AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 43—No. 74
4-17-78
PAGES
16147-16304

federal register

MONDAY, APRIL 17, 1978

highlights

REGULATIONS DRAFTING WORKSHOPS

The Office of the Federal Register announces two additional Regulations Drafting Workshops for May and June, 1978.

The aim of the workshop is to improve the quality of Federal regulations by teaching how to design and draft clear documents.

WHO: Any Federal employee who drafts documents or who reviews documents for substance that are published in the FEDERAL REGISTER.

WHEN: May 8, 9, 10, 11, 1978 for people who are new to the Federal Government or to the rulemaking process, and June 12, 13, 14, 15, 1978 for people who are familiar with the rulemaking process.

WHERE: 1100 L Street, N.W., Room 9407, Washington, D.C.

COST: $150 for each person. Send a Form 170 or the training authorization form used by your office to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

HOW: Call (202) 523–4534 to make a reservation in addition to completing the training form.

FOR MORE INFORMATION: Call (202) 523–4534.

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for May are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

CONTINUED INSIDE

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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202-523-5240.**

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**-783-3238
Subscription problems (GPO)	**202**-275-3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**-523-5022
Scheduling of documents for publication.	523-3187
Xerox copies of documents appearing in the Federal Register.	523-5240
Corrections	523-5237
Public Inspection Desk	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

SUNSHINE ACT MEETINGS 16256

NATIONAL COMMISSION ON THE INTERNATIONAL YEAR OF THE CHILD
Executive order establishing 16147

HANDICAPPED CHILDREN
HEW/OE issues final regulation governing grants to state agencies responsible for providing free public education (Part II of this issue) 16262

HANDICAPPED INDIVIDUALS
FHLBB proposes regulations regarding discrimination against handicapped in federally assisted programs; comments by 5-30-78 16190

INDIAN AFFAIRS
Interior/BIA revises final roll of the Confederated Tribes of Siletz Indians of Oregon; effective 4-17-78 16175
Interior/BIA issues report from reorganization task force; comments by 6-16-78 16284

TOXIC SUBSTANCES CONTROL
EPA clarifies inventory reporting regulations 16178

TREASURY SECURITIES
Treasury/Secy announces auction of Series N-1980 notes 16237

BUDGET RESCISSIONS AND DEFERRALS
OMB issues cumulative report for April 1978 (Part III of this issue) 16276

COMMODITY OPTIONS
CFTC suspends further offer and sale to general public on and after 6-1-78 16153

BANKHOLDING COMPANIES
FRS proposes to set forth procedures concerning nonbanking activities; comments by 5-23-78 16190

TECHNOLOGY SMALL GRANTS PROGRAM
DOE proposes guidelines for implementation; comments by 5-18-78; hearing on 5-15-78 16185

HIGHWAYS
DOT/ FHA rescinds certain regulations; effective 4-19-78 16167

AIR FORCE
DOD/AF proposes rule permitting support for nongovernmental organizations to test and evaluate products, techniques, and equipment; comments by 5-15-78 16193

LIMES GROWN IN FLORIDA
USDA/AMS prescribes minimum grade and size requirements; effective 5-1-78 16149

PRIVACY ACT
PS publishes additional routine uses for two systems of records; comments by 5-17-78 16229

MEETINGS—
CAB: U.S.—Bahamas Service Investigation, 5-18-78 16207
CRC: Iowa Advisory Committee, 5-5-78 16207
Massachusetts Advisory Committee, 5-3-78 16207
Missouri Advisory Committee, 5-2-78 16207
Nebraska Advisory Committee, 5-8-78 16208
West Virginia Advisory Committee, 5-10-78 16208
Wisconsin Advisory Committee, 5-9-78 16208

DOD/AF: USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions, 5–4 and 5–5–78 16215
DOE/ERO: High Energy Physics Advisory Panel, 5–3 and 5–4–78 16222
DOT/CG: Ship Structure Subcommittee, 5–15–78 16234
NRC: Advisory Committee on Reactor Safeguards Subcommittee on the Maine Yankee Nuclear Plant, 5–2–78 16229
NSF: Workshop on Research in Science Education, 4–30 through 5–3–78 16228
Subcommittee on Economics, 5–5 and 5–6–78 16228
Subcommittee on Electrical Sciences and Analysis, 5–4 and 5–5–78 16228
Subcommittee for Geography and Regional Sciences, 5–4–78 16227
State: Shipping Coordinating Committee, 5–31–78 16234

CHANGED MEETINGS—

CRC: New Jersey Advisory Committee, 4–25–78 16208
NSF: Subcommittee to Review the Space Radiation Effects Laboratory of the Advisory Committee for Physics, 4–19–78 16228

HEARINGS—

DOT/CG: Visual Distress Signals, 5–2, 5–5, and 5–11–78 ... 16194
SEC: Establishment of a National Clearance and Settlement System, 4–19–78 16231

SEPARATE PARTS OF THIS ISSUE

Part II, HEW/OE 16262
Part III, OMB 16276
Part IV, Interior/Secy 16284

contents

THE PRESIDENT

Executive Orders

Child, National Commission on the International Year of the; establishing 16147

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Limes grown in Fla 16149

Proposed Rules

Milk marketing orders:
Middle Atlantic 16185

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Farmers Home Administration.

AIR FORCE DEPARTMENT

Proposed Rules

Non-governmental test and evaluation, support of 16193

Notices

Meetings:
Scientific Advisory Board 16215

BONNEVILLE POWER ADMINISTRATION

Notices

Energy conservation policy; inquiry; correction 16215

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
Frontier Airlines, Inc 16206
U.S.-Bahamas service investigation 16207

CIVIL RIGHTS COMMISSION

Notices

Meetings; State advisory committees:
Iowa 16207
Massachusetts 16207
Missouri 16207
Nebraska 16208
New Jersey; correction 16208
West Virginia 16208
Wisconsin 16208

COAST GUARD

Proposed Rules

Boating safety:
Equipment requirements; visual distress signals; hearings 16194

Notices

Meetings:
Ship Structure Committee 16234

COMMERCE DEPARTMENT

See Industry and Trade Administration.

COMMODITY FUTURES TRADING COMMISSION

Rules

Commodity option transactions 16153

COST ACCOUNTING STANDARDS BOARD

Rules

Defense prime contracts and subcontracts, negotiated; contract clause changes, etc.; correction 16149

CUSTOMS SERVICE

Notices

Authority delegations:
Assistant Commissioner (Regulations and Rulings); court decisions 16234

DEFENSE DEPARTMENT

See Air Force Department.

EDUCATION OFFICE

Rules

Handicapped children:
State operated programs 16262

ENERGY DEPARTMENT

See also Bonneville Power Administration; Energy Research Office; Federal Energy Regulatory Commission.

Proposed Rules

Appropriate technology small grants program; establishment; hearing 16185

ENERGY RESEARCH OFFICE

Notices

Meetings:
High Energy Physics Advisory Panel 16222

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; approval and promulgation; various States, etc.:
District of Columbia 16177
Toxic substances:
Inventory reporting; availability and supplemental clarification 16178

Proposed Rules

Air quality implementation plans; enforcement by State and Federal governments after statutory deadlines:
Indiana 16195
Ohio 16195

FARMERS HOME ADMINISTRATION

Notices

Disaster and emergency areas:
Texas 16206

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
Lockheed 16151
McDonnell Douglas 16151
Teledyne Continental Motors 16152
VOR Federal airways 16152

Proposed Rules

Airworthiness directives:
Boeing 16191
VOR Federal airways 16192

FEDERAL COMMUNICATION COMMISSION

Proposed Rules

FM broadcast stations; table of assignments:
Michigan 16203

Notices

Hearings, etc.:
Radio Dispatch Corp. et al 16223

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Hearings, etc.:
Consolidated Gas Supply Corp. (2 documents) .. 16215, 16216
Michigan Wisconsin Pipe Line Co 16220
Northern Indiana Public Service Co 16220
Northern Natural Gas Co 16222

FEDERAL HIGHWAY ADMINISTRATION

Rules

Payment procedures:
Reimbursement and advancement of funds; partial rescission 16167

FEDERAL HOME LOAN BANK BOARD

Proposed Rules

Federal home loan bank system:
Nondiscrimination; handicapped; Federally assisted programs 16190

FEDERAL INSURANCE ADMINISTRATION

Rules

Flood insurance, map corrections:
Connecticut 16168
Florida (2 documents) 16169
New Jersey 16170
North Dakota 16170
Oklahoma 16171
Rhode Island 16171
Texas (5 documents) 16172, 16173
Wisconsin 16174

FEDERAL MARITIME COMMISSION

Notices

Agreements filed, etc 16224
Freight forwarder licenses:
Shipper's Export, Inc., et al ... 16224

FEDERAL RESERVE SYSTEM

Proposed Rules

Bank holding companies:
Nonbanking activities; establishment of foreign offices; procedures 16190

Notices

Applications, etc.:
American Bancor, Ltd 16225
Chemical Financial Corp 16225
Farmers Banshares of Abilene, Inc 16225
Kyowa Bank Ltd 16225

Pampa Bancshares, Inc 16225
Republic of Texas Corp 16226

FISH AND WILDLIFE SERVICE

Rules

Fishing:
Bowdoin National Wildlife Refuge, Mont 16183

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review, proposals, approvals, etc. (EEOC, FCC, ICC, NRC) 16225

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Education Office.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Rules

Low-income housing:
Public housing programs; development phase; prototype cost limits, Va. and Calif 16167

IMMIGRATION AND NATURALIZATION SERVICE

Rules

Immigration regulations:
Service officers, powers and duties; availability of service records; authority to certify records 16150

INDIAN AFFAIRS BUREAU

Rules

Enrollment:
Confederated Tribes of Siletz Indians of Oregon 16175

INDUSTRY AND TRADE ADMINISTRATION

Notices

Coal and coke export monitoring reports 16208

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

Notices

Indian Affairs Bureau Reorganization Task Force; report availability and inquiry 16284

INTERNAL REVENUE SERVICE

Notices

Authority delegations:
Assistant Commissioner (Accounts, Collection and Taxpayer Service) et al.; information disclosure to child support enforcement agencies 16235
Assistant Commissioner (Technical) et al.; tax liability 16235
Chief Counsel's delegate; Tax Court cases 16236
Regional Commissioners et al.; disclosure of return information 16237

INTERSTATE COMMERCE COMMISSION

Rules

Railroad car service orders:
Freight car movement 16182

Notices

Decisions; format standardization 16240
Fourth section applications for relief 16241
Hearing assignments (2 documents) 16239
Motor carriers:
Temporary authority applications 16242
Transfer proceedings 16241
Railroad car service rules, mandatory; exemptions 16240
Railroad services abandonment:
Northampton & Bath Railroad Co 16247
St. Louis Southwestern Railway Co 16249

JUSTICE DEPARTMENT

See Immigration and Naturalization Service; Law Enforcement Assistance Administration.

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
Wyoming (2 documents) 16227

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Law Enforcement and Criminal Justice National Institute; competitive research grants, solicitation 16227

MANAGEMENT AND BUDGET OFFICE

Notices

Budget rescissions and deferrals 16276

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Rules

Fuel economy standards, average:
Trucks, light, and nonpassenger automobiles 16181

Notices

Motor vehicle safety standards; exemption petitions, etc.:
Goodyear Tire & Rubber Co.; new pneumatic tires, passenger cars 16234

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
Engineering Advisory Committee 16228
Physics Advisory Committee . 16228
Social Sciences Advisory Committee (2 documents) 16227, 16228
Science education research; workshop 16228

NUCLEAR REGULATORY COMMISSION

Notices

Meetings:
Advisory Committee on Reactor Safeguards Subcommittee on the Maine Yankee Nuclear Plant 16229

POSTAL SERVICE

Notices

Privacy Act; systems of records 16229

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Investment Company Act:
Conduct standards; unlawful activities prevention, code of ethics establishment, etc.; correction 16192

Notices

National clearance and settlement system; hearings 16231
Hearings, etc.:
Leslie Fund for Income, Inc.... 16230
Middle South Services, Inc., et al 16230

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
BBS Equities Ltd 16232
Capital Marketing Corp 16232
Sagera Venture Corp., Inc..... 16233
Tri-State MESBIC, Inc 16233
Disaster areas:
Kansas 16232
Michigan (2 documents) 16233

STATE DEPARTMENT

Notices

Meetings:
Shipping Coordinating Committee 16234

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT

See also Customs Service; Internal Revenue Service.

