the reports is derived from: (1) the performance reports filed by moving companies with the ICC; and (2) information received through the ICC's consumer assistance program.

The Commission also publishes a weekly calendar of upcoming events—public hearings and speeches—and a biweekly review of major ICC actions. These publications are disseminated to consumers who request to be on the mailing list.

The task force of ICC specialized consumer staffs, in cooperation with the Office of Communications and Consumer Affairs, will analyze the effectiveness of these current consumer information materials and develop a coordinated information program, with production schedules for new and revised materials and dissemination plans. All agency reports and publications will be reviewed to ensure they are written in plain, easy-to-understand English rather than technical, legalistic language.

Part 5. Public Materials for Open Meetings

For each public meeting of the ICC Commissioners, the Office of Communications and Consumer Affairs issues a notice one week prior to the meeting announcing the day, time, location, agenda items, and staff information sources on the subject of the meeting. The notice is posted and distributed to the public and is run on the wire services and delivered to major media.

Additionally, this office prepares a background information kit for public dissemination at the meeting. The kit includes the meeting agenda, a summary of the issues and options to be discussed by the Commission, related Commission decisions and/or reports, a listing of Commissioners who will participate in the meeting, and any other relevant information.

Staff from the Office of Communications and Consumer Affairs, Office of Special Counsel and the

legal and program offices are always available at public meetings to answer questions or explain items discussed by the Commission.

For informal public meetings conducted by ICC staff, similar background information packages are prepared whenever appropriate. Generally, press releases, rather than public notices, are issued to announce these informal meetings, and if the subject matter of the meeting has particular consumer impact, the Office of Special Counsel will initiate letter and telephone campaigns to solicit consumer and public representation at the meeting.

SECTION IV. EDUCATION AND TRAINING

Part 1. Educating ICC Staff

The Interstate Commerce Commission, through its National Training Center, will provide training to its consumer affairs personnel. Future training will include reference to the policies embodied in Executive Order 12160. Two courses, to be conducted annually, have been designed to ensure effective consumer assistance:

- *Consumer Assistance Center Training:* This 3-day course is designed for ICC personnel who staff the Washington consumer assistance center to ensure participants are able to:

- (1) Identify the functions of the ICC in relation to consumer assistance;
- (2) Process all consumer complaints and inquiries received at the consumer assistance center; and
- (3) Identify specialized consumer assistance responsibilities of bureaus and offices within the ICC.

- *School for Transportation Consumer Specialists:* This annual training, consisting of two 1-week sessions, is designed for transportation assistants and transportation consumer specialists in the ICC field and regional offices. The purposes of the training are to better qualify recently appointed employees to handle ICC-related consumer complaints and inquiries; to upgrade the performance of experienced employees in dealing with consumers; to provide for uniform interpretation of ICC rules and regulations; and to ensure uniformity, consistency, and quality in complaint handling.

Because effective communications play a vital role in ensuring that consumers understand ICC rules, policies, programs, and legislation, the ICC conducts two communications training programs for Commission employees:

- *Public Information Training Seminars:* These 1-day seminars are designed to introduce Washington and regional employees to methods of effectively disseminating clear, concise information on ICC activities. The seminars focus on dealing with the media, including consumer reporters.

- *Effective Writing Workshop:* These 1-day workshops are held monthly for all ICC employees to improve the format, style, and clarity of Commission documents. The intent is to encourage substitution of plain English for the archaic, legalistic language too often used by Government.

Part 2. Internal Agency Communication

The Office of Communications and Consumer Affairs will be responsible for communicating to agency staff changes in the structure and procedures of the ICC's consumer program. This will be accomplished through the Commission's internal newsletter to all ICC employees, memoranda to all employees, or appropriate staff meetings.

Part 3. Technical Assistance

The ICC provides technical assistance to consumers through: the Office of Special Counsel, the Bureau of Traffic, the Bureau of Operations, and the Small Business Assistance Office.

The Office of Special Counsel will answer procedural and legal questions related to ICC proceedings and will assist consumer groups in the preparation of formal documents, e.g., complaints, interventions, comments, to be filed in cases before the Commission. All consumers, individuals or groups, will be assisted upon request.

The Bureau of Traffic will answer consumers' technical inquiries on the rates and charges of transportation companies, and the Bureau of Operations will respond to technical questions on railroad and motor carrier—trucks and buses—transportation matters. Assistance from these bureaus includes production of informational materials on technical issues and direct communication with consumers through the nationwide toll-free hotline system.

The Small Business Assistance Office (SBAO) will provide technical assistance to a specific constituency of consumers—small businesses, minority truckers, new entrants, small shippers, and small carriers. SBAO's technical assistance includes production of brochures explaining ICC procedures; direct communication, both in person and via telephone, with persons needing assistance; and help in preparing applications and other formal documents to be filed with the ICC. The assistance provided is both legal and technical. Additionally, this office will analyze the changing problems and concerns of small business and will plan and design recommended programs—both in-house projects and public outreach forums—to meet identified needs. Any person or organization which considers itself a small business will be assisted.

SECTION V. COMPLAINT HANDLING

The Interstate Commerce Commission's procedures for consumer complaint handling provide for systematic logging, investigating, and responding to consumer complaints. Statistical reporting of complaint data, analysis, and a means of presenting this information to the Commission are currently under study.

Summary of Complaint Handling Procedures

The Commission's fully automated complaint handling system became effective at the Interstate Commerce Commission on October 1, 1979, and provides for:

- Establishment of a National Consumer Assistance Center (Section of Consumer Assistance, Bureau of Operations) with expanded toll-free "hotline" telephone capabilities;
- Establishment of six Regional Consumer Assistance Centers and three subregional centers;
- Complaint information to be placed in a computerized system upon receipt;
- Computer capability—for both national and regional centers—for input, referral, and updating complaint data;
- "Emergency hardship complaints" to be immediately handled by national and regional centers;
- Non-emergency complaints to be handled by the regional center with supervision over the regulated transportation carrier's domicile;
- A random sampling procedure to contact complainants for the purposes of evaluating the system and satisfaction levels.

Part 1. Public Awareness of the Complaint Handling Procedures

The Office of Communications and Consumer Affairs will be responsible for heightening public awareness of the ICC's receptivity to consumer complaints.

This office will initiate public awareness programs to educate the consumer on the Commission's mission and the assistance available to consumers. This program would include, but not be limited to: pamphlets, press releases, and radio and television public service announcements which "advertise" the services provided by the Commission and the means to contact the agency. The office will contact consumer groups to ensure their awareness of the role the Commission plays in handling consumer complaints.

All "educational" material will advise the consumer to contact the Commission's toll-free "hotline" when they have a complaint. This "hotline" is maintained by the Consumer Assistance Section, Bureau of Operations. The consumer who wishes to write his/her complaint will be advised to write the Bureau of Operations, Section of Consumer Assistance, Room 7310, Interstate Commerce Commission, Washington, D.C. 20423.

Part 2. Complaint Receiving, Logging, and Referral

A. Complaints received on the "hotline." The initial telephone contact and referral action is an essential element to the overall success of the complaint handling system. Immediately upon receipt, specified information on the complainant and the complaint will be entered in a sophisticated computer program to ensure timely and accurate referral and response.

If the complaint requires immediate action, the national center will be responsible.

Non-emergency complaints will be referred to the ICC office in Washington with expertise in the subject or to the regional center with jurisdiction over the carrier involved.

B. Complaints received by telephone in the regional centers. There are six regional complaint centers: Boston, MA; Philadelphia, PA; Atlanta, GA; Chicago, IL; Fort Worth, TX; and San Francisco, CA. The regional center staff members will respond to incoming telephone calls involving inquiries and complaints. If the call involves a complaint, the staff member will develop the required essential information for entry into the computer system.

If the call involves an "emergency hardship" complaint, the staff member will either handle the complaint to a resolution or will refer the complaint to the National Complaint Center for immediate handling.

If the call is a non-emergency complaint involving a carrier within that region, the regional center will handle the complaint to conclusion. If the call is a non-emergency involving a carrier outside the receiving region, the complaint will be referred via computer to the appropriate regional center.

C. Complaints received by telephone in the field offices. Field personnel (the ICC has 51 field offices) will encourage the complainant to use the toll-free "hotline" to the national center or will refer the caller to the closest regional center.

D. Written complaints received in Washington. Written complaints received in the Bureau of Operations are included in the computerized complaint system. A study will be conducted to determine the means of entering all written complaints received by the Commission. Written complaints will be referred and responded to by Washington staffs with subject matter expertise.

E. Written complaints received in the regional centers. All written complaints received in the regional centers, involving transportation companies (carriers) in that region, will be handled to conclusion. If the complaint involves carriers domiciled outside of the receiving region, the complaint will be acknowledged and the file forwarded for response to the appropriate regional center having jurisdiction over the carrier.

F. Written complaints received in the field offices. All written complaints will be acknowledged at the point of receipt and forwarded for response to the regional center with jurisdiction over the carrier.

Part 3. Tracking of Complaints

A "Complaint Assistance Report" will be used to provide the staff with data on the number and types of complaints received; the status of pending complaints; the responsible Commission office; how complaints were handled to conclusion; and identification of the carrier(s) involved. The computer program has been designed so that information can be retrieved in any desired category.

When a complaint has been resolved, the original computer-generated Complaint Assistance Report, with all working papers or notes, will be filed in the regional center with jurisdiction over the carrier involved.

Part 4. Responding to Complaints

A. Written complaints will be acknowledged within 5 working days after receipt unless the complaint handling can be concluded earlier.

B. Telephone emergency hardship complaints will receive immediate handling and will generally be resolved within 8 hours of receipt. Non-emergency telephone complaints are generally disposed of by a call-back or letter. If investigation is not complete within 60 days, an interim notice will be sent to the complainant explaining the delay.

Part 5. Statistical Reporting and Analysis of Complaints

Since the Commission's new complaint handling system has only been in effect since October 1, 1979, a system of statistical reporting, analysis, and input into Commission policymaking has not been implemented.

The system was designed to provide reports on the number and types of complaints received, how complaints were resolved, the transportation companies involved, and the status of pending complaints. This information will be routinely provided to Commission decisionmakers.

The formal and reporting periods for submission of this data to the Commission is under study.

Part 6. Evaluation of the Complaint Handling System

Complainants, through a computerized random sampling procedure, will be periodically contacted by the Bureau of Operations for purposes of evaluating the Commission's complaint handling system and complainant satisfaction.

An independent task force of Commission personnel has been established to review periodically the complaint handling system and consumer satisfaction with the agency's responsiveness during the first year of the new program's operation. Their report, findings and recommendations will be forwarded to the Chairman for review and evaluation.

Agatha L. Mergenovich,
Secretary.

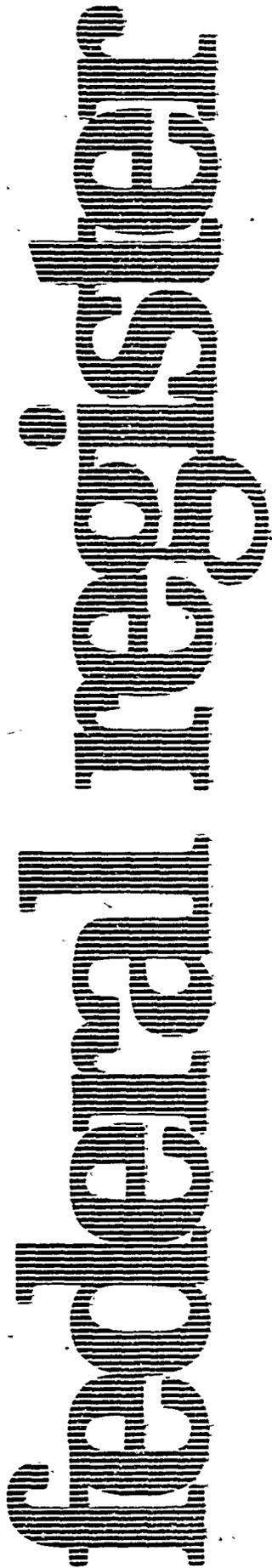
[FR Doc. 79-36982 Filed 12-7-79; 8:45 am]
BILLING CODE 7035-01-M

Monday
December 10, 1979

Part VI—Section C

**National
Transportation
Safety Board**

Draft Consumer Program



NATIONAL TRANSPORTATION SAFETY BOARD**Guidelines on Consumer Information****AGENCY:** National Transportation Safety Board.**ACTION:** Guidelines on Consumer Information.

SUMMARY: The National Transportation Safety Board (NTSB) is issuing this Notice in order that consumer information regarding the NTSB will be included within the body of published information on Government consumer programs. The public is also invited to submit comments on this program.

DATES: Comments must be received on or before March 10, 1980.

ADDRESS: Comments should be sent to the Director, Bureau of Administration, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

FOR FURTHER INFORMATION CONTACT: Mr. B. Michael Levins, Director, Bureau of Administration, (202-472-6111), National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594. Office hours are from 8:30 a.m. to 5:00 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: The NTSB has been exempted from the provisions of Executive Order 12160 regarding Federal consumer programs. However, in order that information about the NTSB will be included within the body of published information on Government consumer programs, we are herein summarizing the elements of the NTSB program as published in Parts 800 and 801 of Title 49, Code of Federal Regulations, that fall within the scope of the Executive Order.