Notices

Authority delegations:
Deputy Assistant Secretary (Operations); petitions 16237
Notes, Treasury:
N-1980 series 16237

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

EXECUTIVE ORDERS:
12053 16147

4 CFR

331 16149
409 16149

7 CFR

911 16149
944 16149

PROPOSED RULES:
1004 16185

8 CFR

103 16150

10 CFR

PROPOSED RULES:
470 16185

12 CFR

PROPOSED RULES:
225 16190
529a 16190

14 CFR

39 (3 documents) 16151, 16152
71 16152

PROPOSED RULES:
39 16191
71 16192

17 CFR

32 16153

PROPOSED RULES:
270 16192

23 CFR

130 16167
140 16167

24 CFR

841 16167
1920 (13 documents) 16168–16174

25 CFR

43p 16175

32 CFR

PROPOSED RULES:
835 16193

33 CFR

PROPOSED RULES:
177 16194

40 CFR

52 16177
710 16178

PROPOSED RULES:
65 (2 documents) 16195

45 CFR

116b 16262

47 CFR

PROPOSED RULES:
73 16203

49 CFR

523 16181
533 16181
1033 16182

50 CFR

33 16183

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

FCC—FM broadcast stations; table of assignments:
Sparta, Ga 10343; 3-13-78
HEW/FDA—Tetracycline antibiotic drugs for animal use; conforming amendments 11177; 3-17-78
Legal Services Corporation—Public access to meetings under the Government in the Sunshine Act 11198; 3-17-78
SEC—Uniform net capital rule 10550; 3-14-78
USDA/APHIS—Master Seed Virus; standard requirements 11145; 3-17-78

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

[Last Listing: April 11, 1978]

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

1 CFR

Ch. I 13865

3 CFR

EXECUTIVE ORDERS:

11126 (Revoked by EO 12050) 14431
11832 (Revoked by EO 12050) 14431
11888 (Amended by Proc. 4561) .. 15127
12022 (Amended by EO 12052) .. 15133
12050 14431
12051 15131
12052 15133
12053 16147

PROCLAMATIONS:

4445 (Revoked in part by Proc. 4559) 14433
4477 (Proc. 4559) 14433
4509 (Revoked in part by Proc. 4559) 14433
4560 15125
4561 15127

MEMORANDUMS:

August 27, 1976 (Supplemented by Memorandum of March 24, 1978) 15603
November 19,1976 (Supplemented by Memorandum of March 24, 1978) 15603
July 21, 1977 (Supplemented by Memorandum of March 24, 1978) 15603
November 5, 1977 (Supplemented by Memorandum of March 24, 1978) 15603
March 21, 1978 13999
March 24, 1978 15603

4 CFR

331 16149
409 16149

PROPOSED RULES:

21 14318

5 CFR

213 ..... 14001,14637, 14638, 15607
315 14001

PROPOSED RULES:

300 14955

7 CFR

1 14002
2 ..... 14004, 15135
102 14005
301 15607
401 ..... 14638, 14639, 15319
907 ..... 14435, 15407
908 ..... 14435, 15407
910 ..... 14303, 14640, 15608
911 16149
944 16149
967 15608
1049 15135
1472 15320
1823 15136
1948 ..... 14282, 15137
2852 15610

7 CFR—Continued

PROPOSED RULES:

632 15312
729 14025
913 14319
989 14024
1004 16185
1036 14478
1068 14025
1446 14035
1822 14322

8 CFR

103 16150
299 ..... 14303, 14957
499 14957

9 CFR

75 14022
92 15137
94 15613

PROPOSED RULES:

92 14042
113 ..... 14042, 15719
381 ..... 14043, 15158

10 CFR

Ch. I 14007
51 ..... 14641, 15613
170 15408
205 ..... 14436, 15617
303 14436
430 ..... 13865, 15138

PROPOSED RULES:

11 14672
50 14672
70 14672
210 14491
211 ..... 14491, 15158
212 ..... 14491, 15158
430 13888
470 16185

11 CFR

PROPOSED RULES:

Ch. I 14673

12 CFR

207 14304
217 15408
220 14304
221 14304
224 14304
225 ..... 15147, 15321
226 15148
404 14438
612 15622
701 ..... 14924, 15409, 15622
703 15622

PROPOSED RULES:

9 13889
225 ..... 14970, 16190
344 15432
521 14505
522 14505
523 14505

12 CFR—Continued

PROPOSED RULES—Continued

524 14505
525 14505
526 14505
527 14505
529a 16190
531 14505
532 14505
701 14929

13 CFR

108 14007
309 15148

PROPOSED RULES:

113 14674

14 CFR

39 ..... 13866, 13868, 14438-14441, 14957-14960, 15409-15413, 16151, 16152
71 ..... 13869, 14442, 14443, 14960, 15414, 15415, 16152
75 15415
97 14444
1204 14008
1221 15623

PROPOSED RULES:

39 ..... 13890, 14517, 14970, 16191
71 ..... 13891, 14518, 14971, 14972, 16192
121 13891
129 13891
207 ..... 13892, 14519, 15720
208 ..... 13892, 14519, 15720
212 ..... 13892, 14519, 15720
214 13892
215 15720
221 15334
241 14523
244 15720
245 14523
246 14523
249 15720
296 15720
298 13892
302 15334
304 ..... 14044, 15730
371 13892
372a 13892
373 13892
378 13892
378a 13892
385 15720
389 15720

15 CFR

917 15306
930 15416

16 CFR

PROPOSED RULES:

Ch. II 14322
13 ..... 14053, 14524

17 CFR

32 16153
200 15416
230 14445
240 14451
241 14451
249 14445

PROPOSED RULES:

1 ..... 15072, 15438
210 ..... 15335, 15730
230 ..... 15335, 15441
239 15335
240 15335
249 15335
270 16192

18 CFR

101 15418
104 15419
141 15419
260 15419

PROPOSED RULES:

2 15730
157 15730

19 CFR

6 14961
145 14451
153 14456

PROPOSED RULES:

4 14060

20 CFR

PROPOSED RULES:

410 15336
416 15336

21 CFR

74 14641
81 14642
172 14644
173 14644
182 ..... 14008, 14644
184 ..... 14008, 14644
361 14644
442 14646
520 ..... 14647, 15625
522 15625
540 14008
546 14647
558 14647
561 14008

PROPOSED RULES:

2 14674
101 ..... 14675, 14677
146 14678
171 15164
182 14064
184 14064
186 14064
448 ..... 14683, 15734
680 14683

22 CFR

Ch. V 14298
61 14456
505 14457

23 CFR

130 16167
140 16167
420 15626
625 14648
810 15321

PROPOSED RULES:

924 14683

24 CFR

203 13870
207 13870
220 13870
841 ..... 13871, 16167
888 14457
1920 16168-16174

PROPOSED RULES:

1917 15165

25 CFR

43p 16175

PROPOSED RULES:

43h 14684
256 14685

26 CFR

1 13875
139 14305
404 14962

PROPOSED RULES:

1 13893
601 ..... 13896, 13899, 15336

27 CFR

71 14650

28 CFR

0 14009

PROPOSED RULES:

50 14955

29 CFR

94 14940
97 14940
1902 14009
2520 14009
2605 14010
2608 14010

PROPOSED RULES:

97 ..... 14424, 14916
202 15734
203 15734
204 15734
541 14688
575 14068
1607 14955
1910 14071

30 CFR

PROPOSED RULES:

40 14691
41 14691
43 14691
44 14691
100 14691

31 CFR

51 15627

PROPOSED RULES:

51 15735

32 CFR

61 15148
81 15149
160 15150
217 14650
519 14458
581 15572
706 13878
707 13878

PROPOSED RULES:

835 16193

33 CFR

110 14470
181 14963
207 14652
222 14013
279 14014
305 13990

PROPOSED RULES:

126 15108
154 15108
156 15108
161 15586
173 15583
174 15583
175 15118
177 16194

36 CFR

7 14307
50 14653

38 CFR

3 ..... 14016, 15152

PROPOSED RULES:

21 15336

39 CFR

111 ..... 14018, 14308

PROPOSED RULES:

111 15165

40 CFR

52 ..... 13879, 14964, 15424, 16177
55 14470
60 15600
180 ..... 14019, 14020, 15155
710 16178

PROPOSED RULES:

52 ..... 13899-13902, 14692, 14972, 15167
55 ..... 14973, 15339
56 14072
65 16195

41 CFR

Ch. I 14021
Ch. 7 14471
1-1 14315
7-7 15627
7-10 15628
60-4 14888
101 15321
105-65 14315

PROPOSED RULES:

Ch. 8 14525
Ch. 9 15852
5B-2 14323
60-3 14955
101-11 14975

42 CFR

54a 14276
462 13970

43 CFR

2 15155

PROPOSED RULES:

3 14975
4 15441
3800 15102

45 CFR

116b 16262
116c 14292
232 15424
1060 14316
1061 14317
1301 14932
1302 14934
1305 14935

PROPOSED RULES:

177 14376
232 15457
302 ..... 14323, 15457
1151 15458
1170 15737
1201 14072
1231 14077
1490 14634

46 CFR

PROPOSED RULES:

401 15590

47 CFR

15 14654
73 ..... 14657, 14658, 14964-14966, 15321, 15322
74 14660
83 15324
95 13976
97 ..... 14662, 15324-15327

PROPOSED RULES:

1 ..... 14692, 14693
15 15744
63 14080
64 ..... 14080, 14088
67 13902
73 ..... 14088, 14694, 14977, 15341, 16203
74 14695
76 15342

49 CFR

Ch. X 15156
1 14021
192 13880
258 14663
260 ..... 14670, 14870
270 14472
523 16181
533 16181
1003 ..... 14317, 16182
1004 14664
1033 ..... 14021, 14473-14476, 14666, 14668, 14669, 14966, 14967, 15156, 15426

49 CFR—Continued

1051 14670
1100 14317
1104 14670
1307 14670
1310 14670

PROPOSED RULES:

Ch. V 13905
211 15167
1012 15752
1056 14324
1100 15168
1111 15753
1121 15754
1241 14528
1307 ..... 14978, 15168
1310 15168

50 CFR

10 14968
17 15427
26 14477
33 ..... 14022, 15429, 15430, 15629, 16183
230 ..... 13883, 14477
611 15430
651 14968
661 15629

PROPOSED RULES:

17 ..... 14697, 15463, 16144
227 13906

FEDERAL REGISTER PAGES AND DATES—APRIL

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
13865-13998	Apr. 3	14637-14955	7	15407-15602	13
13999-14301	4	14957-15123	10	15603-16145	14
14303-14430	5	15125-15318	11	16147-16304	17
14431-14636	6	15319-15406	12		

presidential documents

[3195-01]

Title 3—The President

Executive Order 12053 • **April 14, 1978**

National Commission on the International Year of the Child, 1979

By virtue of the authority vested in me by the Constitution of the United States of America, in accordance with the Federal Advisory Committee Act (5 U.S.C. App. I) and the United Nations General Assembly resolution of December 21, 1976 which designated the year 1979 as the International Year of the Child, and as President of the United States of America, in order to provide for the observance of the International Year of the Child within the United States, it is hereby ordered as follows:

SECTION 1. *Establishment of Commission.* (a) There is hereby established the National Commission on the International Year of the Child, 1979, hereinafter referred to as the Commission.

(b) The Commission shall be composed of not more than 25 persons appointed by the President from among citizens in private life. The President shall designate the Chairman and two Vice Chairmen.

(c) The President of the Senate and the Speaker of the House of Representatives are invited to designate two Members of each House to serve on the Commission.

SEC. 2. *Functions of the Commission.* (a) The Commission shall plan for and promote the national observance in the United States of the year 1979 as the International Year of the Child. The Commission shall coordinate its efforts with local, State, national, and international organizations, including the United Nations Children's Fund (UNICEF).

(b) In promoting this observance, the Commission shall foster within the United States a better understanding of the special needs of children. In particular, the Commission shall give special attention to the health, education, social environment, physical and emotional development, and legal rights and needs of children that are unique to them as children.

(c) The Commission shall keep informed of activities by organizations and groups in the United States and abroad in observance of the Year. The Commission shall consult with, and stimulate activities and programs through, community, civic, State, regional, national, Federal and international organizations.

(d) The Commission may conduct studies, inquiries, hearings and meetings as it deems necessary. It may assemble and disseminate information, issue reports and other publications. It may also coordinate, sponsor, or oversee projects, studies, events and other activities that it deems necessary or desirable for the observance of 1979 as the International Year of the Child.

(e) The Commission shall make recommendations to the President on national policies for improving the well-being of children; shall issue periodic reports on discrete areas of the rights and needs of children; and shall submit,

no later then November 30, 1978, an interim report to the President on its work and tentative recommendations.

SEC. 3. *Resources, Assistance, and Cooperation.* (a) The Commission may establish subcommittees. Private citizens who are not members of the Commission may be included as members of subcommittees.

(b) The Commission may request any Executive agency to furnish such information, advice, services, and funds as may be useful for the fulfillment of the Commission's functions under this order. Each such agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish such information, advice, services, and funds to the Commission upon request of the Chairman of the Commission.

(c) The Commission is authorized to appoint and fix the compensation of a staff and such other persons as may be necessary to enable it to carry out its functions. The Commission may obtain services in accordance with the provisions of Section 3109 of Title 5 of the United States Code, to the extent funds are available therefore.

(d) Each member of the Commission and its subcommittees may receive, to the extent permitted by law, compensation for each day he or she is engaged officially in meetings of the Commission or its subcommittees at a rate not to exceed the daily rate now or hereafter prescribed by law for GS–15 of the General Schedule; and, may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons in the government service employed intermittently.

SEC. 4. *Coordination.* (a) The heads of Executive agencies shall designate an agency representative for purposes of coordinating agency support for the national observance of the International Year of the Child, 1979. The Co-Chairmen, designated by the Secretaries of State and Health, Education, and Welfare, of the Interagency Committee for the International Year of the Child should act as advisers to, and coordinate activities with, the Chairman of the Commission.