The NTSB is an independent agency with responsibility for the investigation of transportation accidents and other safety problems in the five modes of transportation which are regulated by other agencies of the Federal Government. In accomplishing this function, the NTSB:

1. Investigates and determines the facts, conditions, and circumstances and the cause or probable cause of:

(a) All civil aviation accidents and certain incidents which involve previously identified safety issues (certain accidents are investigated by the Federal Aviation Administration for the NTSB—see 49 CFR Part 800, Appendix);

(b) All railroad accidents involving a fatality, property damage in excess of \$150,000, or a passenger train, and other selected accidents which involve previously identified safety issues or problems;

(c) Selected highway accidents involving five or more fatalities, all school bus accidents involving three or more fatalities, all catastrophic highway accidents which are of high regional or national interest, including railroad grade crossing accidents, and other selected highway accidents involving previously identified safety issues or problems;

(d) Marine casualties involving a public vessel and a nonpublic vessel; and major marine casualties occurring in the navigable waters of the United States or that involved a resale of the United States that

result in the loss of six or more lives; the loss of a mechanically propelled vessel of 100 or more gross tons; property damage initially estimated as \$500,000 or more; or serious threat, as determined by the Commandant of the United States Coast Guard and concurred in by the Chairman of the NTSB, to life, property, or the environment by hazardous materials (certain accidents are investigated, upon request, by the United States Coast Guard for the NTSB); and

(e) All pipeline accidents in which there is a fatality or property damage in excess of \$100,000 and other pipeline accidents which involve previously identified safety issues or problems.

2. Initiates and conducts special studies, special investigation, and safety effectiveness evaluations on matters pertaining to safety in transportation.

3. Makes transportation safety recommendations to Federal, State, and local agencies and interested persons to reduce the likelihood of recurrence of transportation accidents.

4. Reviews airmen and seamen appeals resulting from certificate denials, suspensions or revocations.

The five-Member Board of the NTSB conducts meetings which are open to the public, and announced in the Federal Register, to discuss the major reports of the Board, such as major accident investigations, safety recommendations, special studies, special investigations, and safety effectiveness evaluations. In addition, it conducts public hearings of selected accidents which are open to the public and announced in the Federal Register. Notice concerning the availability of the major NTSB public documents, including safety recommendations and the responses thereto by the parties to whom they are addressed, are also published in the Federal Register. The NTSB publicizes all significant accident investigations, accident hearings, and recommendations through press releases.

The results of the NTSB program activity are made available to the public in the form of the following documents in either report form or files for inspection and copying, except that documents (or more usually parts thereof) which the Board specifically determines must not be not disclosed in the national interest, or for the protection of individual rights, or for the efficient conduct of public business are withheld as authorized by the Freedom of Information Act:

1. Factual reports, including public hearing transcripts and exhibits, if applicable, and the determination of probable cause in aviation, railroad, highway, marine, and pipeline accident investigations.

2. Safety recommendations issued by the Board, and responses thereto.

3. Special studies, special investigations, safety effectiveness evaluations, and safety reports.

4. Press releases.

5. The NTSB's rules as published in the Code of Federal Regulations, Title 49, Parts 800-899.

6. Quarterly indices and copies of the initial decisions of the Administrative Law Judges.

7. Quarterly indices and copies of the Board's Opinions and Orders in aviation and maritime enforcement cases.

8. Staff manuals.

9. Annual Report to Congress.

This information is available from the Public Inquiries Section, National Transportation Safety Board, 800 Independence Avenue, S.W., Room 808G, Washington, D.C. 20594. In requesting records concerning particular accidents, it is necessary to identify the mode of transportation, date, and location of the occurrence.

Any other consumer information concerning the programs of the NTSB should be requested from the Office of Public Affairs, National Transportation Safety Board, 800 Independence Avenue, S.W., Room 810D, Washington, D.C. 20594, telephone 202-472-6100.

Dated: November 26, 1979.

James B. King,

Chairman.

[FR Doc. 79-36795 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-58-M

POSTAL RATE COMMISSION

Monday
December 10, 1979

Part VI—Section D

**Postal Rate
Commission**

Draft Consumer Program

POSTAL RATE COMMISSION**AGENCY:** Postal Rate Commission.**ACTION:** Draft Consumer Program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Secretary, Postal Rate Commission, 2000 L Street, NW., Washington, D.C. 20268.**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, Officer of the Commission, (202) 254-3840.**AUTHORITY:** By direction of the Commission, this draft consumer program is published in order to elicit public comment.

Executive Order No. 12160, "Program for Enhancement and Coordination of Federal Consumer Programs," was issued on September 26, 1979. Under Section 1-902 of that Order, independent regulatory agencies are exempt from mandatory compliance, but Section 1-804 invites these agencies to participate. Pursuant to Section 1-804, the Postal Rate Commission, an independent regulatory agency responsible for recommending postal rates and service classifications; for considering formal complaints about postal rates and service schedules; for advising on changes in the nature of postal services; and for reviewing appeals of Postal Service determinations to close post offices; voluntarily presents this program for implementing Executive Order No. 12160.

I. CONSUMER AFFAIRS PERSPECTIVE**A. Establishment of the Office of the Officer of the Commission**

Section 3624(a) of title 39 of the United States Code provides that in every postal rate and classification proceeding an "officer of the Commission" shall be appointed "who shall be required to represent the interests of the general public." The duties and responsibilities of the Officer of the Commission have been expanded by the establishment of a permanent, separate Office of the Officer of the Commission. This office is responsible for representing the needs and interests of consumers in the development and review of all agency rules, policies, programs and legislation.

Previously, an Officer of the Commission appeared in formal Commission proceedings supported by employees assigned from various Commission divisions. Establishment of a permanent office with continuing responsibility for considering and addressing consumer needs and interests provides informed, expert representation of consumer interests during the development and review of all Commission actions.

The Office of the Officer of the Commission is managed by the Officer of the Commission who reports directly to the Commission itself. The Office of the Officer of the Commission employs a multi-disciplined staff including attorneys, economists, accountants, statisticians, industrial engineers and rate analysts. This staff comprises approximately one-third of the professional staff of the Commission.

B. Participation in Formal Commission Proceedings

Substantive Commission policies are established during consideration of proposals to change postal rates and/or services. Section 3624 of title 39 requires that such decisions be made on the basis of an evidentiary record developed in conformance with 5 U.S.C. §§ 556 and 557. These standards, and the formal procedural requirements applicable to Commission proceedings, insure consumer access to the decisionmaking process and that fair consideration is given to consumer needs and interests raised during these proceedings.

Whenever a formal proceeding has been initiated under 39 U.S.C. § 3624, an Officer of the Commission is appointed immediately to represent the interests of the general public. As a party to all formal proceedings, the Office of the Officer of the Commission is able to utilize continuing analyses to evaluate proposals, present evidence relating to the public interest, and to rebut other participants when necessary to adequately present consumer viewpoints.

During the course of a formal proceeding, the Office of the Officer of the Commission is provided sufficient resources to insure complete representation of the interests of the general public. This representation includes explication and presentation of the public policy positions, development of a complete evidentiary record on matters at issue, and provision of assistance to interested members of the public who wish to present their concerns to the Commission individually.

Consumers who wish to present their views to the Commission have several options available to them. Commission rules allow formal intervention by any interested person or group. This enables individual consumers and consumer groups to present their positions directly. The Office of the Officer of the Commission provides procedural assistance to consumers presenting their own views. Additionally, the Officer of the Commission's own presentation may develop a particular consumer's position more comprehensively.

The Commission also provides for participation in its proceedings through a "commenter" process. Members of the public may present their views to the Commission in writing at any stage in a proceeding as commenters. Commenters' views are made a part of the Commission file in every case and are available for review by the Officer of the Commission, other parties, Commissioners and the Commission staff. Parties, or the Commission itself, can act to make a comment part of the decisional record, and the Officer of the Commission may incorporate the views expressed in comments in its presentation to the Commission, or may assist commenters who wish to appear before the Commission to present their views personally.

Another type of formal proceeding is one initiated to enact rules for use in formal Commission proceedings. Pursuant to Executive Order 12044, dated March 24, 1978, the Commission undertakes an annual review of its rules. In all rulemaking the Officer of the

Commission is a party and presents the views of the Office of the Officer of the Commission to the Commission. The position of the Office of the Officer of the Commission reflects both the experience gained in previous litigation on behalf of the public, and the complaints, suggestions, and requests of individuals or groups received by the Office during the previous year.

C. Participation in Informal Commission Proceedings

The Officer of the Commission is responsible for insuring that consumer needs and interests are considered in the informal development and review of agency rules, policies, programs and legislation. Internal Commission procedures insure the participation of the Officer of the Commission. Staff proposals to change, initiate, develop or review agency rules, policies, programs and legislation not at issue in formal proceedings must be circulated to the Officer of the Commission for comment. Each office, including the Office of the Officer of the Commission, suggests legislative and substantive programs to the Commission on an ongoing basis, and the Officer of the Commission is charged with suggesting Commission programs relevant to the needs and interests of consumers.

Pursuant to its general authority to recommend postal rates and services in the public interest, the Commission initiates a broad range of fact-finding programs to ascertain trends in utility regulation applicable to postal matters. The Office of the Officer of the Commission, under the overall direction of the Chairman, is responsible for initiating and implementing programs aimed at identifying areas of consumer needs and public interests related to postal services.

Additionally, it is Commission policy for Officer of the Commission personnel to attend public meetings which will expand Commission awareness of consumer attitudes and desires, and responsible Commission employees are available to participate in such programs.

II. CONSUMER PARTICIPATION

The primary policy and rulemaking duties of the Commission are discharged in quasi-judicial proceedings, subject to the provisions of the Administrative Procedures Act. Consumers are able to participate on an equal footing with other parties and have available all of the alternatives described in Section I. The Office of the Officer of the Commission provides procedural assistance to consumers at every stage of formal Commission proceedings.

Consumer participation in the development of non-case-related Commission activities is also quite extensive. These programs are designed to investigate areas of identified concern, and consumer input is often a major factor leading to the establishment of a fact-finding effort. Comments and suggestions the Commission receives from the public are reviewed by the Office of the Officer of the Commission, which has

direct access to the Commission and is responsible for recommending subjects for Commission inquiries which reflect consumer needs and interests.

It is Commission policy to seek consumer input, and both Commissioners and responsible Commission officials participate in consumer-oriented programs particularly at locations where postal matters are likely to be discussed. At such appearances the procedures applicable to participation in Commission proceedings are emphasized.

Notice of Commission proceedings is provided through extensive media publicity, as well as through formal notice procedures. An extensive mailing list of interested persons and groups is maintained and those listed are notified of each new Commission proceeding.

III. INFORMATIONAL MATERIALS

Commission policy is to disseminate to consumers a broad range of materials which describe Commission activities and responsibilities. An Information office has been established [(202) 254-5614] which is responsible for performing this function.

Several documents of interest to consumers are available by contracting the Information Office. First, the Information Office publishes and distributes a biweekly document review which describes all pending Commission proceedings and notes important events in each proceeding. Second, the Information Office publishes and distributes a pamphlet which includes a general description of Commission operations and activities. A third pamphlet is available which outlines procedures followed in formal proceedings, and interested members of the public may also obtain, free of charge, copies of the Commission rules of practice and procedure, which detail the steps to be followed to participate in formal proceedings. Finally, the Information Office will commence publication and distribution of a comprehensive annual report in 1980 which will describe important activities and events that occurred in the previous year.

The Public Information Office is available to answer general questions concerning Commission responsibilities and services, and the Office of the Officer of the Commission will provide technical assistance to any consumer seeking information on the scope of Commission authority, or on the subject matter of current or past Commission proceedings.

Commission meetings are open to the public with notice published in the Federal Register. Personal assistance from either the Public Information Office or the Office of the Officer of the Commission will be provided to members of the public attending Commission meetings. All documents filed in formal Commission proceedings are available in a public docket room and may be examined during Commission office hours.

IV. EDUCATION AND TRAINING

Materials shall be prepared which describe and explain Executive Order 12160 and the Commission

Consumer Affairs Program as herein described. These materials shall be distributed throughout the Commission.

Employees in the Office of the Officer of the Commission are required to have educational and professional experience and training which will prepare them to recognize and represent consumer interests. The Commission employee improvement program provides funds to assist employees to further their education in relevant fields such as economics, marketing and law.

V. COMPLAINT HANDLING

An important Commission function is to hear formal complaints from persons who believe that the Postal Service is charging rates or providing postal services not in accordance with the policies of Title 39 of the United States Code. Such complaints are considered in formal proceedings, and an Officer of the Commission participates, representing the interests of the general public.

Persons seeking less formal recourse may lodge an informal complaint with the Commission orally or in writing. Complaints of this nature are normally received by the Secretary of the Commission or by the Public Information Office. It is Commission policy to investigate and respond promptly to informal consumer complaints. When investigation reveals that a serious problem remains unresolved, the Commission will take appropriate action to resolve the difficulty. This may involve initiation of a formal proceeding, as described in the preceding paragraph, in which case an Officer of the Commission shall be appointed to represent the interests of the general public.

David F. Harris,
Secretary.

BILLING CODE 7715-01-M

APPENDIX

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The Postal Rate Commission wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?

I am interested in it as an individual consumer.

I am concerned about it, because I represent a public interest consumer group.

I am concerned about it, because I represent a private company or organization.

2. After reading about our consumer program, do you think you understand how it works?

Yes, it is clear and I understand it.

Yes, I understand most of it.

No. Much of it is not clear to me.

3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?

Yes

No. Why? _____

4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?

It seems adequate.

It is not adequate. Why? _____

5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers.

How good is our plan?

Adequate.

Not adequate. Why? _____

6. After reading our proposed consumer program, do you know whom or which office in the Postal Rate Commission to contact if you have:
- A complaint? Yes No
- A general question about the agency? Yes No
- A question about how to take part in agency proceedings? Yes No
7. Do you know who or which office in the Postal Rate Commission speaks for the consumer? Yes No
- Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
- No
- Yes, in the following areas:
- Consumer participation _____
- _____
- Informational materials _____
- _____
- Complaint handling _____
- _____
9. Other comments or suggestions? (Use additional pages, if necessary.)

your name

your address

city, state, zip

SEND THIS FORM DIRECTLY TO: Secretary
Postal Rate Commission
2000 L Street, N. W.
Washington, D. C. 20268

Monday
December 10, 1979

Part VI—Section E

Postal Service

Draft Consumer Program

POSTAL SERVICE
DRAFT CONSUMER PROGRAM

POSTAL SERVICE**Draft Consumer Program; Report on Implementation of Executive Order 12160****AGENCY:** Postal Service.**ACTION:** Draft Consumer Program.