(b) The General Services Administration shall provide administrative services, facilities, and support to the Commission on a reimburseable basis.

(c) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Administrator of General Services as provided by Executive Order No. 12024 of December 1, 1977.

SEC. 5. *Final Report and Termination.* The Commission shall conclude its work and submit a final report to the President, including its recommendations for improving the well-being of children, at least 30 days prior to its termination. The Commission shall terminate on April 1, 1979.

Jimmy Carter

THE WHITE HOUSE,
April 14, 1978.

[FR Doc. 78-10550 Filed 4-14-78; 12:07 pm]

rules and regulations

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.

[1620-01]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING STANDARDS BOARD

PART 331—CONTRACT COVERAGE

PART 409—COST ACCOUNTING STANDARD—DEPRECIATION OF TANGIBLE CAPITAL ASSETS

Contract Coverage and Cost Accounting Standards; Correction

AGENCY: Cost Accounting Standards Board.

ACTION: Correction.

SUMMARY: This action will correct errors which appeared in the final rule published in the FEDERAL REGISTER, on March 10, 1978, starting at page 9775, which amended various parts of the CASB's rules, regulations and Standards.

FOR FURTHER INFORMATION CONTACT:

J. Jett McCormick, Associate General Counsel, Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548, 202-275-5940.

1. On page 9779, in the second line of § 331.20(j)(2), delete the word, "proposed."

2. On page 9780, in the first and second lines of § 331.20(j)(3), delete the word, "proposed."

3. On page 9781, under Part 409, change "(e) of § 409.50" to "(1) of § 409.50."

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc. 78-10313 Filed 4-14-78; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lime Reg. 6, Amdt. 1; Lime Reg. 38]

PART 911—LIMES GROWN IN FLORIDA

PART 944—FRUITS; IMPORT REGULATIONS

Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations effective during the period May 1-June 23, 1978, prescribe minimum grade and size requirements for fresh Florida limes and similar requirements for imported limes. Such action is needed to provide for orderly marketing of limes in the interest of producers and consumers.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* The regulation for Florida limes is being made effective pursuant to the amended marketing agreement and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Florida Lime Administrative Committee, established under marketing order, and upon other available information. The regulation for imported limes is effective pursuant to section 8e of the act.

The regulation, for Florida limes, herein specified, is based upon an appraisal of the current and prospective crop and market conditions. Production of Florida limes for the 1978-79 season is expected to equal about 1.3 million bushels. Fresh markets are expected to require about 845,000 bushels. Hence, more than adequate supplies of sizes and grades of limes should be available to fill fresh market demands. The regulation for imported limes is mandatory under section 8e of the act, which requires that when specified commodities, including limes are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. These actions are necessary to promote orderly marketing in the interest of producers and consumers. It is hereby found that the limitation of handling of limes, as herein provided, will tend to effectuate the declared policy of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this Florida lime regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because of unsufficient time between the date when information became available upon which the regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation for Florida limes at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 911.340 Lime Regulation 38.

Order. (a) During the period May 1, 1978, through June 23, 1978, no handler shall handle:

(1) Any limes of the group known as true "seeded" limes (also known as Mexican, West Indian, and Key limes and by other synonyms), grown in the production area, which do not meet the requirements of at least U.S. No. 2 Grade for Persian (Tahiti) Limes, except as to color: *Proivided,* That true limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable

requirements of this section and the minimum juice content requirement prescribed in the U.S. Standards for Persian (Tahiti) Limes, and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area and any point outside thereof;

(2) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color: *Provided*, That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply: *Provided further*, That Persian Limes which fail to meet the requirements of such grade may be handled within the production area, if such limes meet all other applicable requirements of this section and meet the same minimum juice content requirement prescribed in the U.S. Standards for such limes and are handled in containers other than the containers prescribed in § 911.329 for the handling of limes between the production area any point outside thereof; or

(3) Any limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) which are of a size smaller than 1¾ inches in diameter.

(b) Notwithstanding the provisions of paragraph (a)(3), not more than 10 percent, by count, of the limes in any lot of containers, other than master containers of individual bags, may fail to meet the applicable minimum size requirement: *Provided*, That no individual container of limes having a net weight of more than four pounds may have more than 15 percent, by count, of the limes which fail to meet such applicable size requirement.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in the amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective terms in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000-51.1016).

LIME REGULATION 6, AMENDMENT 1

Pursuant to the provisions of Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) paragraph (a)(2) of § 944.205 (Lime Regulation 6; 42 FR 21787) is amended to read:

§ 944.205 Lime Regulation 6.

(a) During the period May 1, 1978, through June 23, 1978, the importation into the United States of any limes is prohibited unless such limes are inspected and meet the following requirments:

(1) * * *

(2) Such limes of the group known as large-fruited or Persian "seedless" limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. Combination, Mixed Color: *Provided*, That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the Standards for Persian (Tahiti) limes shall apply;

* * * * *

It is hereby found that it is impracticable, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation mandatory; and (b) such regulation imposes the same requirements being made applicable to domestic shipments of limes under Lime Regulation 38, (§ 911.340), which also becomes effective May 1, 1978.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: April 12, 1978, to become effective May 1, 1978.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-10316 Filed 4-14-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Authority To Certify Immigration and Naturalization Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service. It will authorize the Supervisory Border Patrol Agent stationed at the El Paso Intelligence Center, El Paso, Tex., or his designee, to certify copies of Immigration and Naturalization Service files, records and documents maintained there under his custody and control. Under existing regulations, that officer does not have certifying authority and the records must be sent to Washington for certification. This amendment is needed to provided him certifying authority and is intended to facilitate the certification of records and the disclosure of information from Service files.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: The following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

In Part 103, § 103.7(d) is amended by adding a new subparagraph (3), and by redesignating existing subparagraph (3) as subparagraph (4). The amendments to § 103.7(d) read as follows:

§ 103.7 Fees.

* * * * *

(d) *Authority to certify records.* (1) * * *

(2) * * *

(3) The Supervisory Border Patrol Agent, El Paso Intelligence Center, or his designee, authorized in writing to make certification in his absence—copies of files, documents, and records of the Immigration and Naturalization Service in the custody of his office.

(4) The Assistant Commissioner, Information Services, or the Chief, Records Administration and Information Branch, Central Office, or the designee of either, authorized in writing to make certification in his absence—the non-existence of an official record in the records of the Service.

* * * * *

(Sec. 103; 8 U.S.C. 1103.)

The amendments contained in this order are issued pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments pertain to agency management and procedure.

Effective date: These amendments become effective on April 17, 1978.

Dated: April 12, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-10298 Filed 4-14-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-SO-24; Amdt. 39-3185]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed Model 382 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Lockheed Model 382 series airplanes by limiting the number of airplanes affected by the AD. The amendment is needed because the manufacturer has developed a design change in production airplanes and a field repair for the design defect which necessitates the AD.

DATE: Effective April 21, 1978. Compliance schedule—as prescribed in the body of the AD.

ADDRESSES: The applicable Lockheed Service Bulletin, A382-189, may be obtained from the Lockheed-Georgia Co., Marietta, Ga. 30063.

A copy of the Lockheed Service Bulletin A382-189 is contained in Room 275, FAA, Southern Region Office Building, 3400 Whipple Avenue, East Point, Ga.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7407.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39-2300, AD 75-17-04, which currently requires inspection of the fuselage station 517 main frames on all Lockheed Model 382 series airplanes which have accumulated 10,000 or more flight hours. After issuing Amendment 39-2300, the FAA has determined that the Lockheed-Georgia Co. developed a design change in production airplanes and a field repair which corrects the design defect. Therefore, the FAA is amending Amendment 39-2300 by eliminating the inspection requirement on airplanes with the design change or the service repair.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Jack Bentley, Aerospace Engineer, Engineering and Manufacturing Branch; and Keith May, Office of the Regional Counsel, FAA, Southern Region.

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 39.2300, AD 75-17-04, as follows:

1. Revise the applicability statement to read:

LOCKHEED. Applies to all Model 382 series airplanes, serial numbers 3946 and 4101 through 4751, certificated in all categories.

2. Add paragraph (c) which reads:

(c) The inspection required by the AD may be discontinued on those airplanes which have been repaired in accordance with Lockheed Service Bulletin A382-189, or in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment becomes effective April 21, 1978.

(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 does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

Issued in East Point, Ga., on April 4, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-10074 Filed 4-14-78; 8:45 am]

[4910-13]

[Docket No. 78-WE-1-AD; Amdt. 39-3184]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a modification on DC-10 Series airplanes equipped with Litton inertial systems. The AD is prompted by reports of loss of both pilots' primary attitude and heading indications as a result of a nose tire tread separation. Loss of the primary attitude indications at a critical point in the takeoff flight path could result in loss of control of the aircraft.

EFFECTIVE DATE: May 16, 1978.

ADDRESSES: Persons affected by this AD may obtain copies of the applicable service bulletins by writing to: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, CI-750, 54-60.

Also, a copy of the service bulletin may be reviewed at or copies obtained from: Rules Docket, in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring modification of the avionics compartment navigation rack to strengthen and improve its dynamic response characteristics on DC-10 Series airplanes equipped with Litton inertial systems was published in the FEDERAL REGISTER at 43 FR 3131. The proposal was prompted by two reported incidents of simultaneous loss of the primary attitude and heading reference sources. Both incidents were precipitated by severe vibrations as a result of nose tire tread separation. The incidents occurred above the abort speed so that the pilots completed their takeoff roll, rotation, and climb-out with the primary attitude and heading instruments inoperative. Both incidents occurred during VFR conditions. The simultaneous loss of both primary attitude indicators during this critical point in the takeoff flight path could result in the loss of control of the aircraft.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One correspondent commented on the difficulty of completing the modification and suggested extending the compliance time. In response we are extending the compliance period six months from the compliance date originally proposed. All other commenters supported the need for the AD.

After careful review of all available data including the comments above,

the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule with the previously defined change, as a final rule.

DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Frederick C. Woodruff, Office of the Regional Counsel.

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:

McDONNELL DOUGLAS. Applies to DC-10-10, -10F, -30, -30F, and -40 Series airplanes certificated in all categories, that are equipped with Litton -51 or Litton -72 Inertial Navigation Systems or Litton -58 Inertial Sensor Systems. Airplanes which are equipped with these Litton inertial systems after the effective date of this AD must be modified as defined herein prior to installation of the inertial systems.

Compliance is required as indicated unless already accomplished.

To prevent simultaneous loss of primary attitude and heading information during takeoff roll and subsequent flight accomplish the following:

(a) On or before July 31, 1979 unless already accomplished, or unless incorporated in production, modify the airplane's navigation rack in accordance with McDonnell Douglas DC-10 Service Bulletin 25-251 dated August 26, 1977, or later FAA approved revisions.

(b) Equivalent modifications, procedures, or revisions may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on April 4, 1978.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc. 78-10085 Filed 4-14-78; 8:45 am]

[4910-13]

[Docket No. 77-SO-30; Amdt. 39-3188]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors IO-520-A, -B, -BA, -C, -D, -E, -F, -J, -K, -L, and -M; TSIO-520-B, -C, -D, -E, -G, -H, -J, -K, -L, and -N; GTSIO-520-C, -D, -F, and -H

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (A. D.) applicable to certain Teledyne Continental Motors IO-520, TSIO-520, and GTSIO-520 series engines, involving a repetitive inspection of the crankcase, by changing the compliance time in paragraph (a)(1) to permit compliance at an established inspection period for operators substantiating this change, in order to reduce out of service time of aircraft.

EFFECTIVE DATE: April 17, 1978.

ADDRESSES: Teledyne Continental Motors Service Bulletin M77-14 may be obtained from Teledyne Continental Motors, Service and Safety Department, P.O. Box 90, Mobile, Ala. 36601. Copies of TCM Service Bulletin M77-14 are maintained in the Rules Docket and may be examined in Room 264, Federal Aviation Administration, Southern Region, 3400 Whipple Street, East Point, Ga. 30344.

FOR FURTHER INFORMATION CONTACT:

Clark Price, ASO-214, Propulsion Section, Engineering and Manufacturing Branch, Southern Region, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7435.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-2947, 42 FR 34868, A. D. 77-13-22, which contains inspections and modifications as specified therein for certain Teledyne Continental Motors IO-520, TSIO-520, and GTSIO-520 series engines. After issuing Amendment 39-2947, the FAA has determined the compliance time requirements of the A. D. need clarification.

It has been found that there is a large number of operators of fleets of aircraft utilizing these model engines who hold operating certificates under which regular or progressive inspection periods are used. This amendment will permit an FAA inspector to adjust the repetitive inspection interval specified in paragraph (a)(1) of the A. D. to permit compliance at a scheduled inspection period when justified by the operator.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Clark Price, Flight Standards Division, and Keith May, Office of the Regional Counsel, Southern Region, Federal Aviation Administration.

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 39-2947, 42 FR 34868, A. D. 77-13-22, as follows:

Add a new final paragraph (f) to the existing A. D. to read:

(f) Upon request of the operator, an FAA maintenance inspector may adjust the repetitive inspection interval specified in paragraph (a)(1) of this A. D. up to a maximum time between inspections of 125 hours to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator. The compliance time for inspection of engines with existing crankcase cracks required by paragraph (c)(2) of this A. D. may not be adjusted.