SUMMARY: This notice responds to section 1-501 of Executive Order 12160, Providing for Enhancement and Coordination of Federal Consumer Programs (the Order). Section 1-501 of the Order requires that each executive agency publish in the Federal Register for public comment a draft report on its consumer programs, including the following five elements: (1) Consumer Affairs Perspective, (2) Consumer Participation, (3) Informational Materials, (4) Education and Training, and (5) Complaint Handling. Although the Postal Service is not subject to the Order, it has chosen to participate to the extent practical and feasible consistent with the public interest and fulfillment of the primary mission of the Postal Service.

DATE: Comments must be received on or before March 10, 1980.

ADDRESS: Written comments should be mailed or delivered to the Consumer Advocate, Headquarters, U.S. Postal Service, Room 5806, 475 L'Enfant Plaza West, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, at the above location.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Chadwick, (202) 245-4550.

SUPPLEMENTARY INFORMATION: The President issued Executive Order 12160 entitled "Providing for Enhancement and Coordination of Federal Consumer Programs" on September 26, 1979. The Order establishes a Consumer Affairs Council consisting of representatives of twelve named Federal departments, plus such other officers or employees as the President may designate:

The Chairperson of the Council, assisted by the Council, is required to insure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. To this end agency consumer programs are to be reviewed and revised, as necessary, to meet the five elements outlined in the Summary above. Since the Order is not based on statutory authority made applicable to the Postal Service, the Order does not cover the Postal Service as a matter of law. Nevertheless, the consumer program of the Postal Service has been tailored to meet the five elements specified in the Order, and reads as follows:

DRAFT POSTAL SERVICE CONSUMER PROGRAM**1. CONSUMER AFFAIRS PERSPECTIVE****(a) Consumer Advocate**

In 1971 the Office of the Consumer Advocate was created to provide a direct channel of communication

between postal customers and the Postal Service. The Consumer Advocate is the spokesman for the individual mail user. He provides an independent evaluation of mail service to the individual customer. He also expedites action on customer inquiries and complaints and is responsible for seeing that the appropriate office takes corrective action. He makes recommendations for policy changes to improve the individual user's mail service and acts as liaison with consumer groups.

The Consumer Advocate is an officer of the Postal Service with authority to cut redtape and enter anywhere in the Postal Service to obtain solutions to consumer problems. The Consumer Advocate manages the Office of Consumer Affairs. The Office of Consumer Affairs is organized into two divisions: the Consumer Response Division and the Consumer Support Division. Responsibility for investigating, resolving and responding to consumer complaints and inquiries rests with the Consumer Response Division, which also recommends policy changes affecting services in top management deliberations and decisionmaking.

The Support Division has the responsibility for analyzing consumer complaints received at post offices and national Headquarters. This division also is charged with administering the National Consumer Service Card Program.

(b) Location of Consumer Affairs

The Office of Consumer Affairs is located in the Customer Services Department at Postal Service Headquarters. 39 CFR 224.1(c)(3)(iv). The Consumer Advocate reports to the Assistant Postmaster General, Customer Services, but as an officer maintains a dotted-line relationship to the Postmaster General and other officers, which entitles him to direct access to each of them. 39 CFR 221.7.

(c) Consumer Affairs Staffing

The consumer affairs staff includes project and program managers, complaints analysts, clerk typists and secretaries. The immediate Headquarters staff has an authorized complement of twenty-seven positions. It should be noted that several other organizations at Postal Service Headquarters perform some consumer affairs functions, and thousands of field employees handle consumer affairs matters as part of their jobs, in part at the direction of the Office of Consumer Affairs.

(d) Other Consumer Affairs Staff Responsibilities

The Office of Consumer Affairs has associates who investigate, resolve and respond to consumer complaints, inquiries and suggestions received at Postal Service Headquarters. Consumer Affairs also administers the national Consumer Service Card Program for recording and analyzing consumer complaints received at post offices. A detached unit with an authorized complement of ten positions supports the card program.

(e) Relationship to Other Staffs

The Office of Consumer Affairs, Customer Services Department, acts in conjunction with the Public and Employee Communications Department to educate consumers concerning postal services and products. Consumer Affairs also cooperates with the Postal Inspection Service and the Consumer Protection Division of the Law Department in solving mail order problems and in protecting consumers from mail fraud and misrepresentation. Consumer Affairs works with market research specialists to develop information on consumer awareness of and satisfaction with postal consumer programs. Complaints analysis reports prepared by Consumer Affairs are used by operations managers in their efforts to improve services.

(f) Review of Policies and Programs

To the extent appropriate, proposed changes in rules, policies, programs and legislation are referred to the Office of Consumer Affairs for comment prior to final decision.

(g) Stages of Participation in the Decisionmaking Process

Consumer Affairs staff participates in the decision-making process by serving on task forces, performing independent studies of services and policies, meeting with top agency officials, and submitting written comments on proposals.

2. CONSUMER PARTICIPATION**(a) Stages of Consumer Participation**

(1) The Postal Service takes steps to provide for early and effective public participation in the rulemaking process. While a regulation is in the early stages of development, the Postal Service ordinarily calls it to the attention of parties known to have an interest in it. For example, the Postal Service, prior to the publication of its packaging regulations in proposed rule form, conducted an intensive packaging task force study with the cooperation of major mailers' associations. The packaging regulations thus were able to reflect commercial standards identified during the study.

When the Postal Service determines that the general public would be interested to comment on a proposed new or amended regulation, the Service publishes the proposed regulation in the Federal Register, generally with 30 days allowed for comment. At or about the same time, if it is believed that the rule has or might have a wide effect on the general public, the Postal Service issues a press release informing the public of the proposal and inviting their comments.

(2) Consumers can participate in proceedings before the Postal Rate Commission. The Commission is an independent agency established by the Postal Reorganization Act (39 U.S.C. 3601-04). The Commission conducts formal hearings on proposed changes in postal rates, fees, and mail classification and issues recommended decisions to the Governors of the Postal Service. The Commission also holds

formal hearings on proposed changes in the nature of postal service on a nationwide or substantially nationwide basis. An officer of the Commission is designated to represent the interests of the general public in these proceedings.

(3) Before making a determination as to the necessity for closing or consolidating any post office, the Postal Service must notify the persons served by such post office, at least 60 days before the proposed date of closing or consolidation, to insure that they will have an opportunity to present their views. Persons served may appeal a decision by the Postal Service to close or consolidate a post office to the Postal Rate Commission.

(4) The Postmaster General considers the views of the Citizens Stamp Advisory Committee before selecting the subjects and artwork for stamps designed for philatelic purposes. Members of the Committee are expert in the fields of art, printing, history and philately.

(5) The Postal Service recently started a program to expand Postal Customer Councils to involve consumers. Consumer Affairs also experimented with the Town Hall meeting concept but this has not been fully tested.

(b) Avenues of Participation

(1) Users of postal services participate in the development of postal regulations by commenting in writing or orally on proposed regulations published by the Postal Service in the Federal Register.

(2) Consumers may participate in Postal Rate Commission proceedings in accordance with Commission rules, and may appeal decisions of the Governors of the Postal Service to any U.S. court of appeals.

(3) Persons served by a post office being considered for closing or consolidation may comment in writing on the proposal, and may file a written appeal to the Postal Rate Commission of any determination to close or consolidate a post office.

(4) Postal customers may make written recommendations to the Citizens Stamp Advisory Committee concerning their choices for new stamps.

(5) The Postal Service welcomes suggestions and comments from postal customers. In many communities the Postal Service sponsors Postal Customer Councils, which provide an opportunity for discussion with customers about service problems and suggestions and to help the public better understand the Postal Service. The Councils conduct mailing clinics, discussion panels, seminars, and tours of postal facilities. Local postal officials are encouraged to meet with consumer representatives to discuss plans for changes in local policies and services.

(c) Analysis and Consideration of Consumer Concerns

A variety of research is done to determine consumer concerns. Customer attitude surveys are prepared by market research specialists. Complaint analysis reports are circulated to management. Surveys are

made to determine consumer satisfaction with consumer affairs programs.

(d) Responsibility for Citizen Participation

Except for public rulemaking proceedings, post office closings, and proceedings before the Postal Rate Commission, the Consumer Advocate will be responsible for implementing agency consumer participation responsibilities under Executive Order No. 12160. Responsibility for citizen participation in public rulemaking proceedings and post office closings rests on the staff of the operating division.

(e) Consumer Participation Forums

Details concerning the format, level of participating agency officials, geographical dispersion, and approximate number per year of forums to facilitate consumer interaction with agency officials are not available at this time. This information will be available when tests of various methods for citizen participation have been completed.

(f) Publicity for Consumer Participation

As noted above, the Postal Service issues press releases requesting public comment when a rule is proposed that the Service believes might have a wide effect on the public. In addition, major mailers are frequently notified orally or by mail of such proposed rule changes. As to post office closings, the Postal Service posts a notice on the bulletin board of the post office affected. We are also developing a communications program as part of our tests of citizen participation methods.

3. Informational Materials

(a) Current Informational Materials

The Postal Service produces and distributes to post offices several booklets and pamphlets to inform consumers about the various classes of mail and mail services in general and about specific areas of interest such as packaging and mail fraud.

There are also major informational efforts each year to promote an awareness to "Shop Early—Mail Early" at Christmas, and a Postal Consumer Protection Week (held this year from Sept. 24–29, 1979) to warn the public about mail fraud and false representation through the mails. The latter program has done much to increase the public's knowledge of these problem areas, and how the work of the Postal Service's Inspection Service, Consumer Protection Division, Consumer Advocate and the Judicial Officer protects the public.

A basic publication available at post offices that contains much useful and general information about postal services is the *Mailers Guide* (Publication 19). It has information about each class of mail, service standards and background on special services. A shorter, more concise pamphlet containing much of the same material is *A Consumer's Directory to Postal Services and Products* (Publication 201). Also available at post offices, it touches on such subjects of

interest to consumers as claims for lost or damaged mail; passport applications; mail forwarding; Self-Service Postal Centers and Stamps by Mail.

There are several pamphlets on specialized areas such as parcel post, packaging, mail fraud and services like Express Mail that contain information of interest to consumers. These various publications are available at post offices where copies can be had free of charge.

These various publications are updated periodically, but some of the information is subject to change and will not always be current. The new *Domestic Mail Manual* and the weekly *Postal Bulletin*, maintained at all post offices and available to the public for reference, are the primary sources for current postal rates and regulations. Subscription to these publications can be purchased by writing the Government Printing Office, Washington, D.C. 20402. *The National ZIP Code and Post Office Directory* combines ZIP Code information for every mailing address in the nation with listings of post offices arranged in several convenient ways. It also can be ordered by writing the Government Printing Office.

Business consumers may find *Memo to Mailers*, a monthly publication that advises on rate and classification changes as well as other postal news, quite helpful. It can be ordered free of charge by writing to: Memo to Mailers, P.O. Box 1600, La Plata, MD 20646.

(b) Plans for Additional or Revised Informational Materials

Plans this year for revised informational materials center on the introduction of the new Consumer Service Card, tentatively scheduled for introduction in early calendar 1980. These materials will be developed at headquarters and distributed to post offices through the postal supply system. The promotion effort will be carried out by headquarters, regional communication staff and by public information officers at various postal facilities in cooperation with Regional Consumer Service Card Coordinators.

The communication efforts to promote the revised card and increase the public's perception of the existence of a way to make complaints and suggestions about service will likely include the following elements: television and radio public service announcements; localized news releases; newspaper advertisements; speeches and press conferences by postmasters; briefings and a possible slide show for postal employees; and possible media tours by the Consumer Advocate.

There are also likely to be lobby displays and a redesigned card holder to increase public awareness of the Consumer Service Card when visiting the post office.

(c) Timetable for New Informational Materials

The materials mentioned in the previous section will be produced during 1980.

(d) Distribution of Informational Materials

A variety of methods are employed to distribute informational materials. Some publications are available free in post office lobbies, others are available by subscription. Television and radio public service announcements, newspaper advertisements, press releases and speeches are other methods currently used to inform consumers.

(e) Responsibility for Consumer Information Program

The Public and Employee Communications Department and the Office of Consumer Affairs, Customer Services Department, are responsible for the planning and performance of the consumer information program. The Office of Consumer Affairs publishes *A Consumer's Directory to Postal Services and Products* (Publication 201) and advises and assists the Public and Employee Communications Department on consumer information matters. As noted above, responsibility for informing consumers of public rulemaking proceedings and post office closings rests upon the staff of the operating division proposing the change.

(f) Informational Materials Regarding Meetings Open to the Public

With respect to providing material about Postal Service meetings open to the public, the Law Department prepares and publishes in the Federal Register the Government in the Sunshine Act notice announcing the time, location, and agenda of the monthly meeting of the Board of Governors. Based on this information the Public and Employee Communications Department prepares news releases concerning the Board of Governors' meetings. These releases are distributed to the national press in Washington, D.C., posted in the lobby of the postal facility at the site of the meeting, and made available at the start of each meeting. Public and Employee Communications Department personnel and other postal employees are present at each meeting to explain the order of business and agenda items.

4. EDUCATION AND TRAINING**(a) Education Responsibility**

The Office of Consumer Affairs will be responsible for educating the USPS staff about the Order and related activities.

(b) Information Dissemination

Policymaking personnel (APMGs and above) will receive in-person briefings. Regional RPMGs will receive packets containing the briefing script and copies of the Order. The Order will be published in postal publications with an explanation of USPS activities.

(c) Communication of Significant Changes

Significant changes in the consumer program as a result of the Order will be communicated through the use of a Headquarters Circular.

(d) Specialized Training

The Consumer Advocate will be responsible for providing specialized training to Consumer Affairs personnel.