This amendment becomes effective April 17, 1978.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., April 6, 1978.

GEORGE R. LA CAILLE,
Acting Director,
Southern Region.

[FR Doc. 78-10086 Filed 4-14-78; 8:45 am]

[4910-13]

[Airspace Docket No. 78-NW-1]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns V-4 and V-287 (an identical route)

westward from Port Angeles, Wash., direct to the Tatoosh, Wash., VORTAC rather than to the Neah Bay, Wash., RBN as presently designated. This action improves the route structure between Port Angeles and the Pacific Ocean by use of a more precise electronic navigation signal.

EFFECTIVE DATE: July 13, 1978.

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:

HISTORY

On February 23, 1978, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-4 and V-287 via the Tatoosh, Wash., VORTAC rather than the Neah Bay, Wash., RBN (43 FR 7444). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. One comment was received. The commenter expressed no objection. Although the commissioning date for the Tatoosh VORTAC has been extended to July 13, 1978, this amendment is the same as proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978, (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) realigns V-4 and V-287 via a VORTAC at Tatoosh rather than via an RBN at Neah Bay. This realignment of approximately 5° (direct to the Tatoosh VORTAC) improves the route structure westward from Port Angeles.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (42 FR 58930) is further amended, effective 0901 G.m.t., July 13, 1978, as follows:

In V-4 "From Neah Bay, Wash., RBN," is deleted and "From Tatoosh, Wash., via" is substituted therefor.

In V-287 "Neah Bay, Wash., RBN." is deleted and "Tatoosh, Wash." 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 does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 11, 1978.

LOWELL L. LUNN,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 78-10073 Filed 4-14-78; 8:45 am]

[6351-01]

Title 17—Commodities and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

Suspension of the Offer and Sale of Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined that the offer and sale of commodity options in the United States is at present fraught with fraud and other illegal and unsound practices and represents substantial risks to members of the general public. The Commission has therefore adopted a rule which will suspend the further offer and sale of commodity options to the general public on and after June 1, 1978. The rule has no effect on commodity option transactions entered into prior to that date. Nor will it prevent commercial interests from acquiring commodity options for use in connection with their businesses in accordance with existing Commission regulations. The primary purpose of this rule is to prevent members of the public from incurring any further financial losses due to the unsound and illegal practices engaged in by individuals and firms selling commodity options.

EFFECTIVE DATE OF SUSPENSION: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Teresa J. Hermosillo or Mark N. Rae, Office of General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-5347 or 202-254-7588, respectively.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission has adopted § 32.11 as an amendment to its interim commodity option regulations, 17 CFR Part 32 (1977), as amended, 42 FR 61831 (December 6, 1977). It will generally suspend, until further action of the Commission, the solicitation or acceptance of orders or payment for the purchase or sale of commodity options on and after June 1, 1978. This amendment is designed to prevent members of the public from being further subjected to the fraudulent and unsound practices that currently pervade the offer and sale of commodity options in the United States. This amendment will not, however, restrict the offer and sale of commodity options to commercial interests for use in connection with their businesses under the provisions of the trade option exemption contained in § 32.4 of the interim regulations. Nor will it apply to or affect the rights of any person arising out of any commodity option transaction entered into prior to June 1, 1978. The balance of the interim regulations will remain in effect and will continue to govern all transactions entered into prior to the effective date of this amendment. Moreover, the suspension does not affect the Commission's desire as soon as practicable to implement the pilot program it has proposed for commodity option trading on domestic exchanges. The Commission does not believe that the abuses that have developed in the marketing of commodity options will develop in the carefully controlled environment of domestic exchange trading that the Commission hopes to implement, particularly in light of the self-regulatory protection that the domestic exchange environment will offer. Indeed, the Commission believes that the absence of exchange trading in the United States may be a contributing cause of the problems that presently exist in commodity option trading. Finally, the Commission's suspension will not affect the manner in which foreign commodity options are traded on foreign commodity exchanges.

AUTHORITY

Under section 4c(b) of the Commodity Exchange Act, Congress has given the Commission broad power to decide whether to prohibit or to permit option transactions involving certain commodities and, if so, under what terms and conditions.[1] Section 4c(b) provides in pertinent part:

---

[1] 7 U.S.C. 6c(b) (1976). Congress has prohibited option transactions involving those commodities enumerated in section 2(a) of the Act, basically agricultural commodities. Section 4c(a)(B) of the Act, 7 U.S.C. 6c(a)(B) (1976). The Commission's authority under section 4c(b) applies to all other commodities regulated under the Act.

"No person shall offer to enter into, enter into, or confirm the execution of any [commodity option] transaction * * * contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe * * *."

Section 8a(5) of the Act broadly empowers the Commission "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of (the Act) * * *."[2]

Pursuant to its authority under the Act, the Commission adopted interim regulations governing the offer and sale of commodity options in the United States. 41 FR 51808, et seq. (November 24, 1976). Under § 32.2(b) of the interim regulations, commodity option transactions involving futures contracts traded on domestic exchanges are at present prohibited. This prohibition continues, although the Commission has proposed and is presently considering the terms and conditions under which these options may be traded. 42 FR 18246 (April 5, 1977); 42 FR 55538 (October 17, 1977).

The interim regulations did not, however, prohibit sales of other forms of options. Accordingly, options on physical commodities—so called dealer options—and options originating on or through the facilities of foreign boards and of trade have been offered and sold to the public. As of these options, the regulations prescribe certain registration, disclosure, book and record-keeping, financial and other customer protection requirements[3]

The interim regulations were designed both to enable legitimate enterprises to engage in the option business and to provide basic customer protection while a more comprehensive regulatory structure was being developed for all types of commodity option trading, including commodity options traded on domestic exchanges. The Commission has repeatedly emphasized that its willingness to permit commodity option transactions under the interim regulations has been conditioned upon the adequacy of customer safeguards designed to minimize the risk of fraudulent and unsound practices.[4]

Suspension Proposed

Because of its concern that sales activity in options is pervaded with fraud and other unsound business practices, the Commission, on February 6, 1978, published for public comment a proposal which would generally suspend the further offer and sale of commodity options until such time as the Commission determined that adequate customer protection could reasonably be assured. 43 FR 4869, et seq. (February 6, 1978). The proposal was published for a 30-day comment period, which expired on March 8, 1978. Through April 3, 1978, the Commission had received written comments in response to the proposal from 54 persons. The Commission also held a public hearing on February 28, 1978, in Washington, D.C., to afford interested persons an opportunity to make their views known through oral statements before the Commission. A total of 12 persons commented at that hearing. In addition, in proposing the suspension, the Commission directed its staff to comment on several issues relevant to the suspension and to prepare a report summarizing the Commission's experience in regulating option transactions. The Director of the Division of Enforcement made an oral presentation of the content of the staff report at the public hearing on February 28, 1978. The completed report and other staff comments were presented to the Commission on March 8 and 9, 1978, and, in accordance with the Commission's statement in announcing the proposal, copies were placed in the Commission's public file of this rule making proceeding.[5] In announcing the proposal, the Commission stated that public comments received after March 8, 1978, would be considered if at all possible. 43 FR 4870 (February 6, 1978). On March 16, 1978, the Commission also announced that comments received on the staff report and staff comments would be considered prior to final action. The Commission has considered the staff report and comments as well as all oral and written comments it has received both on the proposal and on the staff report and comments. Based on that review and further consideration, the Commission has determined to adopt a rule to implement the proposed suspension. The reasons for this determination are set forth below.

The Commission's Experience

The available evidence demonstrates to the Commission's satisfaction that an overwhelming majority of the firms that engage in the offer and sale of commodity options in this country employ and cause to be employed practices and procedures that are fraudulent or otherwise illegal or unsound and that these practices and procedures pose a substantial threat to members of the general public. To date, the Commission through its Enforcement Division has instituted 13 formal administrative actions and 15 injunctive actions against firms engaged in the offer and sale of commodity options. Injunctions have been obtained against over 60 firms and individuals. At least 40 of these injunctions enjoin further violations of the Commission's antifraud rule governing option transactions. 17 CFR 32.9 (1977). Moreover, of the approximately 38 firms presently selling options, 30 are currently under active investigation based upon apparent violations of the interim regulations.[6] The Commission anticipates that proceedings will be instituted against many if not most of the firms that are presently the subject of investigations.

Information gathered in the course of the Commission's investigations and legal actions reveals that most of the firms that offer and sell commodity options employ high pressure, "boiler-room" sales practices, the use of which violates the antifraud rule. Typically, prospective customers, whose names have been obtained from commercial "mailing" lists, are bombarded with unsolicited telephone calls and promotional materials which abound with false, misleading and deceptive statements concerning commodity option transactions, and are subjected to other high pressure sales techniques which effectively prevent them from making a reasoned investment judgment. For example, customers are told that commodity options have enormous profit potential, but they are not told that options are highly speculative and that there is a great risk that the premium paid will be totally lost. Customers are also told that their investments are "guaranteed", when in fact no such guarantees exist. In addition, customers are rarely, if ever, informed of the full extent of the commissions or mark-ups on the premium, which have ranged as high as 300 percent.

Nineteen of the 28 injunctive and formal administrative proceedings

---

[2] 7 U.S.C. 12a(5) (1976). The United States Court of Appeals for the Second Circuit has expressly recognized that "the rulemaking power vested in the Commission by Congress allows the possibility that the Commission might ban option transactions altogether." *British American Commodity Options Corp.* v. *Bagley*, 552 F. 2d 482, 490 n. 13 (2d Cir. 1977), *cert. denied* 46 U.S.L.W. 3306 (1977).

[3] See 17 CFR Part 32 (1977). In *British American Commodity Options Corp.* v. *Bagley, supra*, the Court of Appeals for the Second Circuit generally upheld the validity of the Commission's interim commodity option regulations.

[4] See 41 FR 44560, et seq. (October 8, 1976); 41 FR 51808, et seq. (November 24, 1976); 42 FR 18246, et seq. (April 5, 1977); 42 FR 55538, et seq. (October 17, 1977).

[5] A copy of this report is attached hereto as Appendix A.

[6] Since January 17, 1977, the date the interim registration provisions became effective, a total of 93 firms have been registered to sell options. As of March 6, 1978, 59 firms remained registered to sell options of which approximately 38 firms are actually selling options at this time.

that the Commission has brought have involved allegations of the use of boilerroom sales techniques. Sixteen firms have been charged with the use of misleading disclosure statements; ten firms are alleged to have employed deceptive promotional literature; and six are accused of utilizing misleading "canned" telephone sales pitches. Moreover, evidence gathered in the investigations that the Commission is currently conducting indicates that the use of fraudulent and deceptive solicitation practices remains widespread. Twenty-six firms are under investigation for the possible use of misleading disclosure statements; 18 for the use of misleading promotional literature; and 14 for the use of deceptive telephone sales pitches.

The extent of the unsound and illegal practices that the Commission has encountered is further demonstrated by the fact that of 30 commodity option firms recently audited by the Commission's Division of Trading and Markets, two-thirds have failed fully to segregate customer funds received in payment for commodity option purchases as required by § 32.6 of the interim rules.[7] At least $27 million, representing 90 percent of the purchase price of open option positions, has not been segregated and is therefore at risk.

The Commission's audit program has also revealed a substantial degree of non-complaince with respect to the minimum capital requirements established for option dealers.[8] In fact, 11 of the 30 firms audited failed to meet these requirements, some by as much as $400,000.

The failure of commodity option firms to comply with the financial requirements that the Commission has established can have extremely severe consequences for commodity option customers. At least six commodity option firms have thus far sought relief under the bankruptcy laws. One of these firms, which had not been segregating customer funds, filed a bankruptcy petition listing liabilities of $689,000 to 118 customers who had exercised their profitable options but could not be paid; it further identified 217 other customers holding as-yet-unexpired options, as to which that firm's liability was undetermined.

The Commission's investigators and auditors have also encountered great difficulty in their attempts to verify the details of option transactions purportedly effected for Americans on foreign exchanges. Details relating to these transactions, for example, the identity of the executing brokers, are absolutely essential to determine whether or not orders for options have been executed or whether they have simply been "bucketed." To date, requests for information of this character have not been met by the foreign exchanges or their members on the grounds that such information is confidential under local business practices.

The reparation proceedings that have thus far been brought pursuant to section 14 of the Commodity Exchange Act also evidence the widespread nature of the fraudulent and unsound practices that presently exist in the offer and sale of commodity options.[9] Of the 940 reparation complaints filed as of March 8, 1978, approximately 62 percent were against commodity option firms and arose out of commodity option transactions. Virtually all involve allegations of misrepresentation concerning, for example, profit expectations, the nature of an investment in options, the risks of investing in options, the costs of options transactions, or the protection received by option purchasers. The next most common category of alleged violation is unauthorized trading after the customer notified the firm that he wished to exercise a profitable option. The total of awards sought in reparation complaints arising out of option transactions filed as of March 8, 1978, amounts to over $5½ million. Eighteen option related reparation complaints claiming a total of $128,000 have thus far been adjudicated. Of these, claimants have been rendered awards of over $81,000.

The Commission's experience to date indicates that the offer and sale of commodity options has for some time been and remains permeated with fraud and other illegal or unsound practices notwithstanding a substantial investment of the Commission's resources in attempting to regulate rather than prohibit option trading.[10] The problems that have been encountered have not been with options themselves. They have instead been with the manner in which options have been marketed. Despite a number of comments to the contrary, the Commission has no significant reason to believe that these practices have recently declined or will decrease. The Commission cannot possibly justify the commitment of the additional resources, and the consequent abdication of other responsibilities, that would be necessary to eradicate the abuses that exist. This is not a case of detecting violations and enforcing the law against a few firms and individuals in an area where just and equitable principles of trade otherwise obtain. The pervasiveness of the fraudulent and other illegal or unsound practices that have been encountered and the continuing danger that these practices pose to the public mandate a suspension of the further offer and sale of commodity options. The Commission recognizes, however, that there are other considerations that could conceivably militate against a suspension. The most significant of these considerations—and the reason why the Commission finds them unpersuasive in the circumstances—are discussed below.

Economic Purpose

In proposing the suspension, the Commission requested that it be provided with whatever evidence there may be of the commercial utility or other economic purpose served by foreign or dealer options. 43 FR 4870 (February 6, 1978). In response to testimony at hearings on the 1974 amendments to the Commodity Exchange Act, to the effect that commodity option transactions might prove to be commercially useful, and for that reason should not be forbidden, Congress vested the Commission with the broad authority that it has under section 4c(b) over commodity options.[11] Accordingly, in determining whether or not to allow a form or forms of commodity option trading, the presence or absence of an economic purpose is an extremely important consideration for the Commission.

The Commission has found no evidence of significant domestic commercial use of either foreign or dealer options. While commentators provided the Commission with both actual and hypothetical examples of the commercial uses which are or could be served by foreign and dealer options, they did not provide the Commission with the

[7] Section 32.6, 17 CFR 32.6 (1977), requires an option dealer to segregate in a separate account for the benefit of the customer 90 percent of the purchase price a customer is required to pay until the expiration of the option or, if the customer exercises the option, until all rights of the customer have been fulfilled.

[8] Section 1.17, 17 CFR 1.17 (1977), was designed to provide added protection for option customer funds by requiring the option dealer to maintain an adjusted working capital equal to or in excess of whichever is greater, $50,000 or the sum of various safety factors plus 5 percent of aggregate indebtedness.

[9] Under section 14 of the Act, 7 U.S.C. 18 (1976), any person claiming to have suffered as a result of a violation of the Commodity Exchange Act or rules thereunder at the hands of any person required to register with the Commission, may seek relief in an administrative forum provided by the Commission.

[10] In FY 1977 alone, the Commission devoted over $1.5 million and 50 staff years to options-related regulatory activities. Moreover, at one point in the fall of 1977, 70 percent of the Commission's investigative resources were focused on possible violations of the interim regulations by firms and individuals engaged in the offer and sale of commodity options.

[11] See Hearings on H.R. 11955 before the House Committee on Agriculture, 93d Cong., 2d Sess., ser. 93-TT at 37-38, 40-41, 133, 176-180, 199, 251 and 329 (1974).

data that it had requested, i.e., data concerning the scope of actual commercial participation in commodity option transactions. It was suggested that in view of the excessive premiums and commissions that are presently being charged, it is doubtful that options could be useful to commercial interests for hedging purposes. The Commission's Enforcement Division and a number of state regulators also reported that their investigations had revealed that both dealer and foreign option sales activity appears to be directed almost exclusively at speculative, as opposed to commercial, interests.

If the Commission had found evidence of extensive commercial participation in option transactions, it would have been more hesitant to suspend the further offer and sale of commodity options. In the absence of any substantial showing of economic purpose, however, there is virtually no reason to continue to allow an activity in which widespread abuses of such magnitude have been and continue to be encountered, particularly since the Commission will, in any event, permit commercial interests to continue to purchase options for use in connection with their businesses, under the trade option exemption, which is discussed more fully below.

ANTICOMPETITIVE AND OTHER ECONOMIC IMPLICATIONS

A number of the persons who commented on the Commission's proposal to suspend further commodity option transactions maintained that it was anticompetitive in various respects: (1) That a suspension would, in effect, force many of the firms presently dealing in commodity options, particularly the small specialty firms, out of business altogether; (2) that a suspension of foreign and dealer option sales until, or in conjunction with, the commencement of domestic exchange option trading would reduce competition; and (3) that it would be anticompetitive to prohibit foreign option sales, but to allow dealer option transactions—an alternative that was considered but has been rejected.

In proposing and in adopting the suspension, the Commission has taken into account its responsibilities under section 15 of the Commodity Exchange Act, 7 U.S.C. 19 (1976). Under section 15, the Commission is required, in adopting any rule or order, to:

> * * * take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of [the] Act, as well as the policies and purposes of [the] Act. * * *

Section 15 does not require the Commission to subordinate the policies and purposes of the Commodity Exchange Act to those of the antitrust laws. Section 15 requires only that the Commission consider the public interest served by the antitrust laws and endeavor to use the least anticompetitive means of achieving the objectives, policies and purposes of the Act.[12] Thus, consistent with section 15 the Commission may adopt regulations that have anticompetitive implications, and is not required to take the least anticompetitive course of action where the objectives, policies or purposes of the Commodity Exchange Act would be better served in some other way.

The suspension is not inherently anticompetitive with respect to the affected class. It will have an equal impact upon all firms and individuals presently engaged in the offer and sale of commodity options to the general public. The uniform applicability of the rule will mean that no affected person or class of affected persons will be given a competitive advantage over, or suffer a competitive disadvantage in relation to, any other person in the affected group. Moreover, the substantial number of firms or individuals who have been engaged in options activity unlawfully—either because they were not registered or because of fraudulent or unsound business practices—have little basis to invoke the public interest considerations of the antitrust laws as a justification to permit their conduct to continue.

It has been suggested that the suspension of option sales is anticompetitive since outlays for commodity options have competed with other forms of expenditures, such as consumer goods and services and various types of investment instruments. To the extent this may be so, however, the pervasively fraudulent option market has, in the Commission's view, unfairly diverted expenditures from economically useful functions. If it were clear that options serve an economically useful purpose, in the absence of fraud, this competition could be found consistent with the public interest. To the extent that no economic utility has been shown, however, a drain of funds from other markets, is contrary to the public interest reflected in the Commodity Exchange Act.

Furthermore, the public interest considerations underlying the antitrust laws are predicated on the benefits flowing to the economy and the consumer from the effects of legitimate enterprises vying for a share of a given market through fair dealing and just and equitable principles of trade. In the absence of a demonstrated social or economic utility served by the product sold and where the marketing of that product is uniquely susceptible to, and in fact is accomplished by, fraudulent and abusive practices, these public interest considerations are being subverted. Thus, notwithstanding the existence of the antitrust laws, Congress prohibited certain option transactions in 1936 and has continued that prohibition to the present day. And in 1974, at the same time it enacted section 15, Congress empowered the Commission to prohibit option transactions in the newly-regulated commodities.

The Commission fully appreciates that there may be some commodity option firms that have sought fully to comply with the Commission's interim commodity option regulations and that those firms and their personnel may be adversely affected by a suspension resulting from the unlawful conduct of others. As a result of the suspension, some firms presently dealing in commodity options may cease doing any commodity business. While they will be denied the opportunity to profit from the sale of options, however, the suspension will not preclude them from redirecting their efforts to other lawful endeavors; whether they choose to do so is their decision to make.[13] Moreover, even firms that

[12] In *British American Commodity Options Corps.* v. *Bagley*, CCH Comm. Fut. L. Rep. § 20,245 at p. 21,334 (S.D.N.Y., December 20, 1976), aff'd in part and rev'd in part on other grounds, 552 F.2d 482 (2d Cir. 1977), cert. denied, 46 U.S.L.W. 3306 (November 7, 1977), plaintiffs challenged the Commission's interim commodity option regulations on the grounds that they were anticompetitive and had been adopted in violation of section 15. In rejecting plaintiffs' challenge, the district court declared that section 15 "* * * does not require the Commission to adopt the least anticompetitive means, but only requires it to 'take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of [the] Act * * *'" Id.

[13] Under the interim regulations the Commission entrusted options activities to persons who met the basic requirements prescribed for registration as futures commission merchants ("FCMs") and associated persons of futures commission merchants. See 17 CFR 32.3 (1977). Registration as a futures commission merchant or as an associated person permits a person to engage lawfully in either futures or option transactions. See 17 CFR 1.17(b) and 32.3 (1977). The suspension will prohibit the further offer and sale of commodity options by these registrants, but it will not effect their ability to continue, or to initiate, the offer and sale of commodity futures contracts, or, indeed, to offer or sell commodity options traded on domestic exchanges, should the Commission implement the proposed pilot program. Associated persons who are currently registered may continue their present employment or, if their firms elect not to engage in futures transactions, seek positions with other registered FCMs. The Commission points out, however, that some of those registered associated persons may have experience only in the offer and sale of commodity options, and many such persons may have been inculcated with and encouraged to use deceptive and high pressure

Footnotes continued on next page

decide to terminate all business activities, will not suffer significant fixed capital losses. The capital investment required to establish an option business is exceedingly low. As Judge Fox stated in *Kelley* v. *Carr*, CCH Comm. Fut. L. Rep. ¶20,517 at p. 22,128 (W.D. Mich. December 5, 1977), "it is evident that options are attractive to sellers in that capital requirements are minimal * * *." Indeed, all that appears to be required is the leasing of office space and phone banks, the purchase of some furniture, and the hiring of sales persons.

In any event, the interests of these firms and of their personnel must yield to the public interest. Even taking their interests into account, the Commission has concluded that the pervasiveness of the fraudulent and unsound practices involving commodity option transactions makes a suspension necessary. Adequate customer protection, a fundamental purpose of the Act, cannot now be provided in the absence of a suspension. While the Commission has considered various alternatives to a suspension, which are discussed more fully below, it has concluded that none of these alternatives could reasonably be expected to assure meaningful customer protection at this time. Furthermore, all firms and individuals have been on notice since October 27, 1974, the date section 4c(b) was enacted, that the Commission was empowered, and might determine, to prohibit commodity option transactions. The very real possibility of a suspension of these types of options transactions was emphasized by the existence of the 42 year statutory ban on other option transactions contained in section 4c(a)(B) of the Act.

Dealer Options

In its proposal, the Commission also requested comment on what, if any, basis might exist upon which the Commission could distinguish between foreign options and dealer options in evaluating whether to impose a suspension. 43 FR 4870 (February 6, 1978). As generally understood, foreign commodity options are options on physical commodities or on commodity futures contracts which originate on or through the facilities of foreign exchanges. Dealer options, on the other hand, are options on physicial commodities which originate other than on or through the facilities of exchanges.

The offer and sale of dealer options has been a subject of considerable concern to the Commission for some time. In proposing the interim regulations in October 1976, the Commission stated that it did not intend to allow dealer options to be traded when the pilot program for exchange traded options was implemented. 41 FR 44560 (October 8, 1976). The Commission expressed the view in first proposing the pilot program in April, 1977, that "* * * the absence of a clearing, or equivalent, mechanism on the dealer markets, as well as the difficulty attending the supervision and control of trade practices in a dealer market, make dealer options unsuitable for the pilot program." 42 FR 18247 (April 5, 1977).

In response to numerous comments urging inclusion of dealer options in the pilot program, however, the Commission, in October 1977, decided that it might be willing to permit trading in dealer options under the pilot program if it could be shown that appropriate customer safeguards could be instituted. 42 FR 55540 (October 17, 1977). Although a number of attempts have been made to satisfy the Commission that adequate substitutes can be devised for the clearing and self-regulatory mechanisms that exchanges provide, it now seems clear that a controlled experimental environment of the type envisioned by the Commission's pilot program cannot be implemented at this time.

Several commentators contended that the Commission's adverse experience in regulating option transactions had involved the marketing of foreign commodity options and that the Commission had encountered few problems concerning dealer options. For this reason, it was suggested that the Commission either should exempt from the suspension dealer options granted by firms which could meet specific criteria, such as that the firm write the option against physical inventory, or should establish criteria under which particular firms could petition the Commission for an exemption from the suspension. The Commission attempted to develop criteria that might be applied to exempt particular dealers from the general suspension, recognizing at the same time, that to avoid unnecessarily anticompetitive consequences the criteria would have to establish standards that firms not presently offering dealer options might hope to meet. The Commission concluded, however, that any standards adequate for this purpose would at the same time permit a degree of option sales activities that would impede the effectiveness of the remedial purposes the suspension is designed to accomplish.

While it is true that much of the publicity that has accompanied the Commission's enforcement efforts has focused on those engaged in the sale of foreign commodity options, the Commission has received reports and is investigating alleged abusive paractices in the offer and sale of dealer options. The Commission believes that if dealer options sales to the public are permitted to continue while virtually all other option trading is suspended, those firms that have been selling foreign options in an illegal and unsound manner may begin marketing dealer options in a similar fashion, thereby effectively undermining the basic purpose for which the suspension is being imposed. The Commission has therefore determined not to exempt dealer options from the suspension. Of course, under the suspension dealer options, as well as foreign options, may be offered under the trade option exemption. Thus, the suspension will affect dealers only to the extent that their options are sold to the general public and will not deprive commercial interests of the opportunity to engage in option transactions on physical commodities.