(e) Areas of Training

Training has been provided and will continue to be provided as follows:

(1) Consumer Affairs Associates—will provide training in complaint-handling, administrative management, Postal Service operations, telephone techniques, communicating through writing, and post office procedures.

(2) Technical Staff Members—will provide training in statistical techniques, computer technology, administrative management, and systems analysis.

(f) Technical Assistance Responsibility

Technical assistance is provided to all large companies and organizations through Customer Service Representatives at the local level. It is provided for individual customers at the local post office.

(g) Type of Technical Assistance

The assistance relates to mail preparation, the availability and applicability of products and services, cost savings techniques, and customer needs analysis.

(h) Who Receives Technical Assistance

All customers receive technical assistance from their local post offices upon request. The Office of Consumer Affairs also provides technical assistance, when appropriate, from the national level to consumers and major customers.

5. COMPLAINT HANDLING

An independent contractor recently completed a four-year study of complaint-handling procedures in twenty-two Federal agencies. The Postal Service received the highest available ratings in each category reviewed. While pleased with progress to date, the Postal Service continues to improve complaint handling through testing and implementation of the latest developments in systems and equipment.

(a) Public Awareness

The Office of Consumer Affairs, Customer Services Department, works with the Public and Employee Communications Department to increase public awareness of postal complaint-handling programs. Consumer Service Cards are placed in display units located in prominent positions in every post office lobby. *A Consumer's Directory to Postal Services and Products* (Publication 201) is available free at all post offices and explains how customers may register complaints locally and with the Consumer Advocate. Every year, as part of Consumer Protection Week, the

Consumer Service Card Program is promoted through press releases.

(b) Logging Complaints

All complaints received by the Office of Consumer Affairs at Postal Service Headquarters in Washington are logged in, coded by complaint category and coded for routing to the proper complaint-handling group.

Copies of all Consumer Service Cards completed by postal personnel from customer phone calls, letters, or in person visits as well as those cards completed by customers are received in Washington. These are coded for complaint type and date.

(c) Routing to Proper Office

Complaints received at the Office of Consumer Affairs needing specialized attention are routed to the proper office within Postal Service Headquarters or a field office for investigation and a report on which the Office of Consumer Affairs can base a response.

Mail Order problems, fraud, etc., are referred to the Inspection Service for referral to field inspectors.

(d) Tracking Complaints

All complaints, other than those referred to the Inspection Service, received by the Office of Consumer Affairs are tracked through use of a weekly computer report. This assures timely response.

All complaints registered on Consumer Service Cards by USPS employees or customers are tracked through the use of a computer report. Complaints appearing on this report are followed up directly with the post office involved.

(e) Responding to Complaints

All customer complaints received at the Office of Consumer Affairs which must be referred to field offices receive an interim response. This response notifies the customer of the referral to the post office and the person who may be contacted for further information. The Post Office is instructed to contact the customer within seven days.

(f) Statistical Reporting

Statistical Reports are provided quarterly for all complaints received at the Consumer Affairs Office. National Profile and trend analysis by complaint type are included in the reports. The reports are forwarded to decision-making management levels at USPS Headquarters.

Analytical, follow-up, and maintenance reports are produced each accounting period from Consumer Service Cards data. Profile and trend analysis for each level of management including postmasters is produced and distributed.

(g) Evaluation

Periodic National Consumer Satisfaction Surveys are conducted. These surveys deal with complaints handled exclusively by the Consumer Affairs Office and those referred to field offices for resolution. Major

areas covered include timeliness of response, effectiveness of the resolution, and recurring problems.

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

BILLING CODE 7710-12-M

Form Approved:
OMB No. 116579021

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - _____
 - Informational materials _____
 - _____
 - Complaint handling _____
 - _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

DEPARTMENT OF TRANSPORTATION**Office of the Secretary; Draft Consumer Program**

AGENCY: Department of Transportation.

ACTION: Request for public comment on DOT's draft consumer program as required by Executive Order 12160.

DATES: Comments must be received by March 10, 1980.

ADDRESS: Comments should be addressed to: Division of Consumer Affairs, I-39, 400, 7th Street SW., Room 9402, U.S. Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Lee Gray, Acting Assistant Director for Consumer Affairs; 202/426-4520.

Executive Order 12160 requires Federal agencies to review and revise their operating procedures to ensure that consumer needs and interests are adequately addressed. The Order specifically requires each agency program to include provisions for oversight, a consumer perspective within the agency, consumer participation, development of informational materials for consumers, education and training for agency staff, and systematic procedures for complaint handling.

The DOT, since its establishment in 1968, has developed extensive programs for transportation consumers, focusing largely on consumer information/education, consumer outreach, and citizen participation in transportation decisionmaking.

DOT plans to maintain and enhance the many activities and procedures that have provided effective and productive services for transportation consumers. In addition, the Department is proposing certain new structures and procedures to strengthen its consumer efforts and bring it into compliance with the Executive Order. In developing this Draft Consumer Program DOT continues to consider its consumers to be final users or purchasers of transportation goods and/or services as well as those people who are directly affected by a transportation mode.

DOT looks forward to receiving public comments on its proposed consumer program and seeks recommendations on additional ways that the Department might improve its consumer and citizen participation efforts.

DOT will give careful consideration to public comment in developing its final consumer program which will be put into force under a DOT Order on Management of Consumer Programs.

I. CONSUMER AFFAIRS PERSPECTIVE

In light of the Executive Order, DOT proposes certain changes in the structure and responsibilities of its consumer affairs staff. At present the Office of the Secretary (OST) has a Division of Consumer Affairs headed by an Assistant Director in the Office of Public and Consumer Affairs which is located in the Assistant Secretariat for Governmental and Public Affairs. This consumer unit will remain in this Assistant Secretariat and will be upgraded to become the Office of Consumer Liaison. The office will be headed by a Director who will report to the Deputy Assistant Secretary for Intergovernmental Affairs. The

Director will have access to the Secretary on significant issues of concern to consumers.

The upgrading of the consumer affairs function in OST will allow DOT to expand and better coordinate its consumer activities. The responsibilities of the new office will incorporate those of the present Division of Consumer Affairs and other new functions required by the Executive Order.

DOT presently has modal consumer offices in two Administrations—the National Highway Traffic Safety Administration and the Federal Aviation Administration. Four other modal Administrations—Federal Highway Administration, Federal Railroad Administration, Urban Mass Transportation Administration, and the Coast Guard—have identified an official or staff member to serve as a consumer contact. A consumer representative from each of these Administrations serves on the Department's Consumer Affairs Coordinating Committee, which will be upgraded to the Consumer Affairs Coordinating Council with additional responsibilities. DOT's Research and Special Programs Administration does not at this time have a consumer officer.

To further strengthen the Department's overall consumer program, the Office of the Secretary is developing guidelines for the consumer programs of modal Administrations. The Administrations will then plan their own draft programs to conform with OST guidelines and the Executive Order.

In the Office of the Secretary, the Office of Consumer Liaisons' staff will consist of at least four professional positions, including the Director, and one secretarial position. The Office of Consumer Liaison's staff will have special expertise in transportation issues, consumer and citizen participation issues, and in management functions.

The Office of Consumer Liaison will be responsible for the five consumer functions enumerated in Executive Order 12160 and will:

- Inform and advise the Deputy Assistant Secretary for Intergovernmental Affairs and other senior officials, including the Secretary, concerning emerging issues bearing on the five consumer functions identified in Executive Order 12160.
- Represent the consumer perspective and provide staff support on Departmental work groups, task forces, committees, field trips, public meetings, and other forums.
- Provide the Executive Secretariat for the Departmental Consumer Affairs Coordinating Council (CACC), composed of senior consumer affairs specialists from OST and the modal Administrations.
- Work through the DOT Consumer Affairs Coordinating Council (CACC) to maintain close liaison with modal consumer affairs specialists.
- Develop and maintain ongoing liaison with national, state, and local consumer and citizen organizations.
- Maintain liaison with state and local consumer protection agencies in relation to their concerns about transportation issues.

- Provide for necessary research bearing on the five consumer functions identified in the Executive Order.

The Director of the Office of Consumer Liaison will attend each meeting of the DOT Regulations Council and will be responsible for representing the consumer perspective during development and review of rules, policies, programs, and legislation. The Office of Consumer Liaison will be placed on OST distribution lists for all review-and-comment procedures dealing with proposed rules, policies, programs, and legislation.

The Office of Consumer Liaison will be responsible for distributing proposed significant DOT rules, policies, programs, and legislation to modal consumer affairs officers, and for incorporating their comments into the response which the Office of Consumer Liaison provides during these reviews.

II. OVERSIGHT FOR CONSUMER AFFAIRS

DOT's senior-level consumer official will be the Director of the Office of Consumer Liaison situated in the Assistant Secretariat for Governmental and Public Affairs. The Director will be appointed by the Secretary and will be a member of the Senior Executive Service. The Director will have access to the Secretary on significant issues of concern to consumers.

The Director will have prime responsibility for representing the consumer perspective within the Office of the Secretary (OST) when policies are being planned and developed. The Director will be involved at the earliest stage when policies are being considered and at all subsequent decisionmaking stages of policy development.

The Director will be the Secretary's representative to the interdepartmental Consumer Affairs Council established by Executive Order 12160.

The Director will be responsible for consumer programs in the Office of the Secretary and will oversee and monitor consumer programs in the Department's modal Administrations. Each modal Administration will develop its own consumer program which will comply with the DOT Consumer Program and with Executive Order 12160. The Director will report to the Deputy Assistant Secretary for Intergovernmental Affairs and other senior officials, including the Assistant Secretary for Governmental and Public Affairs and the Secretary, on the progress and status of all consumer activities within the Department, making recommendations for strengthening and improving the management, coordination, and effectiveness of all DOT consumer programs and activities.

The Director will require consumer offices in the modal Administrations to make reports concerning all aspects of those elements' consumer activities.

The Director will chair the Department's Consumer Affairs Coordinating Council (CACC) and will utilize the CACC to coordinate the Department's consumer activities.

The Office of Consumer Liaison will be responsible for monitoring consumer/citizen participation in development and review of DOT policies and programs.

III. CONSUMER PARTICIPATION

It is DOT policy to encourage effective citizen participation early in and throughout the Department's decisionmaking processes. Citizen participation is monitored by DOT's consumer affairs staff.

Consumer participation in DOT decisionmaking concerning rules, policies, and programs will be governed by DOT procedures for public participation and citizen participation, as well as by the following specific provisions:

Consumer/Citizen Participation in Rulemaking

Consumer/citizen participation in DOT rulemaking is governed by the Department's Regulatory Policies and Procedures, issued in compliance with the Executive Order 12044. These policies were published in the Federal Register, February 26, 1979, and became effective March 1, 1979. Several of the consumer-oriented features of these policies are discussed below.

These policies are designed to increase public awareness of planned regulatory activity and to enhance opportunities for public participation. For example, DOT provides the public with advance notice of planned regulatory activity through publication of its semi-annual Regulations Agenda, which includes decision dates and officials to contact for more information about specific rulemaking actions. Consumers can be placed on the mailing list to receive the Regulations Agenda on a regular basis by contacting the DOT Office of General Counsel, C-50, Washington, DC 20590. The Regulations Agenda contains details on how consumers can request to be placed on special mailing lists to receive specific rulemaking proposals.

Under DOT procedures, the office that initiates a significant rulemaking proposal must develop a work plan that includes a tentative plan for how and when the Congress, interest groups, other agencies, and the general public will have opportunities to participate in the regulatory process.

DOT's regulatory policies also provide for: a 60-day comment period on significant regulations, where possible (45 days are generally provided for non-significant rules); the use of Advance Notices of Proposed Rulemaking, where appropriate; and, in appropriate circumstances, the notification of publications likely to be read by those affected by a rulemaking proposal.

OST's consumer affairs staff has responsibility for monitoring compliance with requirements for public participation by reviewing and commenting on opportunities for public participation provided for in DOT Notices and Advance Notices of Proposed Rulemaking. When DOT publishes Notices and Advance Notices of Proposed Rulemaking in the Federal Register, the public can comment on the

adequacy of the opportunities for participation. Members of the public may request enhanced opportunities for participation on specific rulemaking proposals by contacting the appropriate initiating office or the Office of Consumer Liaison, which will work with the initiating office to explore additional participation channels.

On significant rulemaking proceedings, DOT frequently holds formal public hearings in Washington and in affected regions. In addition, the Office of the Secretary and the modal Administrations on a continuing basis provide additional opportunities for the public to participate in DOT decisions on transportation policies, rules, and programs. Workshops, consultative planning sessions, and conferences have been conducted on such topics as auto safety, airport noise, and public transportation.

Under the Department's Regulatory Policies and Procedures, when a significant final rule is prepared the initiating office must provide a summary of public comment received. This aids DOT decisionmakers in determining how responsive the rule has been to public comment.

Consumer Participation in Decisionmaking on Policies and Programs

The Office of Consumer Liaison will be responsible for monitoring consumer/citizen participation in development and review of DOT policies and programs.

Each modal Administration in DOT will develop a Standard Procedure for Consumer/Citizen Participation in significant policy and program development. The purpose will be to assure that consumers have early and continuing opportunities to learn about and express their concerns about significant consumer-oriented policies and programs which are under discussion and development.

For each significant policy development or program development action, the initiating office will develop a timetable, based on the Standard Procedure for Consumer/Citizen Participation, indicating when and how consumers/citizens will be involved in that policy or program development process. This timetable will become the Consumer/Citizen Participation Plan for that process, and will be submitted to the Director of the Office of Consumer Liaison for review. Each plan will enumerate the participatory techniques that will be used at each stage, and will describe how consumer/citizen concerns will be analyzed and considered in decisionmaking.

The Office of Consumer Liaison will provide technical assistance to initiating offices in the development of their Consumer/Citizen Participation Plans and, on request, will also provide guidance to initiating offices concerning ways to improve their contacts with consumer/citizen constituencies.