The Commission also understands that at least one firm selling dealer options may permit its option holders to resell the options to the firm. It was claimed that the Commission's suspension would create a significant imbalance between these resales and new purchases of the firm's options. As a result, it was contended, the price at which existing option holders could resell their options would decline considerably. For this reason, it was suggested that the Commission delay the effective date of the suspension to the last expiration date of these outstanding options, or for some lesser period that would benefit a substantial majority of holders of these options. The Commission received a number of strikingly similar form petitions suggesting this approach from persons claiming to hold these options. The Commission treated these petitions as comments on the proposed suspension.

The Commission recognizes that the price decline argument may have some merit. However, the Commission wishes to emphasize that while § 32.11 will prevent the further offer and sale of options to customers, it will not prohibit the dealer from continuing to repurchase its options at a price it determines. Furthermore, the Commission has been informed that disclosure statements of several futures commission merchants describing this firm's options state that the firm is not obligated to repurchase its options and, indeed, that the firm may cease doing so at anytime. Thus, prior to purchasing these options, all customers should have been apprised that they may in fact be unable to resell the options. In any event, whatever inconvenience may result to a customer holding these options is far outweighed by the public interest considerations underly-

---

Footnotes continued from last page
sales techniques. Registered FCMs should be especially diligent to ensure that any of these persons whom they hire are adequately trained and supervised and do not use unlawful means to solicit customers to trade futures contracts.

ing the Commission's suspension. Nevertheless, in order to ameliorate to some extent the inconvenience to these customers and to customers of other firms, the Commission determined to impose the suspension effective June 1, 1978, rather than on an earlier date as it had originally proposed.

ALTERNATIVES

The Commission also considered whether there were any reasonable alternatives to a suspension. Proposed alternatives have been evaluated on the following bases: (1) Whether they would be effective in protecting the public from suffering additional financial losses due to the illegal practices currently engaged in by individuals and firms selling commodity options, (2) whether they could be implemented promptly, and (3) whether the resources necessary to effectuate them were available. The Commission reviewed all written and oral suggestions presented to it by interested persons as well as proposals developed by the staff. Suggested alternatives included: adopting more stringent regulations and developing new or strengthened regulatory programs, greater participation by state authorities in prosecuting fraud cases, and implementation of the Commission's proposed pilot program for exchange option trading. The Commission has concluded that none of the proposals can serve as an alternative to a suspension at this time. Set forth below is a brief discussion of the proposals considered by the Commission and the reasons why they were not adopted.

STRINGENT REGULATIONS AND REGULATORY PROGRAMS

The Commission received a number of proposals for more stringent regulations and new regulatory programs. Among these proposals were: (1) An increase in the minimum capital requirement for futures commission merchants, (2) a prohibition of "cold call" solicitations, (3) a limit on commissions and markups, (4) substantial third party guarantees from banks or bonding companies, (5) customer suitability standards, (6) additional disclosure requirements including, for example, a uniform disclosure statement, (7) a "cooling off" period during which a customer could rescind an order for the purchase of an option, (8) a SIPC-type insurance program, (9) stricter licensing requirements, including fingerprinting of individuals and principals of firms seeking registration, (10) minimum qualification standards and proficiency examinations for commodity professionals, (11) a domestic clearing mechanism for foreign options, (12) an industry self-regulatory association formed under Section 17 of the Commodity Exchange Act, as amended, and (13) a special monitoring program under which the Commission would contact each option purchaser in an attempt to determine whether the customer understood the nature of the instrument purchased and whether the sale had been effected lawfully.

The Commission does not believe that the adoption of more stringent regulations or the implementation of additional regulatory programs can reasonably be expected to afford meaningful customer protection at this time. In order for any regulatory scheme to accomplish its purpose the majority of persons at whom it is directed must, in general, be willing to comply with its requirements. But the keystone upon which any successful regulatory program depends—a generally responsible industry—is not present here. As the Commission's experience demonstrates, the regulations which are now in effect, regulations which were designed to provide basic customer protection, are apparently being ignored by most or nearly all of the firms now offering and selling commodity options to the public through their sales personnel. There is no reason to believe that persons or firms who disregard existing requirements would comply with more stringent regulations. Indeed, if the individuals and firms engaged in selling foreign and dealer options were generally willing to comply with applicable regulations, the Commission would not have found it necessary to propose a suspension of the further offer and sale of options.[14]

Further, a significant period of time would be required to develop and implement several of the proposal regulatory programs. During this time the public would continue to be exposed to the risk of the fraudulent activities that have prevailed in the operations of firms engaged in options sales activity. Available evidence indicates that additional members of the public would consequently fall victim to fraud. The extent to which more stringent regulations could be expected to provide meaningful customer protection is also questionable. For example, commentators have pointed out that it is unlikely that those firms which have caused the need for a suspension through their unlawful practices would voluntarily participate in a meaningful self-regulatory organization. Finally, the Commission does not have the substantial resources that would be needed to develop requirements significantly different from those already adopted or to monitor and enforce additional requirements, without jeopardizing its other regulatory responsibilities.

Of course, should the Commission determine to lift or otherwise modify the suspension, several of these proposals may be adopted. Certain of them have been and are under consideration by the Commission. For example, the Commission has already recommended to Congress that the Act be amended expressly to provide that the Commission may require applicants seeking registration and persons associated with such applicants to be fingerprinted. This will enable the Commission more readily to detect persons with criminal records and thus facilitate the Commission's fitness investigation. The Commission is also considering the most efficacious means of implementing the provisions of section 17 of the Act, 7 U.S.C. 21 (1976), which authorizes the Commission to register one or more self-regulatory associations. One of the functions which such an organization could perform would be to adopt training, experience and other standards and to administer proficiency examinations.

STATE PARTICIPATION

Since its inception, the Commission has encouraged state participation and cooperation in enforcing the provisions of the Commodity Exchange Act and Commission regulations. Although the states are preempted from enforcing regulatory statutes, the Commission has consistently recognized that the states may enforce their general civil and criminal fraud statutes and other laws of general application to all commodity option activities.[15] Moreover, the Commission has encouraged and offered assistance to the states to proceed parens patriae on behalf of their citizens to enforce the Act and regulations.[16] For reasons

[14] In the notice announcing the proposed suspension the Commission stated: "Of course, the Commission has always understood that vigorous enforcement action would be required to assure the effectiveness of the regulatory scheme, and the Commission has instituted numerous enforcement actions as appropriate. It has become increasingly apparent to the Commission, however, that violations of the regulations have not been limited to a few firms and individuals. To the contrary, fraudulent and unsound practices appear to be pervasive, and repeated and systematic efforts to evade lawful requirements and to induce the public through high-pressure sales techniques to participate in transactions fraught with risks seem by far the rule rather than the exception." 43 FR 4870 (February 6, 1978).

[15] Consistent with this position a court has recently recognized the right of a state to proceed under its general Consumer Protection Act against fraudulent options activity. *Massachusetts* v. *Lloyd, Carr & Co.*, (No. 26121, Mass. Super. Ct., January 18, 1978).

[16] Through Commission cooperation with the Attorney General in Michigan, that State under a parens patriae theory obtained an injunction in Federal District Court to stop fraudulent options activity. *Kelley* v. *Carr*, CCH Comm. Fut. L. Rep.

Footnotes continued on next page

which are not clear, however, the states have generally proven reluctant to take enforcement action against commodity option firms operating within their borders. Since the Commission is not in a position to assume that the states will necessarily undertake a greater enforcement role in the future than they have in the past, it cannot reasonably rely upon this factor as a basis to withhold suspension of option trading.

The Commission has, however, recommended to Congress that the Commodity Exchange Act be amended to provide express authorization for states acting either through their attorneys general or other duly authorized officials, such as a securities administrator, to bring suit as parens patriae on behalf of their citizens to enforce the Commodity Exchange Act and the rules, regulations and orders of the Commission thereunder. The Commission believes that a parens patriae amendment may overcome the reluctance of the states to become involved and foster a better working relationship between the Commission and state enforcement agencies. If so, it will provide an immediate supplement to the Commission's enforcement resource capabilities. As the Commission indicated in the FEDERAL REGISTER notice announcing the proposed suspension, one of the factors which will be considered by the Commission in determining whether and when to lift a suspension is a strengthened enforcement capability. 43 FR 4870 (February 6, 1978).

PILOT PROGRAM

The alternative most frequently recommended by commentators was that the Commission proceed to implement its option pilot program. The two primary reasons offered were that substantial additional protection will be provided to customers under the program[17] and that the increased competition from trading on domestic exchanges will make it more difficult for the boilerroom operators to continue selling options at exhorbitant markups.[18] Other commentators, however, expressed coherent reasons why the use of fraudulent and unsound practices would likely continue even if domestic exchange trading were initiated.[19] Both of these views appear to have some merit. The commencement of domestic exchange option trading may reduce significantly the incidence of fraud and other illegal or unsound conduct in the sale of commodity options. But the positive effects will not be immediate as it will take some time for the public to become aware of the competing market. Moreover, there will always exist persons who are not contemplating the purchase of any speculative or investment instrument and therefore are not aware of competing prices. These persons will remain susceptible to high-pressure sales pitches even after a domestic exchange option program has been established. In any event, adoption and implementation of the pilot program will depend in large measure on whether appropriations are authorized by the Congress which the Commission considers sufficient to ensure that the Commission can adequately administer the program. Because the appropriations issues will take some time to resolve, the Commission finds that implementation of the pilot program is not presently a viable alternative to a suspension.

Of course, the suspension as proposed and as adopted does not affect the Commission's proposal for a pilot program in options to be traded on domestic exchanges.[20] The Commission is presently considering those issues which must be resolved before domestic exchange option trading can commence. The Commission will, however, have to re-examine the question of whether to allow foreign and dealer options to be traded under the pilot program.

The Commission has invested a substantial portion of its resources in an attempt to control dealer and foreign option sales under the interim regulations. The adoption of a suspension has been necessary because the Commission has been unable to do so. This raises questions whether it is possible to provide an environment in which options that are not traded on domestic exchanges can be safely offered to the public or whether trading otherwise than on domestic exchanges is so susceptible to the malpractices which have attended it in the past that it can never be allowed.

OTHER PROPOSALS

The Commission stated in the notice of the proposed suspension that it was concerned because it had "encountered great difficulty in verifying the details of option transactions effected for United States citizens by members of the London commodity exchanges * * *."[21] In response to this statement foreign exchanges expressed the view that information concerning a particular futures commission merchant's trading position is confidential and may not be disclosed to the Commission unless the Commission has obtained permission from the FCM to whom the information relates. The foreign exchanges suggested, however, that the Commission has the authority to require FCMs which are under its jurisdiction to authorize the foreign exchanges, the clearinghouse and any member through which the FCM deals, to disclose information concerning its transactions.

The Commission appreciates the cooperative tone of this suggestion and regrets that it was not made earlier. The adoption of regulations to effectuate this proposal might have aided the Commission in its attempts to determine whether options purported to be executed on foreign exchanges sold in the United States were in fact traded on a foreign exchange. Under § 32.7 of the Commission's regulations, however, FCMs are already required to keep full and complete records of option transactions and to permit Commission inspection of those records. What the Commission has sought from London was merely verification of what an FCM is obligated to maintain and to furnish to the Commission. Moreover, the Commission's past inability to obtain data from foreign exchanges and their members has been only one aspect of the problem. The availability of trading data would not

---

Footnotes continued from last page

¶ 20,517 (W.D. Mich., 1977), appeal pending, Nos. 78-1091, 1092 and 1093 (6th Cir.).

[17] For example, proposed Section 32.7 provides that London commodity options may be offered and sold only where direct contractual privity is established between option customers and ring-dealing members of the London Metal Exchange or only by a futures commission merchant who is a clearing member of the International Commodities Clearing House, Ltd. 42 FR 55541 (October 17, 1977).

[18] A number of commentators suggested that implementation of the proposed pilot program for option trading on domestic exchanges would increase competition and, in so doing, reduce the abuses that have been detected in the sale of options. Exchange premimum prices, they contend, will be widely disseminated, and the public will thus become aware of what premiums set by the marketplace would be. In addition, they maintained that reputable FCMs who currently do not sell options because of the problems that have occured in this area will participate in a domestic exchange program. These firms will offer options to their customers at reasonable prices, forcing firms currently selling options either to lower their prices or to cease to do business.

[19] State authorities and customer protection organizations who submitted comments report that many of the commodity option customers who have thus far been defrauded are not sophisticated investors but are persons who would have had no inclination to purchase options were it not for the high pressure solicitation by options salespersons. These commentators expressed their fear that boilerroom operators will continue to take advantage of such persons after domestic exchange trading begins.

[20] Two of the criteria which the Commission will consider in determining whether and when to lift the suspension are the successful implementation of a pilot program for commodity option trading on United States exchanges, and whether protection to option customers can reasonably be assured if foreign commodity options are included as part of the Commission's proposed pilot program. See 43 FR 4870 (February 6, 1978).

[21] 43 FR 4870 (February 6, 1978).

protect customers from other fraudulent and unsound practices such as gross misrepresentations made by many option salespersons and the financial instability of many options firms.