Consumer/Citizen Participation in Local Transportation Planning

In response to consumer/citizen recommendations made at the Department's Conference on

Transportation and the Consumer (see below), the Office of the Secretary established the DOT Work Group on Citizen Participation. The Work Group is charged with developing recommendations, for the Secretary's consideration, concerning a Departmental policy pertaining to increased DOT support for citizen participation in local transportation planning.

Toward that end, the Work Group prepared an Advance Notice of Proposed Policy, asking the public to make suggestions on this issue (Federal Register, August 9, 1979); more than 16,000 copies of this notice were mailed to consumer/citizen organizations, State and local governments, and the media. More than 300 written responses have been received. In addition, the Work Group conducted more than 175 informal in-depth interviews with citizens, State and local officials, and DOT officials and staff members. Comments, interview, and other pertinent data are now being analyzed.

The Work Group is chaired by the Deputy Assistant Secretary for Intergovernmental Affairs. Management or the Work Group is the responsibility of OST's consumer affairs staff. The Work Group will continue to provide the mechanism for Departmental coordination of issues bearing on consumer/citizen participation in local transportation planning.

Consumer Conferences

In May 1979, DOT held its first national conference on Transportation and the Consumer in order to give consumers/citizens opportunities to become better informed on transportation issues, to develop increased consumer access to DOT decisionmaking, and to make suggestions for future DOT actions on issues of concern to consumers. The two-day conference agenda focused largely on workshop sessions, with informal interaction between transportation officials and consumer/citizens. The major concern expressed by consumer/citizen conferees was for DOT to give increased support to citizen participation in the local transportation planning and decisionmaking process. The Department responded by establishing the DOT Work Group on Citizen Participation, which prepared the Advance Notice of Proposed Policy described above.

DOT's Office of the Secretary is now considering the possibility of planning regional conferences for transportation consumers.

Consumer Forums

The Department is giving careful consideration to developing additional innovative and practical techniques for arranging ongoing contacts with consumers/citizens. The goal is to stimulate the broadest possible range of interaction between consumers/citizens and transportation officials.

The possibility of regularly scheduled Washington-based consumer forums is being examined. DOT would welcome comments and suggestions on this topic, in particular.

Notifying Consumers

The Office of Consumer Liaison publishes a newsletter which describes opportunities for participation on proposed DOT rules. Twice each year the newsletter includes a fact sheet summarizing those items on the Department's Regulations Agenda of most interest to consumers. When time is a critical factor, the office sends press releases on proposed actions to its consumer mailing list. OST's consumer mailing list totals about 4,000 and includes consumer press, State and local consumer offices, consumer/citizen groups, and individuals. In addition, modal Administrations in DOT are developing their own specialized consumer mailing lists. DOT's Office of General Counsel also maintains a mailing list for the Regulations Agenda.

IV. INFORMATIONAL MATERIALS

The Office of the Secretary and the modal Administrations now have many publications and fact sheets of interest to consumers on such topics as no-fault insurance, auto repair and safety, boating safety, and the accessibility of airports to handicapped consumers. DOT regularly issues consumers advisories in the form of news releases on matters of consumer safety and opportunities for public participation. In addition, the OST consumer affairs staff publishes a consumer newsletter on a bimonthly basis to inform consumers of current happenings in transportation. However, the Department recognizes that its consumer information efforts could be enhanced by better planning and coordination. This is particularly true in the preparation of easy-to-read material on technical matters. For this reason, the Department plans to assess its current publications, identify additional needs, and develop a coordinated program.

The first phase of this coordinated program will be the Consumer Publication Program for FY-81, to start on October 1, 1980. This FY-81 program will be a pilot to test the mechanism for a long-range DOT Consumer Information Program.

The pilot program is designed to:

- (1) produce a limited number of transportation consumer publications in FY-81;
- (2) move into high gear with production of transportation consumer publications in FY-82; and
- (3) lay plans for starting production of transportation consumer audiovisual materials in FY-83.

Assessment of Current Consumer Publications

The DOT Consumer Affairs Coordinating Council (CACC) will be responsible for making an in-depth assessment of current DOT consumer publications.

This material will be evaluated by the CACC, based on criteria suggested by requirements in DOT's Draft Consumer Program. The CACC will then develop two sets of recommendations: (1) suggestions for revising current consumer publications; and (2) suggestions for new publications. In each category, high-priority items will be identified; these items will be scheduled for development during the pilot period of FY-81.

DOT invites public comment on the adequacy of its current publications and solicits ideas on possible new publications.

Responsibility and Timetable for DOT Consumer Information Program

The DOT Consumer Affairs Coordinating Council (CACC) will be responsible for drafting the Department's Consumer Information Program, in consultation with the DOT Public Affairs Council (PAC), comprised of the Department's Directors of Public Affairs.

The CACC and PAC will jointly discuss and make decisions on the CACC's recommendations for high-priority consumer publications to be revised and developed during the FY-81 pilot program. The CACC and the PAC will, at the same time, discuss and decide on procedures for planning future development of consumer audiovisual materials. Attention will be paid to coordinating development of print and audiovisual materials, so that both types of media complement and reinforce one another.

Each modal Administration and the Office of the Secretary will be responsible for preparing, publishing, and distributing the consumer publications that focus on its own area of responsibility and expertise. The CACC will be responsible for tasks that require Departmentwide coordinating efforts, such as: (a) preparation and publication of a bibliography of all DOT consumer publications and a bibliography for teachers; and (b) efforts to combine all appropriate DOT consumer mailing lists in order to publicize new consumer publications.

The tentative timetable for the consumer publication program will be:

- Undertake needs assessment, January 15, 1980
- Complete needs assessment, March 30, 1980
- Develop recommendations for pilot consumer publications program, May 30, 1980
- Final decisions on DOT Pilot Consumer Publication Program for FY-81 and tentative decisions to explore production of consumer audiovisual materials, August 15, 1980
- Implement Pilot Consumer Publication Program, October 1, 1980
- Implement ongoing DOT Consumer Publication Program, October 1, 1981
- Implement first phase of DOT Consumer Audiovisual Program, October 1, 1982

Distribution of Consumer Publications

Each DOT consumer publication will be introduced with a DOT news release to the general media as well as the consumer press.

Each DOT consumer publication will be mailed, with a letter from the Director of the Office of Consumer Liaison, to the consumer mailing list of the DOT element producing the publication, as well as to other appropriate DOT mailing lists.

Distribution of DOT consumer publications will utilize the facilities of GSA's Consumer Information Center, to the extent that funding exists for such GSA distribution.

Whenever possible, single copies of DOT consumer publications will be available free, on request.

When funds permit, DOT will provide for free bulk mailings to consumer constituencies and to schools, for all DOT consumer publications. Such bulk distribution will include consumer-oriented meetings, forums, conferences, and appropriate public hearings.

On large publication orders, OST's consumer affairs staff will make negatives of its publications available for printing by State and local governments or consumer groups.

Information Materials for DOT Meetings

The Office of Consumer Liaison will provide technical assistance to DOT offices in developing information materials for public meetings with special attention to their readability, format, and appropriateness for the meeting audience.

V. EDUCATION AND TRAINING

Under the proposed plan, DOT will make substantial efforts to familiarize all DOT staff with its new consumer policies and to provide increased training opportunities for those involved in consumer affairs and public participation.

Responsibility for Notification and Education Concerning E.O. 12160

The Secretary will notify DOT officials concerning Departmental actions that will be taken to comply with E.O. 12160.

DOT's final Consumer Program will be issued in July 1980 as the DOT Order on Management of Consumer Programs. It will be circulated to all DOT staff members on the date of issuance.

The Director for Consumer Liaison will be responsible for briefing OST officials and modal Administrations' officials on the DOT Order. The DOT Consumer Affairs Coordinating Council will assist in these briefing sessions.

The Office of Consumer Liaison will be responsible for developing an ongoing education program to inform DOT staff concerning new procedures and activities that will be required under the DOT Order.

The Director for Consumer Liaison will consult with the OST Office of Personnel and Training to institute plans for training consumer personnel in the general area of consumer affairs responsibilities, with specific focus on citizen participation, preparation of consumer information materials, and handling of consumer complaints. To the extent that interagency training courses or contractors' courses are available on these topics, arrangements will be made for DOT staff to enroll in such courses. The Director for Consumer Liaison and the DOT Consumer Affairs Coordinating Council will make joint decisions concerning which training courses will be mandatory for consumer personnel and which will be made available to consumer personnel on an optional basis.

The Federal Highway Administration now provides public participation training for regional, State, and local transportation officials; and the Federal Aviation

Administration has a public participation training program for those involved in airport decisions. It is expected that such training opportunities will be expanded and enhanced under the Executive Order.

Training Opportunities and Technical Assistance for Consumers

DOT's Office of Consumer Liaison will develop an ongoing program of consumer internships, designed to offer training opportunities in transportation consumerism for college students and for members of disadvantaged or minority communities.

DOT's Office of Consumer Liaison will explore the possibility of providing training and expanded technical assistance in transportation consumerism for members of grassroots consumer organizations. Possible alternative forms for such activities may be: regional conferences; DOT-sponsored workshops; print materials for distribution to consumer organizations; part-time or short-term internships with DOT's Office of Consumer Liaison, for members of grassroots consumer organizations.

VI. COMPLAINT HANDLING

Under the Executive Order, DOT will enhance its efforts in informing the public about DOT programs and complaint mechanisms. The Department will also study ways to improve its handling and analysis of consumer complaints.

Heightening Public Awareness

DOT has made broad distribution of a brochure titled *Finding Your Way in DOT*, published in March 1978. This describes complaint-handling procedures for the entire Department and includes phone numbers of consumer affairs officers and of sub-agencies that are responsible for answering consumers' complaints on specific topics.

Finding Your Way in DOT will be updated in June 1980, following implementation of the DOT Order on Management of Consumer Programs. Broad mail distribution will be made of this publication, using all DOT consumer lists and media lists. In addition, the brochure will be made available for DOT meetings and conferences; and DOT officials and staff members will be encouraged to refer on public occasions to the brochure and to DOT's concern for adequate response to consumers' questions.

Logging, Routing, Responding to, Reporting on, and Evaluation Complaints

Priority mail addressed to the Secretary is logged into an automated system by DOT's Executive Secretariat and routed to the appropriate offices, with a deadline for response. The OST Executive Secretariat monitors compliance with established deadlines. Modal Administrations have similar systems for tracking their priority correspondence.

Most consumer complaints addressed to DOT are delivered to the Division of Consumer Affairs which either answers them directly or forwards them to the appropriate OST or modal office for response. Each

modal Administration has its own system for handling general consumer complaints.

Because the procedures on general mail vary considerably throughout the operating elements of DOT, there is need for an assessment of current practices as well as an examination of options for developing a uniform Department-wide system. The Director of the Office of Consumer Liaison will consult with the staff of the Assistant Secretary for Administration concerning the possible development of an automated information system for dealing with and utilizing consumer complaints. An extensive long-range program will be undertaken including:

- (a) a Department-wide study on how complaints are currently handled;
- (b) recommended options for improved handling of consumer complaints received by all elements of the Department;
- (c) recommended options for effective utilization of complaint data in development of DOT policy;
- (d) recommended options for evaluation of the Department's complaint-handling procedures.

Comments on any proposals of this DOT Draft Consumer Program should be submitted on or before March 3, 1980, to the address above. All comments received will be available for review at that address. Based on the Department's review, a consumer program will be developed and put into effect by July 1, 1980.

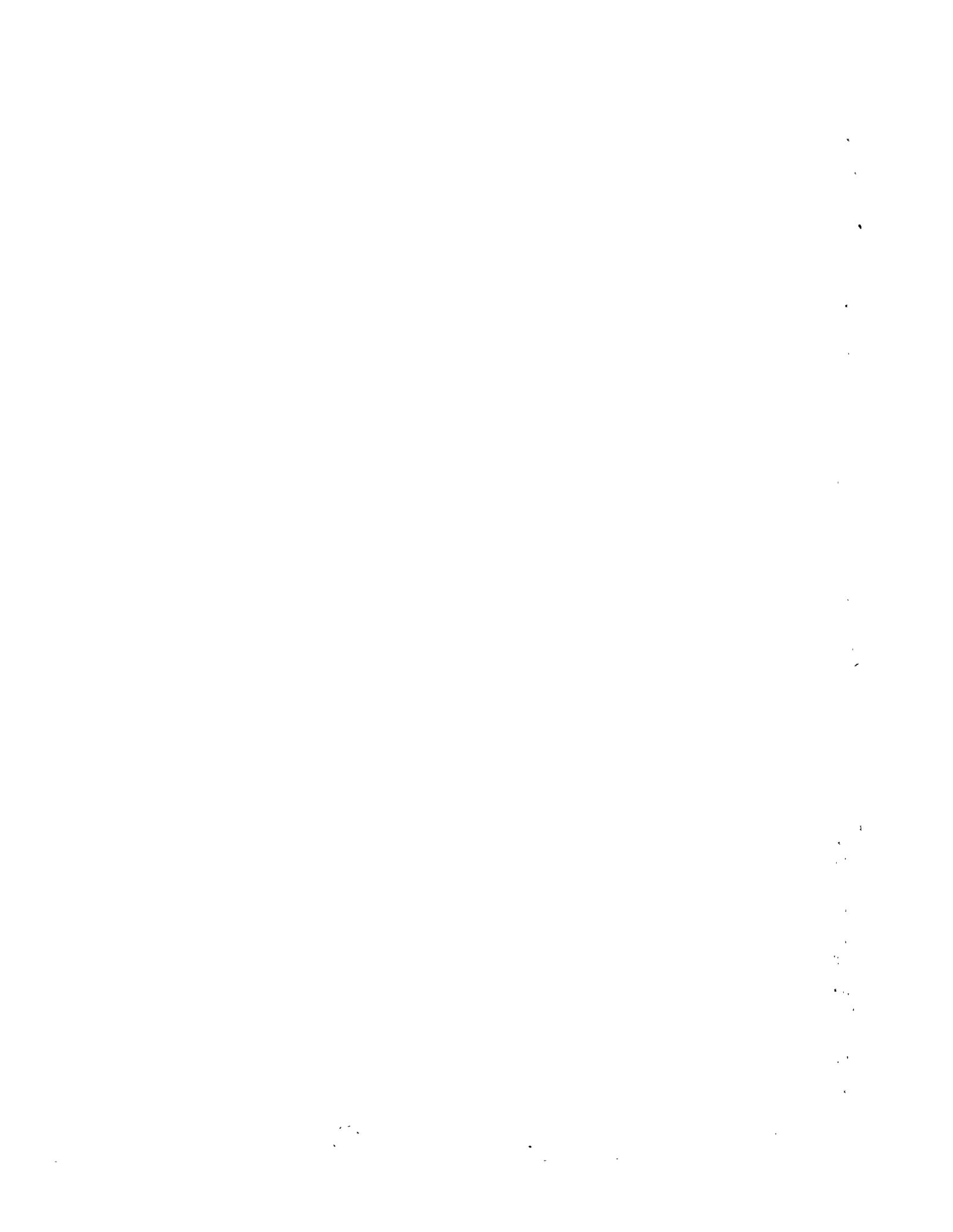
Issued in Washington, D.C., on November 29, 1979.