As indicated above, another alternative considered by the Commission was the adoption of a procedure by which persons could petition the Commission for an exemption from the suspension upon a sufficient showing that they had complied and would continue to comply with the interim regulations and that they meet other carefully prescribed conditions, such as a higher net capital base. The Commission has determined not to implement such a procedure. While this approach would enable the Commission to deal with firms on a case-by-case basis, it would require substantial staff and Commission resources to review and pass upon the petitions and to monitor continued compliance with the terms of any exemption granted. Even so, there would be no guarantee that a petitioner, once exempted, would not thereafter engage in fraudulent and unsound business practices.

THE AMENDMENT

In view of the foregoing, the Commission is amending its interim commodity option regulations so as to suspend, until further action of the Commission, the offer and sale of commodity options to the general public on and after June 1, 1978. This prohibition encompasses all interests subject to Commission regulation under section 4c(b) of the Act, whether the interest be described as an option or otherwise.[22]

This amendment will not, however, restrict the offer and sale of trade options under § 32.4 of the regulations. Under this section, an option offered by a person who has a reasonable basis to believe that the option is offered to a producer, processor, commercial user, or merchant handling the commodity (or a product or by-product thereof) which is the subject of the transaction, and that such producer, processor, commercial user, or merchant is offered or enters into the transaction solely for purposes relating to its business, is exempt from the application of all Commission option regulations, except for the rules relating to fraud, misrepresentation and prohibited transactions.[23] Several commentators suggested that the Commission broaden the scope of the trade option exemption in order to permit commercial interests more flexibility to engage in option activity during the term of the suspension. The Commission expects to complete its evaluation of these comments shortly. Should the Commission determine to broaden or otherwise modify the trade option exemption, it intends to adopt revisions to § 32.4(a) to coincide with the June 1, 1978 effective date of the suspension.

Finally, this amendment will have no effect on commodity option transactions entered into prior to June 1, 1978. The provisions of the interim regulations will remain in effect and will govern these transactions. Accordingly, suspension of the further offer and sale of dealer and foreign options does not to any extent relieve firms that have sold commodity options of the obligations that they owe to customers arising out of options sold prior to the effective date of the suspension. Further, the Commission will consider the failure to discharge these obligations to constitute, among other things, a violation of the option antifraud rule, 17 CFR 32.9 (1977).

ENFORCEMENT

The Commission intends to use all of the weapons at its command to prevent individuals and firms from engaging in further option transactions in violation of § 32.11 and to insure that all commitments to existing customers are met. The Department of Justice has been advised of the Commission's proposal to suspend the sale of options in the United States. Consistent with Section 13 of the Act, 7 U.S.C. 13-1, the Commission has requested its assistance to assure full compliance with the Commission's judgment. As a result, Commission legal and enforcement personnel have discussed with the Civil and Criminal Fraud Divisions various ways in which they will be able to assist in the investigation and prosecution of civil and criminal proceedings in order that customers will be protected with respect to rights that presently exist under open option agreements and that violators of the suspension will be promptly prosecuted. The Commission also intends to enlist the cooperation of appropriate state officials in connection with the enforcement of § 32.11.

LIFTING THE SUSPENSION

The public interest requires that option transactions be permitted, if at all, only if meaningful customer protection can reasonably be assured. This concern lies at the root of the four factors which, among others, the Commission indicated it will consider in determining whether and when to lift the suspension. Those factors are: (a) The prospect for effective self-regulation should a self-regulatory organization be established under Section 17 of the Act, (b) the successful implementation of a pilot program for commodity option trading on United States exchanges, (c) whether protection of option customers can reasonably be assured if foreign commodity options are included as part of the Commission's proposed pilot program, and (d) the strengthening of the enforcement capability of the Commission. 43 FR 4870 (February 6, 1978).

The Commission received several comments from interested persons concerning the relative importance of each of the four factors. A number of commentators viewed the establishment of a self-regulatory organization as far less significant in determining whether to lift the suspension than other measures, including the implementation of the pilot program and increased enforcement capability. These persons noted that a self-regulatory organization would have weaker regulatory powers than the Commission and that the prospects for such an organization are uncertain. These comments and those received from persons who felt that a self-regulatory organization would provide meaningful protection to customers and could therefore serve as an alternative to a suspension will be evaluated by the Commission in determining the role which a self-regulatory organization can assume in policy option firms and whether its establishment is a prerequisite to any further trading in options.

The most controversial factors were whether implementation of domestic exchange trading should precede resumption of option sales and whether meaningful customer protection could be provided if foreign and dealer options were included in the pilot program. A number of commentators stated that as part of its pilot program the Commission has already proposed and is currently developing regulations which will provide adequate protection for option customers. For this reason they contend that there is no basis to delay dissolution of the suspension until after domestic exchange trading begins and that to do so would, in fact, be anticompetitive. While the Commission has proposed regulations to govern foreign option sales under a pilot program and has received comments on how a pilot program in dealer options could be structured, the Commission now believes that its prior proposals and the comments that it has received on them must be re-evaluated in light of the Commission's recent experiences with commodity options in order to determine whether and how meaningful customer protection can best be provided.

The Commission need not determine at this time the weight to be accorded to each factor that it will consider in

---

[22] The Commission's authority encompasses—and the suspension encompasses—"* * * any transaction * * * which is of the character of, or is commonly known to the trade as an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty' * * *." 7 U.S.C. 6c(b) (1976).

[23] 17 CFR 32.4 (1977).

determining whether and when to lift the suspension. The Commission nevertheless appreciates the comments that it has received on these factors and assures that they will be carefully reconsidered after the suspension becomes effective.

In consideration of the foregoing, the Commission, pursuant to the authority contained in sections 2(a)(1), 4c(a), 4c(b) and 8a of the Act, 7 U.S.C. 2, 6c(a), 6c(b) and 12a (1976), hereby amends Part 32 of Title 17 of the Code of Federal Regulations by adding a new § 32.11 which provides as follows:

§ 32.11 Suspension of commodity option transactions.

(a) Notwithstanding any other provision of this Part 32, it shall be unlawful on and after June 1, 1978, until further rule, regulation or order of the Commission, for any person to solicit or accept orders for, or to accept money, securities or property in connection with, the purchase or sale of any commodity option, or to supervise any person or persons so engaged.

(b) The provisions of paragraph (a) of this section shall not apply to any commodity option offered or entered into in accordance with the provisions of § 32.4(a).

(c) Nothing in this section shall apply to, or affect the rights, privileges or obligations of any person arising out of any commodity option transaction entered into prior to June 1, 1978.

(7 U.S.C. 2, 6c(a), 6c(b) and 12a (1976).)

Issued in Washington, D.C., on April 12, 1978, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

APPENDIX A

SUMMARY OF THE DIVISION OF ENFORCEMENT'S EXPERIENCE TO DATE IN REGULATING OPTIONS TRANSACTIONS

Submitted by: John A. Field III, *Director*, Hugh J. Cadden, *Deputy Director*, Michael Koblenz, *Assistant Director, Options Unit*, Division of Enforcement, Commodity Futures Trading Commission, 2033 K Street NW., Room 600, Washington, D.C. 20581.

SUMMARY OF THE DIVISION OF ENFORCEMENT'S EXPERIENCE TO DATE IN REGULATING OPTIONS TRANSACTIONS

Since October of 1975, the Division of Enforcement ("Division") has devoted a significant portion of its personnel and resources to the investigation and litigation of violations of the Act and of the interim commodity option regulations by firms selling commodity options.[24]

As discussed below, it is apparent from the Division's experience that the vast majority of firms selling commodity options are engaging in fraudulent and unsound practices and are not complying with the interim regulations relating to the segregation of customer funds, minimum capital requirements, and disclosures.

I. EXPERIENCE TO DATE EVIDENCES PERVASIVE NONCOMPLIANCE WITH ACT AND OPTIONS REGULATIONS

A. Fraudulent and unsound practices. The Division of Enforcement's investigations and litigation to date evidence that most firms selling commodity options have engaged or are presently engaged in organized "boiler-room" type sales campaigns through which commodity options are offered and sold to members of the public.

Typically, inexperienced, untrained, and frequently unregistered salespersons using commercial "mailing lists," long distance WATS phone facilities and canned salespitches each contact as many as 100 prospects a day.[25] The sales-pitches, designed to appeal to greed and to convey a sense of urgency, vary little from firm to firm and the same pitch is used for "pitching" any number of different commodities simply by transposing key paragraphs. These pitches abound with unsubstantiated (and inherently fraudulent) profit predictions and statements relating to exchange "guarantees."

Immediately following the initial telephone pitch, prospects are sent promotional literature purporting to explain commodity options. These materials uniformly misstate the nature of the exchange "guarantees" and crudely conceal substantial mark-ups of between 50 to 300 percent by using such terms as "transaction fee," "foreign service fee," or "U.S. Brokerage Chgs."

Shortly after receiving the promotional materials the prospect is called repeatedly in an attempt to consummate a sale.[26] Salespersons once again using canned salespitches reiterate representations of huge profits, minimal or no risk, exchange guarantees, bank references, favorable research reports, and a sense of urgency. Salespersons also are given canned responses or rebuttals to overcome specific and frequent customer objections. For example, prospects who want to speak with their spouses are "overcome" by being asked who makes the investment decisions in the family and ridiculing their lack of authority. Prospects who want to speak with their banker are "overcome" by being asked if their banker makes their investment decisions or by being told their banker does not want to disburse their money for which he pays 6 percent and lends to third parties at 18 percent. Similar responses are prepared for those who want to contact their stockbroker, accountant or attorney. In fact, in some instances when prospects state that they want to consult their attorney they are told that the firm is registered with the Commodity Futures Trading Commission and that the attorney can check with the Commission for proof of the firm's legality.[27]

A review of actual sales-pitches, promotional materials and confirmations obtained by the Division evidences the extent of the fraudulent, misleading and deceptive representations being employed.[28]

1. *Profit predictions.* Predictions of enormous profits are communicated to customers in the form of rhetorical questions, hypothetical examples, etc. For example, in answer to the question "What type of profit potential does London commodity options offer?" one brochure states "Do you know that if you had purchased a $4,000 sugar call option in July, 1974 when sugar was 22 cents a pound and sold in November of 1974 when sugar was 66 cents a pound, you would have made a profit of over $45,000 * * *" Another common practice is to express profit predictions by referring to fractional price moves—"* * * You will be controlling 112,000 lbs. of sugar. Therefore, each time sugar moves up one penny, that's equal to $1,100.00 in your pocket." One sales-pitch expresses profit by referring to several options—"Mr. ————, are you in a position

---

[24] A summary of the injunctive actions and administrative proceedings instituted by the Commission against firms or individuals selling options is set forth in Appendix A.

[25] The solicitation and use of inexperienced and unregistered salespersons is an integral part of the practices encountered to date. Many firms recruit salespersons by placing advertisements in the classified section of metropolitan newspapers. Most of these advertisements promise immediate riches and seek applicants with no experience in the commodity futures or commodity options field and, on occasion, state that no registration is required. In one such case, the ads ask for "WATS PROS", and one reads "$$$ wanted $$$ * * * FRONTERS-CLOSERS-SALESMEN." The ads seek to generate enthusiasm with such phrases as "Tired of talk and no money * * * come where the $$$ is;" "million dollar room," "go and get 'em," "resell clients * * * you load them." As might be expected, salespersons' applications reveal a significantly low level of prior sales experience, if any; and, in an alarming number of cases, previous criminal records, frequently involving fraud. As of February 16, 1978, 50 of the 59 associated persons registration applications being reviewed by the Division for possible denial proceedings involve applicants seeking to be associated with FCM's known to be trading options. Twenty-seven of these applicants have no apparent prior experience in commodities or securities and 49 have prior criminal convictions or have been sanctioned for violating Federal securities laws.

[26] Salespersons are instructed to stay on the phones at all times. In some offices there are two or three shifts; the evening shifts are used mainly for solicitations to the Mid-West and West Coast. Generally, salespersons receive a commission, e.g., 10 percent. Several firms have bonus programs, e.g., Mercedes cars, color television sets, resort holidays, and, in one instance, sexual relations with a prostitute was an announced incentive for successful Miami salespersons. Salespersons are under tremendous pressure to produce and the turnover is high.

[27] The solicitation practices encountered to date are described in detail in *CFTC* v. *J. S. Love & Associates Options Limited*, 422 F. Supp. 652 (S.D.N.Y. 1976); *CFTC* v. *Crown Colony Commodity Options, Ltd.*, 434 F. Supp. 911 (S.D.N.Y. 1977), appeal pending, 2d Cir. Nos. 77-6134, 77-6136.; and *Kelley et al.* v. *Carr, et al.*, Comm. Fut. L. Rep. (CCH) para. 20,517 (Dec. 5, 1977).

[28] Copies of actual canned pitches, promotional materials, and market reports used by J. S. Love & Associates Options, Ltd., Crown Colony Commodity Options, Ltd., and Lloyd, Carr & Co., together with staff analyses of these materials, are set forth in the investigative affidavits of Adelaide Blitzer, Stephen C. Leckar, Douglas L. Campbell and Ellen R. Meltzer provided in Appendix B. Copies of canned pitches, promotional materials and market reports obtained by the Division are provided in Appendix C.

to handle 10 calls? that would be a cost of $21,000 with a potential profit of $60,000.00 is that better? may I have your check for * * *" (See Appendix C for quoted materials). The scripts and promotional materials are devoid of the facts that the likelihood of such profits is remote and that most investors lose their entire investment.