Neil E. Goldschmidt,

Secretary of Transportation.

[FR Doc. 79-37289 Filed 12-7-79; 8:45 am]

BILLING CODE 4910-62-M



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December 10, 1979

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Part VII

**Consumer Programs:
Legal, Military, and
International Affairs**

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Monday
December 10, 1979

Part VII—Section A

**Administrative
Conference of the
United States**

Draft Consumer Program

Administrative
Conference of the
United States
Draft Consumer Program

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

AGENCY: Administrative Conference of the United States.

ACTION: Draft Report on Implementation of Executive Order 12160.

DATES: Comments should be received by March 10, 1980.

ADDRESS: Comments should be addressed to Jeffrey S. Lubbers, Senior Staff Attorney, Administrative Conference of the U.S., Suite 500, 2120 L Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Mr. Lubbers (202-254-7065).

INTRODUCTION

This report has been prepared pursuant to Executive Order 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs." Section 1-4 of the order sets forth a number of requirements for agency consumer programs. Section 1-5 requires agencies to prepare a draft report setting forth its program for complying with the requirements of Section 1-4.

BACKGROUND

The Administrative Conference of the United States was established as a permanent independent agency by the Administrative Conference Act, 5 U.S.C. § 571-576, enacted in 1964. It is an advisory agency, not a regulatory agency. Its mandate is to "study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies" and to make recommendations for the improvement of those procedures to the agencies, Congress, the President and the courts. Many of these recommendations of the Conference prove to be of interest to consumers, and for that reason, the agency is participating, to the extent feasible, in implementing this order.

STRUCTURE AND ORGANIZATION OF ACUS

The Chairman of the Administrative Conference of the United States is appointed by the President, with the advice and consent of the Senate, for a 5-year term. The Council, which is the executive board, consists of the Chairman and 10 other members appointed by the President for 3-year terms. Federal officials named to the Council may constitute no more than one-half of the total Council membership. In addition to the Chairman and the other members of the Council, the membership of the Administrative Conference is composed of 44 high-level officials designated from 37 departments and agencies of the Federal Government (or their designees) and 36 private lawyers, university faculty members, and others specially informed in law and government. Members representing the private sector are appointed by the Chairman, with the approval of the Council, for 2-year terms. The Chairman is the only full-time

compensated member, and he also heads a small full-time staff in the Office of the Chairman which serves the membership, manages the research program, and performs advisory, consultative and clearinghouse duties.

The entire membership of the Conference is divided into nine committees, each assigned a broad area of interest as follows: Agency Decisional Processes; Agency Organization and Personnel; Claims Adjudications; Compliance and Enforcement Proceedings; Grants, Benefits, and Contracts Programs; Informal Action; Judicial Review; Licenses and Authorizations; Ratemaking and Economic Regulation; and Rulemaking and Public Information. The membership meeting in plenary session is called the Assembly of the Administrative Conference, which by statute must meet at least once, and customarily meets twice, each year.

The Administrative Conference is unique within Federal Government in its composition, in its quasi-legislative method of operation and in its standing to make recommendations directly to the agencies as well as the three coordinate branches of our government. This role as an advisory body, along with its relatively small full-time staff makes some of the specific requirements of E.O. 12160 inapposite to the Administrative Conference (as recognized by the chairperson of the Consumer Affairs Council). Nevertheless, the Office of the Chairman if pleased to heed the message of the E.O. 12160 by reporting to the public on the extent to which the operations of the agency are now in compliance with the President's order and on such additional actions it plans to take in order to improve its interaction with consumers.

REQUIREMENTS OF E.O. 12160

(A) Consumer Affairs Perspective

This section of the order requires agencies to maintain an identifiable professional staff of consumer affairs personnel authorized to participate in the development and review of all agency rules, policies, programs and legislation.

Since the Administrative Conference's Office of the Chairman employs only 11 full-time professional staff members, all of whom are located in the same office and already participate fully in the development and review of office policies and programs, no change is necessary or feasible in this regard.

(B) Consumer Participation

This section of the order requires agencies to establish procedures for early and meaningful consumer participation in the development and review of all agency rules, policies and programs and to make affirmative efforts to inform consumers of pending proceedings.

The Administrative Conference has procedures in place designed to obtain consumer participation in its activities. The Conference's formal activity consists of the development of official statements and recommendations on matters of administrative

procedure; the only rules issued pertain solely to organizational matters.

The Conference conducts its program in the following manner: subjects for inquiry are developed by the Chairman's Office, the Council, and the membership, either in committee or in plenary session. Suggestions are often received from members of the bar, agency personnel and members of the general public. The Committees, through open publicized meetings and with the assistance of staff and consultants, conduct thorough studies of the subjects and develop proposed recommendations and supporting reports. These proposals are widely circulated for comment both inside and outside of government. The proposals and comments are evaluated by the Council and, if ready for Assembly consideration, are distributed to the membership with the supporting reports and placed on the agenda of the next plenary session. The Assembly has complete authority to approve, amend, remand, or reject recommendations presented by the committees. The meetings of the Assembly are publicized and open to the public.

The Office of the Chairman has recently begun to step up its effort to ensure that public participation (including consumer participation) in Conference activities is enhanced. We have more frequently published our tentative and proposed statements and recommendations in the Federal Register and other publications for comments. We have made (and will continue to make) a greater effort to affirmatively solicit the comments of persons and groups possibly interested in proposed recommendations. We have in the past often solicited the views of consumer organizations and will make it a regular practice in the future. (It should be noted at this point that the Conference's membership includes several officials of national, non-profit consumer organizations.) Finally, as an experiment, one of our committees has recently scheduled our first public hearing on a proposed recommendation to hear the views of the interested public. If this proves successful, use of public hearings will be continued.

—The Conference will promote consumer participation at all stages of its recommendation-development process—from project initiation to committee consideration to full membership consideration to implementation of recommendations.

—The Conference will offer the following avenues for consumer participation: attendance at open meetings, written comments on proposals, and participation in public hearings where such hearings are feasible.

—The Conference will make sure that all concerns expressed or comments made by consumers are circulated to relevant staff, consultants and Conference members who are developing Conference positions.

—Each project or inquiry undertaken by the Conference is assigned to the direct supervision of one of the professional staff members in the Office of the Chairman. It is that staff member's duty to ensure that

consumer concerns are adequately considered in the development and review of the project. In addition, the Research Director of the Conference has the responsibility of considering all suggestions for new projects or inquiries, including those made by consumers.

—The conference will develop a listing of major consumer organizations so as to circulate draft reports and proposed recommendations and regularly solicit comments on proposals from such organizations. The Office of the Chairman staff will periodically meet with representatives of such organizations to solicit their views and brief them on Conference activities. In addition, the Conference will continue to use the Federal Register and other publication services to publicize its open meetings, hearings and proposals.

(C) Informational Materials

This section of the order requires agencies to produce and distribute materials designed to adequately inform consumers about the agency's activities that may concern them.

The Administrative Conference, as an advisory and clearinghouse agency, regularly produces and distributes (normally free of charge) information about its activities. The Office of the Chairman maintains a mailing list for those who wish to receive its annual reports and occasional newsletters.

In addition the Conference has published the following materials:

1. Organizational regulations and bylaws, 1 CFR 301-304.
2. Recommendations and statements, 1 CFR 305, 310.
3. Selected bibliography of ACUS Reports (1968-1977). Reprints of the reports are available from the Administrative Conference librarian and, if supplies permit, are usually free of charge.
4. Manual for Administrative Law Judges (1974).
5. Federal Administrative Law Judge Hearings—Statistical Report for 1975 (1977).
6. An Interpretive Guide to the Government in the Sunshine Act (1978).
7. Guide to Agency Reports under Executive Order 12044 on Improving Government Regulations (1978).

In addition, the Conference will maintain a supply of this report as an additional information guide.

The Administrative Conference's publications are designed to purvey information about its activities and about administrative procedure generally.

With respect to the requirement that adequate explanatory materials be provided to those attending public meetings, we have made it a practice to circulate copies of proposals at those meetings. Our notices of meetings, as published in the Federal Register explain how to obtain relevant materials. Staff attorneys will be regularly reminded of their duty in this regard. Where feasible we also circulate draft studies although we reserve the right to withhold tentative drafts until a revised draft is available.

We welcome any comments on improvements we might make in the above regards.

(D) Education and Training

This section of the order requires agencies to educate their staff members about the order and about the agency's program for implementing it. Appropriate specialized training is required for agency consumer affairs personnel and technical assistance is to be made available to consumers wishing to participate in agency programs.

The Office of the Chairman will see to it that a copy of the Executive Order and this draft report will be distributed to all professional staff members.

Technical assistance to outside participants will be given if necessary to facilitate their participation in particular matters. Requests for such assistance can be made by telephone or in writing to the Office of the Chairman.

(E) Complaint Handling

This section of the order requires agencies to establish procedures for systematically handling consumer complaints.

The Administrative Conference rarely, if ever, receives complaints from consumers about its activities. When more generalized consumer complaints are received about the government's performance in some regard, such complaints are promptly answered by a staff member and, if appropriate, are referred to the applicable agency. Consumer suggestions about projects or inquiries are handled promptly by the Research Director.

The volume of such complaints in the past has not required the Office of the Chairman to institute specialized logging procedures for handling them. We will establish such a system whenever the volume so requires, and will seek assistance from the Consumer Affairs Council.

(F) Oversight

Jeffrey S. Lubbers, Senior Staff Attorney in the Office of the Chairman, has been designated to oversee the Administrative Conference's effort to implement Executive Order 12160. He will be responsible for putting into place the increased emphasis on obtaining consumer participation in Conference activities, and will report directly to the Chairman on the potential impact upon consumers of Conference activities.

Dated: November 23, 1979.

Richard K. Berg,
Executive Secretary.

[FR Doc. 79-36594 Filed 12-7-79; 8:45 am]
BILLING CODE 6110-01-M

Monday
December 10, 1979

Part VII—Section B

**Department of
Justice**

Draft Consumer Program

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DEPARTMENT OF JUSTICE**AGENCY:** Department of Justice.**ACTION:** Draft consumer program.**DATE:** Comments must be received by March 10, 1980.**ADDRESS:** Comments should be addressed to Lupe Salinas, Office of the Attorney General, Room 5132, Main Justice Building, Department of Justice, Washington, D.C. 20530.**FOR FURTHER INFORMATION CONTACT:** Lupe Salinas, (202) 633-2927.**I. CONSUMER AFFAIRS PERSPECTIVE****Staff Location**

The Department intends to establish the position of Consumer Affairs Advisor to the Attorney General. The Advisor shall be located in the Attorney General's office and shall report directly to the Attorney General.

Size and Resources

The Advisor shall be assisted on a regular basis by permanent designees from the Executive Office of the United States Attorneys, the Justice Management Division, the Consumer Affairs Section of the Antitrust Division and the Office for Improvements in the Administration of Justice, and shall be given such additional legal, paralegal, secretarial and other support as needed to fulfill his/her functions under the Order. The Consumer Affairs Advisor's responsibilities shall include but not be limited to:

1. Assisting in the development, review and coordination of Departmental policies, procedures, programs, rules and legislation that affect consumers (to the extent that his/her participation is not inconsistent with the law);
2. Seeking to generate a public constituency for the enforcement of Federal laws;
3. Serving as the representative of the Department of Justice on the Consumer Affairs Council and as liaison with other Federal, State, and local agencies, the activities of which affect consumers with regard to matters within the jurisdiction of the Department;
4. Providing support and advice to the Attorney General to insure proper consideration of the potential effect of Departmental activities on consumers;
5. Obtaining consumer views on Departmental operations, policies, procedures, programs, rules and legislation, as appropriate;
6. Establishing adequate Departmental procedures for prompt and complete response to consumer inquiries and complaints; and
7. Coordinating, enhancing and clarifying information, disseminated to consumers by the Department, and determining which of the information shall be provided in more than one language. That information is currently disseminated in five principal ways: (a) response to consumer complaints; (b) general information supplied through the media about Departmental actions; (c) speeches and policy statements by Department representatives; (d)

consumer education programs; and (e) brochures and publications.

Relationship With Other Consumer Personnel and Agency Operating Units

Policy development and program planning and evaluation in consumer-related matters are conducted primarily by the individual operating units of the Department. Such units shall continue to have primary responsibility for addressing consumer concerns related to the unit's activities. To implement this plan and to coordinate consumer-related activities in the Department, a Consumer Affairs Committee will be created within the Department. The Committee shall consist of one person designated by the head of each unit of the Department (division, board, bureau or office). Such designee shall be a person with responsibility for handling public inquiries and complaints and/or programs with significant public involvement and/or impact.

Participation in Development and Review of Agency Rules, Policies, Programs and Legislation**1. Notification Procedure**

The advisor shall be notified whenever a unit of the Department is contemplating a new policy or program initiative that may have impact on consumers. He/she shall be consulted by the Office of Legal Counsel on regulations under consideration and by the Office of Legislative Affairs on legislative matters.

The Advisor shall also initiate communications with appropriate officials at all levels of the Department to keep informed about rules, policies, programs and legislation under consideration.

2. Stage at Which Participation Begins

The Advisor may participate at any stage of decisionmaking to the extent permitted by law to facilitate consideration of consumer concerns.

3. Methods of Participation

The Advisor may participate in whatever manner he/she deems appropriate. If a unit head and the advisor disagree on the proper role of the Advisor, the Attorney General will resolve the question.

II. CONSUMER PARTICIPATION**Stage of Agency Decisionmaking Participation Begins**

The Attorney General will issue a statement supporting direct consumer participation in early policy and program development in appropriate matters. He will direct that each unit consider the viewpoint of consumers in matters of consumer concern. To implement this goal, the Advisor shall consult with the head of each unit of the Department to consider matters appropriate for consumer participation. The Advisor and the head of each unit shall devise and implement a plan for early and meaningful consumer participation in such matters. Should the Advisor and the unit head disagree on the appropriateness of consumer participation or of a

particular form of consumer participation in a given matter, the Attorney General will resolve the question. Consumer participation shall begin in designated matters at the policy development stage or at the rule or legislative drafting stage.

Avenues of Participation

1. The Attorney General will direct all units of the Department to give full consideration in the course of decisionmaking to concerns of consumers.

2. The Department will maintain a calendar of all matters issued for public comment with the appropriate closing date and, through its Public Information Office, inform interested consumer groups that such matters are pending for public comment. The Advisor shall compile a list of persons interested in notification and they shall be placed on the appropriate mailing list.

3. On a semi-annual basis, the Attorney General, on consultation with the Advisor, will designate senior level officials to conduct a forum for direct expression of consumer views on Departmental programs and policies. Each forum shall address a specific area, e.g., immigration policy; role of the FBI; use of LEAA funds. Such forums shall be conducted as town meetings with a general statement of policies and issues followed by an opportunity for direct public comment and response. Such meetings shall be held in appropriate major cities, generally outside of Washington.

4. The Advisor may recommend to units of the Department and/or to the Attorney General other appropriate mechanisms and opportunities for consumer participation.

5. Consumer participation shall occur only in accordance with the plans devised jointly by the Advisor and units, as directed by the Attorney General, or as invited by the unit.

III. INFORMATIONAL MATERIALS

Agency Information Services

1. Usefulness of Current Material

The Department has publications available that provide information about the Department or areas of public concern.

(a) A 24-page booklet entitled "Legal Activities" describes the legal activities of the Department by division and other operating unit.

(b) The Antitrust Division publishes a booklet entitled "Antitrust and the Consumer," which explains the purposes of the antitrust laws.

(c) The Immigration and Naturalization Service publishes booklets on immigration laws, naturalization requirements, and many other immigration matters.

(d) The Community Relations Service has published booklets on effective human relations commissions, minority problems in prisons, racial disputes in high schools, tips for educators and police in school disputes and others.

(e) The Drug Enforcement Administration has available a coloring book on drugs and health, and other publications regarding drug abuse.

(f) The Law Enforcement Assistance Administration, the Federal Bureau of Investigation, and other units of the Department publish materials about their responsibilities and about matters of general concern.

The Department believes these materials are comprehensive and helpful but recognizes that there is always room for improvement. (A comprehensive listing of current publications is set forth at the end of the plan.)

2. Plans for Improvement

The Advisor shall review the Department's informational materials and make recommendations for improvement. The Advisor shall also determine which materials should be translated into one or more foreign languages.

The Advisor shall consult appropriate governmental entities, including the General Services Administration Consumer Information Center/Federal Information Center, regarding methods for achieving optimum distribution of the Department's informational materials.

The Department will assist in publication of a brochure regarding the Freedom of Information Act and Privacy Act. The Department is reviewing available literature on small claims court procedures and plans to develop a guide for consumers on small claims court practice. The Department will give priority to publishing a brochure regarding small claims court procedures and/or, if appropriate, a brochure on the Dispute Resolution Act.

As noted elsewhere, the Department will distribute the Consumer Resource Handbook to all U.S. Attorneys and Departmental Offices to provide guidance on handling public inquiries and complaints. It will publish on a monthly basis a summary of all matters pending for public comment and provide copies to consumer groups and other interested persons.

3. Officials Responsible for Consumer Information Program

The Advisor, together with his/her permanent designees and the Consumer Affairs Committee, shall review current informational materials and shall provide advice regarding the preparation of new materials. The Public Information Office shall publish and distribute the summary of matters pending for public comment.

Information on Agenda of Public Meetings

1. Format of Materials

2. Manner of Notification and Distribution

Explanatory materials for consumer meetings of the Department shall be prepared by the unit involved with appropriate assistance from the Advisor. The materials shall describe general topics of concern as well as the date, time, place and format for the meeting. They shall invite suggestions for additional topics to be addressed at the meeting. These materials shall be made available through the Public Information Office and shall be mailed to appropriate

organizations in the area in which the meeting is to take place.

IV. EDUCATION AND TRAINING

Areas in Which Training Provided.

Training shall be provided in complaint handling and in other matters the Advisor concludes would help implement the plan.

Responsibility for Educating Staff Members About Consumer Program

Method of Education

The Attorney General will advise each unit of the Department of the existence of the final consumer plan and of their responsibilities under the plan by circulating copies of the Order and plan with a cover memorandum. The Advisor to the Attorney General shall respond to inquiries about the plan and shall help units in implementation of the plan.

Specialized Training for Consumer Affairs Personnel

The Department's training staff shall train individuals in complaint handling and other consumer affairs responsibilities. The training shall cover the major consumer resources of the Department and other government agencies, courtesy and attitude in responding to mail and telephoned inquiries, guidelines for appropriate responses to inquiries and disclosure policies regarding pending Departmental matters.

The Department will sponsor the attendance of appropriate personnel at training sessions provided by such other agencies as the Federal Trade Commission.

Selecting Consumers and Organizations To Receive Assistance

The Dispute Resolution Act, (S. 423), is currently pending before Congress and has been strongly endorsed by the Department of Justice. If enacted, the bill would provide for the establishment of a Dispute Resolution Resource Center within the U.S. Department of Justice. The functions of the Center would be: (1) to serve as a clearinghouse for the exchange of information concerning the improvement of existing dispute resolution mechanisms and the establishment of new ones; (2) to provide technical assistance to improve and create such mechanisms; (3) to conduct research on mechanisms and to encourage the development of new ones; (4) to conduct surveys of all such mechanisms and to collect relevant data on them; (5) to identify the mechanisms or aspects which are the most effective and fair and suitable for adoption; and (6) to make grants to enter into contracts with public agencies, educational institutions, and qualified persons to conduct research, demonstrations or special projects. The Center would undertake an information program to advise potential grant recipients and states of the availability of funds and eligibility requirements. In addition under the legislation, the Center would identify the types of

minor disputes most amenable to resolution through informal methods.

The proposed Dispute Resolution Resource Center would complement the efforts of the Advisor to the Attorney General for consumer matters and other Departmental consumer programs, and would provide technical assistance to state and local governments and non-profit consumer-related organizations. Once the Center is established, assuming all requests for assistance cannot be met, Center officials in consultation with the Advisor shall decide on a method for selecting consumer and organizations to receive assistance.

V. COMPLAINT HANDLING

Agency Interest in and Methods for Filing

The Department's Public Information Office, after consultation with the Advisor, shall issue press releases containing information to educate consumers on the Department's mission, to invite information, comment and complaints and to encourage the reporting of violations of law to federal law enforcement officials. The releases shall specify the offices within the Department to which written comments, reports and complaints should be directed.

Departmental informational publications shall be reviewed by the Advisor, in conjunction with a designated official in each unit, to consider whether revisions are appropriate, to indicate Departmental receptivity to comments and complaints, and to designate a point of contact within the Department.

Format for Logging Complaints

The Advisor shall survey all units of the Department to determine the volume and types of consumer inquiries received and the procedures used in handling inquiries. The Advisor shall also review mailroom and telephone switchboard procedures to ascertain whether inquiries are receiving appropriate internal routing. After considering current procedures, the Advisor shall issue directives establishing the standards to be met in each system of complaint handling. The directives shall seek to insure that complaints receive timely, courteous and appropriate responses, and that the complaint procedures facilitate the gathering of statistical and summary information for analysis by Departmental officials. The Advisor shall ascertain whether current procedures are adequate or whether a uniform Department-wide format for logging in complaints is necessary. The Advisor shall help designated officials in each unit establish a system to categorize complaints for statistical analysis.

Investigation and Analysis

The standards issued by the Advisor shall seek to insure that complaints received by each unit are considered promptly and appropriately by agency officials.

Response Procedure

The Advisor shall prepare a resource guide for use in responding to consumer mail. The guide shall include sample responses. Each office, including U.S. Attorneys' offices and field offices, shall be provided a copy of the resource guide and a copy of the Consumer Resource Handbook for its use in responding to consumer inquiries.

Evaluation of Complaint Handling System

After issuing and implementing standards, the Advisor shall regularly evaluate the results of the systems and the promptness and quality of the Departmental responses to consumer inquiries.

Statistical Analysis

The Advisor shall prepare an annual report to the Attorney General, to be circulated to all unit heads, analyzing the complaints received by the Department. The Attorney General and each unit head shall consider the patterns of complaints received and the concerns generally expressed regarding Departmental policies and practices.

VI. OVERSIGHT

The Department is establishing a position of Consumer Affairs Advisor to the Attorney General. (See Section I.) This position shall be filled at either the GS-15 or GS-14 level. The Advisor shall be located in the Attorney General's office. The Advisor shall report directly to the Attorney General as to all matters referred to in this Consumer Plan. The responsibilities of the Advisor are specifically set forth in Sections I-V of the Plan. The Advisor shall work in conjunction with designated officials in various units in the Department, as articulated heretofore in this Plan, and may bring to the direct attention of the Attorney General any matters relevant to a unit's performance under this Plan for consideration and action.

Dated: November 23, 1979.

Benjamin R. Civiletti,
Attorney General.

LISTING OF CURRENT DEPARTMENT OF JUSTICE PUBLICATIONS**Department of Justice—General**

Legal Activities.

Department of Justice—Antitrust Division

Antitrust Enforcement and the Consumer.

Immigration and Naturalization Service

United States Immigration Laws.
Naturalization Requirements and General Information.
Our Immigration—A Brief Account of Immigration to the U.S.

Federal Bureau of Investigation

The FBI National Academy.

Cooperation The Backbone of Effective Law Enforcement.
Search by Consent.
The FBI Laboratory.
FBI Law Enforcement Bulletin.
Fingerprint Identification.
Crime Resistance.
The National Crime Information Center and You.
The Story of the FBI.
99 Facts About the FBI. Questions and Answers.
FBI—Career Opportunities.
Crime in the United States 1978.
Profiles in Crime.

Community Relations Service

Guidelines for Effective Human Relations Commissions.
Nobody would argue that prison administrators shouldn't control their institutions. But when minority group inmates feel their rights are violated, the result is predictable (Corrections Brochure).
Like they say experience teaches. And it has taught us something about racial disputes in high schools and colleges (Education Brochure).
Police Use of Deadly Force.
School Security—Guidelines for Maintaining Safety in School Desegregation.
A Synopsis—the CRS.
Viewpoints and Guidelines on Court-Appointed Citizens Monitoring Commissions in School Desegregation.
CRS 1978 Annual Report.
It isn't easy for people caught up in a racial dispute to find a way out. Emotions run high. Issues may be complex. And a basic problem often prevents working out a solution * * *. (General Brochure).
School Disruptions: Tips for Educators and Police.
Desegregation Without Turmoil: The Role of the Multiracial Coalition in Preparing for Smooth Transitions.
Examples of CRS Aid to Communities.

Law Enforcement Assistance Administration

Improving Juvenile Justice.
LEAA Newsletter.
Police and Public Safety.
This is NCJRS.¹
The NCJRS Collection.
NCJRS Document Loan Program.
Home Security Starts at Your Door.
Sourcebook of Criminal Justice Statistics—1978.

Drug Enforcement Administration

Drug Abuse and Misuse.
Soozie (a coloring and cut and paste book).
Drogas—Un Folle to De Bosillo.
Drugs of Abuse.
Controlled Substances: Uses and Effects (chart).
Drug Enforcement Administration (DEA) [Summary of functions].
DEA Fact Sheet (Variety of Subjects).

¹ NCJRS—National Criminal Justice Reference Service. Established 1972. NCJRS collects materials and maintains a library of close to 40,000 documents on criminal justice subjects and a computerized data base of bibliographic descriptions and abstracts. LEAA has granted the NCJRS a contract to perform this work.

Form Approved:
OMB No. 116S79021

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

**SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON
WHICH YOU ARE COMMENTING**

Monday
December 10, 1979

Part VII-Section C

Department of State

Draft Consumer Program

1979
12
10
1979

DEPARTMENT OF STATE

[Public Notice 695]

CONSUMER AFFAIRS**AGENCY:** Department of State.**ACTION:** Proposed Consumer Affairs Program.

SUMMARY: This Notice is issued to invite public comments on a proposed consumer affairs program to be implemented in response to Executive Order No. 12160. The following information describes the program the Department of State plans to undertake to meet the President's objective of ensuring that consumer needs and interests are adequately considered and addressed.

DATE: Comments are due on or before March 10, 1980.**ADDRESS:** Send comments to James R. Tarrant, Special Assistant for Consumer Affairs, Room 6822, Department of State, Washington, D.C. 20520. Telephone (202) 632-8836.**FOR FURTHER INFORMATION CONTACT:** James R. Tarrant, Special Assistant for Consumer Affairs, Room 6822, Department of State, Washington, D.C. 20520. Telephone (202) 632-8836.**I. GENERAL**

The central objective of the Department of State in consumer affairs is to ensure that the needs and interests of American consumers are adequately considered and addressed in the formulation of foreign economic policies. Participation by consumers in this process is fundamental to achieving this aim.

Since the Department is concerned with foreign rather than domestic policy, its consumer affairs program is unique and limited in scope compared to those in other Federal Government Agencies. The Department's program deals principally with a relatively small number of frequently complex economic negotiations that tend to continue over a period of time. These subjects include, for example, international commodity agreements on rubber, coffee, sugar, tin and other products as well as trade, civil aviation and telecommunications matters. These issues are largely within the jurisdiction of the Bureau of Economic and Business Affairs. In addition, however, there are a few consumer-related issues that arise in two other areas of the Department. The Bureau of International Organization Affairs has responsibility for matters occurring in the United Nations system where consumer-related issues include restrictive business practices, a code of conduct for trans-national corporations, illicit payments and resolutions on consumer protection. The Bureau of Consular Affairs issues passports and provides other consular services to the public. While it is primarily the activities within the responsibility of these three Bureaus for which the Department undertakes to carry out the consumer affairs program described in this Notice, the Department's Special Assistant for Consumer Affairs will have oversight responsibility for all consumer-related issues arising the Department

and will seek to ensure that any issues of this type are also subject to the procedures outlined in this Notice.

II. CONSUMER AFFAIRS PERSPECTIVE

The primary consumer affairs staff of the Department of State will consist of two full time individuals whose sole responsibility will be consumer affairs: a professional international economist who will be Department's Special Assistant for Consumer Affairs and an assistant for handling administrative matters concerned with consumer affairs. The Special Assistant will be attached to the Office of the Assistant Secretary for Economic and Business Affairs who has direct access and reporting responsibility to the Secretary of State. In addition to the Special Assistant's responsibility to provide a consumer affairs perspective (subsection 1-401(a) of the Executive Order), this official will have responsibility for carrying out other consumer affairs work in the Department. There will also be a number of other officers in the Department who will work on a range of economic issues having a consumer element to them.

The Special Assistant will have overall responsibility for coordinating consumer affairs issues arising within any component of the Department of State. The Special Assistant will be authorized to participate in the development and review of all departmental policies, programs, legislation and rules on consumer-related issues. In carrying out these responsibilities this official will work directly with other Department economists and officials, attend appropriate staff meetings and be designated a member of the Commodity Task Force. The Special Assistant will participate throughout the policy formulation process on consumer-related issues, from initial discussions through the final decision. To ensure the Special Assistant is kept fully abreast of activities, the Bureau of International Organization Affairs and the Bureau of Consular Affairs will be responsible for keeping the Special Assistant informed on all consumer-related issues in their areas of authority and for systematically reporting to the Special Assistant each quarter on the status of these issues as well as issues of this type expected to arise in the future.

In addition, the Office of the Legal Adviser will inform the Special Assistant in all cases of proposed rule-making by the Department in which there appears to be a consumer-related issue.

III. CONSUMER PARTICIPATION

The Office of the Special Assistant for Consumer Affairs will be in charge of carrying out the Department of State's consumer participation responsibilities under the Executive Order.

As a matter of general policy, the Department will seek to exercise considerable flexibility in providing opportunities for consumer views to be heard in the course of its decisionmaking process. The Department will accept and consider consumer views submitted at any time in the policy formulation process on an issue. Views may be provided in writing, by telephone or personal visit to the Special Assistant.

Given the unique and limited scope of the Department's responsibilities in the area of consumer affairs, its primary method for ensuring consumer participation is the following: First, the Department engages in an ongoing program of direct letter and telephone contacts with state and local consumer organizations as well as with consumer and public interest groups represented in Washington, D.C. This is a continuous outreach program designed to maintain contact and solicit views from consumer groups and individuals who may have an interest or expertise in those particular consumer-related issues within the responsibility of the Department. In addition to these activities, Department representatives attend various consumer meetings and publicize the Department's program in the media as part of a broader effort to make consumers aware of the opportunity for them to make their views known.

Second, the Department seeks out representative consumers, frequently affiliated with a consumer or public interest organization, for a more intensive form of briefing and exchange of views. This often involves bringing the individual to Washington, D.C. with travel and per diem expenses paid by the Department and is usually done in connection with preparing consumer representatives to serve on international conference delegations which are accredited officially by the Department's Office of International Conferences.

Third, the Department selects consumer representatives to act as advisers on U.S. delegations to international meetings that are negotiating or discussing issues with a significant impact on American consumers. In such cases, travel and per diem expenses are paid by the Department of State during the period of the meeting. Both the program of Washington consultations and participation on official delegations are subject to the availability of Department funds.

The Department of State's regulations for selecting and funding consumer and public interest representatives, as well as guidelines covering the actual participation of private sector advisers on delegations, are described in more detail in Federal Register notices No. 624 of August 24, 1978, and No. 655 of March 23, 1979.

A number of consumer and public interest representatives also serve, along with other private sector individuals, on advisory committees to the Department of State. The Department will continue this program and its policy of meeting the travel and per diem expenses of consumer representatives, as funding is available.

The Department will undertake a new program, as funds are available, to hold a meeting once each year of a group of consumer representatives who have served as advisers on U.S. Government delegations. This will be done to improve the effectiveness and usefulness of positions presented to the Department on consumer matters.

To further inform consumers of the opportunities available for participation in State Department policy formulation, the Department's program will be

incorporated into a brochure which will be made widely available as part of its informational program. The Special Assistant will also maintain a mailing list of interested consumer groups and individuals for the purpose of informing them of specific opportunities to make their views known on issues under consideration by the Department of State.

The Special Assistant will act within the Department of State to ensure consumer concerns are adequately considered. Where possible, the effects on consumers will be specified in position papers for international negotiations on issues having a significant impact on American consumers.

IV. INFORMATIONAL MATERIALS

The Office of the Special Assistant for Consumer Affairs will be responsible for planning and carrying out the Department's information program concerning consumer participation in the economic-related activities of the Department of State.

The Department will continue its policy of making available individually tailored written materials and providing specific oral briefings for consumer advisers on particular issues and for consumer representatives on U.S. delegations negotiating issues relevant to U.S. consumers. Given the relatively limited number of consumer issues of an economic nature within the responsibility of the Department of State, this procedure meets a significant portion of the need for informational materials for consumers.

In addition, the Department of State will produce and distribute to broad consumer audiences a brochure to inform consumers about the Department's responsibilities and services in consumer affairs and its procedures for consumer participation in these matters. This material will be made available within six months of the publication in the Federal Register of the Department's final consumer affairs program. Distribution will be made to consumer organizations throughout the country for direct distribution to their membership and to the public at large.

For meetings open to the public on consumer related issues, the specific office within the Department having responsibility for the meeting will ensure that clear, descriptive material is available to all participants on the issues to be discussed. Such materials will be available at the time of the meeting or may be obtained upon request from the Office of the Special Assistant for Consumer Affairs or the specific office having responsibility.

The Bureau of Consular Affairs will be responsible for the Department's information program on consular services that are available to the public. These include:

(A) Issuance of passports. Numerous publications and notices are used to inform the public about this service. Proposed changes in passport regulations are subject to established rule-making procedures and are published in the Federal Register for public comment prior to taking effect. Questions about passports should be directed to the Public Inquiries Section, Passport Office, Department of State, Washington, D.C.

(B) Overseas Citizens Services. These services include the overseas travel advisory program, the welfare/whereabouts system for inquiring about U.S. citizens abroad and the availability of personnel after normal business hours to handle emergencies. These services are widely publicized through the Public Affairs Office of the Bureau of Consular Affairs. Inquiries may be made with the Office of Citizens Consular Services, Department of State, Washington, D.C.

V. EDUCATION AND TRAINING

The Office of the Special Assistant for Consumer Affairs will be responsible for informing Department officials about the provisions of Executive Order No. 12160 and the specific elements of the Department's consumer affairs program. This will be accomplished by written briefings for senior, policy-making officials and by circulation of a Departmental Notice. The final consumer affairs program will be circulated to all personnel who are expected to be involved in any facet of consumer activities. Any significant changes in the consumer program will be communicated within 30 days to Departmental personnel.

The Special Assistant will be responsible for ensuring that any specialized training in consumer affairs is provided. Given the Department's small consumer affairs staff, such specialized training would probably be requested from another department or agency having such facilities.

The Department will assist consumer representatives in the completion of "Biden questionnaires" for those seeking this form of financial assistance and in developing any additional substantive expertise to serve most effectively on U.S. negotiating delegations for which they have been accredited.

VI. COMPLAINT HANDLING

The central point of responsibility for handling consumer complaints of an economic nature will be the Office of the Special Assistant for Consumer Affairs.

Telephone, personal visit and mail complaints will be directed to this office for initial handling. The following procedures will be carried out:

(A) Screening. Complaints will be screened by the Special Assistant's office to determine their applicability to the Department of State. Those complaints falling within the responsibility of another agency will be forwarded to that agency for action.

(B) Logging and classifying. Telephone and personal visit complaints that cannot be resolved during the first contact will be logged. All mail complaints will be logged. Every consumer complaint communication will be entered into the Central Complaint Log with a numeric indicator assigned to it. The following topical categories will be used to classify complaints: commodities, civil aviation, telecommunications, business and general. The date received, nature of the complaint, name of complainant, office assigned responsibility for replying, due date for responding and

eventually the date reply sent will be noted in the log for each complaint.

(C) Routing. Consumer complaints will then be routed to the responsible office in the Department of State with instructions on how replies are to be handled.

(D) Responding. The office assigned responsibility will investigate the complaint and reply within ten working days or send an interim communication acknowledging receipt and indicating when a reply can be expected. All replies will be sent within twenty working days. Responses may take the form of telephone calls, letters or other written communications, depending on the circumstances of the particular complaint. A "tickler" file will be maintained by the Office of the Special Assistant and complainant responses will be monitored to ensure that timely replies are made. A copy of the response or notices of a telephone call will be sent to the Special Assistant's office where it will be maintained on file for a minimum period of two years.

(E) Analyzing and Reporting. An analysis of the consumer complaints received and the implications for the Department of State will be done by the Special Assistant at intervals not to exceed one year in duration. At the end of each calendar year a report will be sent to the Secretary of State, the Assistant Secretary for Economic and Business Affairs or other senior officials having responsibility for issues covered in that particular report. The report will describe the pattern of complaints received, their policy implications for the Department and any appropriate action that should be taken. This annual report will also include an evaluation of the Department of State's consumer complaint handling system.

The Bureau of Consular Affairs maintains a similar but separate complaint handling system. Complaints concerning the Passport Office, the Visa Office or the Overseas Citizens Services Office may be sent directly to these Offices, Department of State, Washington, D.C.

The Department of State's receptivity to complaints and its system for handling them will be made known to consumer and consumer groups. This will be done primarily by publicizing the programs in brochures to be sent to consumer organizations throughout the country for direct distribution to their membership and to the public at large.

VII. OVERSIGHT

The Department's Special Assistant for Consumer Affairs will be designated by the Secretary of State to be the responsible official for policy guidance, coordination and oversight of consumer affairs activities.

The positions of Special Assistant for Consumer Affairs (S-46557-00) will be filled by a senior-level Department of State officer. The Special Assistant will be attached to the office of the Assistant Secretary for Economic and Business Affairs.

The Department will consider all comments received in response to this Notice and after approval by the

Chairperson and the Consumer Affairs Council will publish a final consumer affairs program, no later than May 25, 1980. This final consumer affairs program will be incorporated into the Department's regulations by inclusion in the Foreign Affairs Manual.

Michael M. Conlin,

Acting Undersecretary for Management.

BILLING CODE 4710-07-M

Form Approved:
OMB No. 116S79021

CONSUMER RESPONSE FORM FOR EXECUTIVE ORDER 12160

Dear Consumer:

The _____ (agency) wants to make its consumer program better and more responsive to you, the consumer. We would like your thoughts and suggestions for improving our proposed consumer program. Please help us by answering the following questions:

1. Which of the following statements best describes your interest in our consumer program?
 - I am interested in it as an individual consumer.
 - I am concerned about it, because I represent a public interest consumer group.
 - I am concerned about it, because I represent a private company or organization.
2. After reading about our consumer program, do you think you understand how it works?
 - Yes, it is clear and I understand it.
 - Yes, I understand most of it.
 - No. Much of it is not clear to me.
3. Part of our consumer program sets up ways for consumers to help us make policies and rules. Do you feel our program makes it easier for you to participate?
 - Yes.
 - No. Why? _____
4. Our proposed consumer program outlines how we plan to get information out to consumers. How adequate do you think our plan is?
 - It seems adequate.
 - It is not adequate. Why? _____
5. We want to make it easy for consumers to bring their problems to our attention. Our proposed program tells how we intend to handle complaints from consumers. How good is our plan?
 - Adequate.
 - Not adequate. Why? _____
6. After reading our proposed consumer program, do you know whom or which office in _____ (agency) to contact if you have:
 - A complaint? Yes. No.
 - A general question about the agency? Yes. No.
 - A question about how to take part in agency proceedings? Yes. No.
7. Do you know who or which office in _____ (agency) speaks for the consumer? Yes. No. Any suggestions for improvement? _____
8. Do you have any suggestions for improving our consumer program?
 - No.
 - Yes, in the following areas:
 - Consumer participation _____
 - Informational materials _____
 - Complaint handling _____

9. Other comments or suggestions? (Use additional pages, if necessary.)

(Your name)

(Your address)

(City, state, zip)

SEND THIS FORM DIRECTLY TO THE AGENCY PROPOSING THE PROGRAM ON WHICH YOU ARE COMMENTING.