2. *Claims of limited risk.* Customers are not told that commodity options are highly speculative with a likelihood of complete loss of the premium. Indeed, in many instances customers have been told that the investment is so good that they can not lose:

> "Nobody loses because as long as you are meeting in the marketplace, somebody is willing to pay the price, and someone is willing to take the services. As long as there is a buyer on both ends, a buyer and a seller and everybody is willing to come to an agreement as far as price. There is no loser.
> "That is why commodity options is such a fantastic investment. Everybody can come out a winner and we can make money together * * *."

Another script addresses the risk issue with the "Break-Even Price for Farmers Response."—"I'd also like you to take note of the fact that 12 cents is the break-even price for the farmers, so with sugar at 14 cents a pound the downside risk is practically nil." (See Appendix C for quoted materials).

3. *Investment protection guarantees.* Customers uniformly are told that their investment will be backed by the appropriate London exchanges and guaranteed against default by the International Commodity Clearing House. For example, "Contract Fulfillment Guaranteed by the International Commodities Clearing House (I.C.C.H.) or principals of the London Metals Exchange (LME). Option contracts that are written through and backed by the (I.C.C.H.) and (LME) have this guarantee: The Clearing House guarantees due fulfillment of each contract registered under its Regulations and in accordance with the Rules of Market Associations." It is common for customers who ask what happens if the firm folds to be told that the "guarantee" protects them—"Every option is regulated, backed and serial numbered with the International Commodity Clearing House or the London Exchange." Some are told that the domestic carrying brokers "underwrite all options, therefore you could always exercise with them and get your money." (See Appendix C for quoted materials).

These representations simply are not true. London options are not guaranteed to the retail customer by "London Commodity Exchanges." In the case of soft commodities (sugar, cocoa, coffee, wool and rubber), the International Commodity Clearing House ("ICCH"), the clearing organization for London Terminal Market Associations where soft commodities are traded, merely guarantees to its member firms fulfillment of the contract. No guarantees are made to persons other than members. Since almost none of these firms is a member firm of the ICCH, no guarantees are extended to the firm or its customers. In case of hard commodities (copper and silver), there is no guarantee of any offer by a clearinghouse, exchange or dealer. Such options are traded in an over-the-counter type market between dealers.

In addition, many firms create the false impression that customers are the owners of a registered option contract. In many instances confirmations received by customers upon the purchase of an option purport to assign to them a particular option. In fact, however, all options purchased by these firms are purchased in the name of the company in its "omnibus account." The customers have no interest in such account nor does the London or domestic carrying broker recognize the interest of anyone in that account other than the selling firm. As such, if a debit balance arose in the omnibus account by virtue of premiums owed or trading losses, any profits accruing in that account from the exercise of customer options would be offset against the debit balance to the carrying broker. In short, contrary to repeated assertions, no protection is provided to the customer by the exchange guarantee and, in fact, the customer's investment largely is dependent upon the financial integrity of the U.S. options firm.

4. *Research capacity.* Sales pitches and promotional literature uniformly tout a firm's research reports and capabilities. In fact, however, in most instances "research" consists of nominal expenditures for subscriptions to various publications, newspaper clips, and various superficial, outdated market reports, many of which have been pirated from other firms. For example, around November 1976 one firm plagiarized a simplistic September 1976 sugar report of another firm, affixed its letterhead and mailed it to prospective customers. Yet a third firm affixed its letterhead over the "new" report and mailed it to customers during the first part of 1977. In another instance, a firm mailed prospective customers a verbatim copy of a coffee report prepared and used a year earlier by another firm. Such "research" efforts are not an uncommon practice. (See Appendix C for quoted materials.)

5. *Commissions and mark-ups.* The fact most scrupulously concealed by the vast majority of options firms is the full extent of fees and mark-ups. Notwithstanding significant mark-ups of between 50 and 300 percent, sales pitches, promotional materials, and confirmations uniformly avoid disclosure and in fact conceal such fact by using various explanations or definitions. Mark-ups frequently are defined in promotional materials and customer confirmations as "transaction fees," "foreign service fees" and "U.S. service fees." The transaction fee is defined in one brochure as a fee "paid to do business" based upon "a percentage of the total value of the underlying commodity futures contract." Of course, no such "fee" was paid to do business and in fact the "transaction fee" amounted to about a 100 percent mark-up. (See Appendix C for quoted materials.)

It is also a common practice to instruct salespersons to "overcome" questions concerning fees and commissions by simply stating the salesperson's commission, e.g., 10 percent. A recent telephone solicitation received by an NBC news representative typifies the practice. In response to a direct question as to the amount of the commission and what the company made, the salesperson answered "I don't make but 10 percent." The company "doesn't take anything." The $3600 option being touted could have been purchased through a national brokerage house at the same time for $1600.

The materiality of the mark-up and the failure to adequately disclose it is obvious when one considers the fact that in the case of a call option the value of the underlying future or commodity must rise above the strike price by an amount equal to the mark-up, commissions, and fees the customer pays the company in order to break-even on the transaction and that profits do not accrue until the value of the underlying option or commodity exceeds such break-even point.

As reflected in the attached Schedule of Actions and Investigations, the aforementioned fraudulent practices represent a common course of conduct which has been taking place and is continuing to take place at a rapid pace throughout the commodity option field. To date, 19 of the 28 injunctive and formal administrative proceedings instituted by the Commission against firms and individuals involved in the sale of commodity options involve similar practices and vary only by degrees.[6] Additionally, the Division's special strike force to investigate options firms is presently investigating 30 of the approximately 38 firms currently selling commodity options.[7] The intensity and breadth of these activities are revealed by the fact that the 22 firms sued together with the 30 being investigated account for 120 branch offices throughout the United States and approximately 4079 associated persons or salespersons. Tracing the flow of documents, records and financial instruments between these loosely affiliated

---

[6] *Commodity Futures Trading Commission* v. *American Options Corp.*, (C.D. Cal 1975); Comm. Fut. L. Rep. ¶ 20,107 (1975); *Commodity Futures Trading Commission* v. *J.S. Love & Associates Options, Ltd.*, 422 F. Supp 652 (S.D.N.Y. 1976); *Commodity Futures Trading Commission* v. *American Overseas Trading Corp.*, Civ. No. 75-1970-M (N.D. Ga. 1975); *Commodity Futures Trading Commission* v. *Rosenthal & Co., et al.*, Civ. No. 76-C3904 (N.D. Ill., 1976); *Commodity Futures Trading Commission* v. *First Commodity Corp. of Boston, et al.*, Civ. No. 76-4051-M (D. Mass. 1976); *Commodity Futures Trading Commission* v. *British American Commodity Options Corp.*, Civ. No. 77-1822 (S.D.N.Y. 1977); *Commodity Futures Trading Commission* v. *Crown Colony Commodity Options Corp., et al.*, 434 F. Supp. 911 (S.D.N.Y. 1977); *Commodity Futures Trading Commission* v. *International Commodities Corp., et al.*, Civ. No. 77-3864 (C.D. Ca. 1977); *Kelley et al.* v. *Carr, et al.*, Comm. Fut. L. Rep. (CCH) para. 20,517 (Dec. 5, 1977); *Commodity Futures Trading Commission* v. *Neuberger Securities Corp., et al.*, Civ. No. 78-Civ-0317.

See also In the Matter of British American Commodity Options Corp., CFTC Docket Nos. 76-15, 77-3, *In the Matter of London Commodity House Inc., et al.*, CFTC Docket No. 77-4; *In the Matter of First New York Commodity Options, Ltd., et al.*, CFTC Docket No. 77-5; *In the Matter of James A. Carr and Charles P. LeMieux d/b/a Lloyd, Carr & Co., et al.*, CFTC Docket No. 77-6; *In the Matter of Imperial Options, Ltd.*, CFTC Docket No. 77-7; *In the Matter of Rosenthal & Co., et al.*, CFTC Docket No. 77-10; *In the Matter of First London Commodity Options, Ltd., et al.*, CFTC Docket No. 78-18; *In the Matter of Commodity Options, Ltd., et al.*, CFTC Docket No. 78-19.

[7] Since January 17, 1977, the date the interim registration provisions became effective, a total of 93 firms have been registered to sell options. As of March 6, 1978, 59 firms remain registered to sell options of which approximately 38 firms are actually selling options at this time.

branch offices and the main offices is a difficult and time consuming process. Preliminary analysis of the promotional materials, canned pitches, disclosure statements, and other materials obtained incident to these investigations reveals that widespread fraudulent and unsound solicitation practices continue unabated.

B. AUDIT EXPERIENCE TO DATE EVIDENCES WIDESPREAD NON-COMPLIANCE WITH SEGREGATION, MINIMUM CAPITAL AND DISCLOSURE REQUIREMENTS

While it is impossible to estimate the amount of option customer funds that have been lost or are presently at risk, it is apparent from the audit experience to date that the financial integrity of many options firms is questionable and that a substantial amount of customer funds continue to be at risk due to an alarming degree of non-compliance with the interim option regulation, particularly the segregation and minimum capital requirements which are designed to protect customer funds.[8]

Recent audits and inspections conducted by the Division of Trading and Markets reveal that 20 of the 30 firms audited failed to adequately segregate customer funds received in payment for commodity option purchases in accordance with Interim Rule 32.6. As a result, at least $27,200,000 representing 90 percent of the purchase price of open option contracts, transacted has not been segregated as of the specific examination dates and therefore remain at risk today. Twelve of the thirty firms reviewed failed to prepare complete and accurate segregation records as required by the Act.[9]

The audit program also has revealed a substantial degree of non-compliance with respect to the minimum capital requirements established for option dealers. In fact, eleven of the thirty firms audited failed to meet these requirements as of various dates of determination throughout the past 12 months. Two of the firms failed to meet the minimum capital requirements by amounts in excess of $400,000: Hofmann, Kavanaugh Commodity Corp. was undercapitalized by $413,919 as of July 31, 1977; and A. L. & T. Trading Co. was under-capitalized by $656,000 as of September 30, 1977.[10]

The resulting consequence of this noncompliance is highlighted by the fact that at least six commodity option firms have sought relief under the Bankruptcy Act.[11] One of these firms which had not been segregating customer funds filed a petition in bankruptcy listing liabilities of $689,000 to 118 customers who had exercised their profitable options but could not be paid, and further identifying 217 other customers holding as yet unexpired options as to which that firm's liability is undetermined.[12] Another firm filed a petition listing liabilities of $191,000 to 150 customers.[13] Of course, with respect to the most recent bankruptcy, Lloyd, Carr & Co., it is too early to ascertain the extent of liabilities owed to customers; however, it is known that liabilities to four regional telephone companies alone exceed $500,000.

Commission auditors also found a significant degree of non-compliance with Interim Rule 32.5 which requires that certain information be disclosed to prospective and actual option customers. Specifically, disclosure materials reviewed almost uniformly fail to comply with Interim Rule 32.5 in that they do not provide an adequate description of the elements comprising the purchase price to be charged or all the costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the commissions or all similar fees and charges which may be incurred.[14]

It is apparent from a review of the materials gathered to date that the anticipated benefits of the interim disclosure provision have not been realized and, in fact, "disclosure" materials presently being utilized by the majority of the options firms are but an additional vehicle to communicate false and deceptive information. Further, information obtained from numerous customer affiants reveals that the actual amount of the markups on the premium uniformly are not being disclosed prior to the entry into the transaction as required by Interim Rule 32.5.

Finally, and perhaps most significant, investigators and auditors have encountered great difficulty in verifying the details of option transactions effected by members of the various London commodity exchanges on which the vast majority of foreign commodity options presumably are transacted. Details relating to these transactions, for example, the executing brokers, the parties on the opposite side of the transaction, as well as the price and cost of the options are absolutely essential in order to determine whether or not options in fact have been purchased or whether they simply have been "bucketed." To date, requests for such information have been met with a lack of cooperation by the London interests on the ground that such information is confidential. The lack of ready accessibility to this information alone warrants an immediate suspension of trading.[15]

II. REPARATION UNIT'S EXPERIENCE TO DATE ALSO EVIDENCES PERVASIVENESS OF FRAUDULENT AND UNSOUND PRACTICES

The Reparation Unit's experience to date evidences the pervasiveness of the aforementioned fraudulent and unsound practices as well as the effect these practices have had on the investing public.

Reparation complaints that have thus far been brought pursuant to Section 14 of the Commodity Exchange Act have predominately involved claims arising out of options transactions.[16] Of the 940 complaints filed

---

[8] Interim Rule 32.6 requires an option dealer to segregate, in a separate account for the benefit of the customer, 90 percent of the purchase price a customer is required to pay until the customer exercises his option or allows it to expire. Regulation 1.17 further protects the integrity of customer funds by requiring the option dealer to maintain an adjusted working capital equal to or in excess of whichever is greater, $50,000 or the sum of various safety factors plus 5 percent of aggregate indebtedness.

[9] To date, the Commission's efforts to audit options firms have been frustrated or unreasonably delayed due to inadequate record systems and delays in making records available. During recent audits thirteen of the thirty firms audited failed to keep complete, accurate and systematic records and at least seven of the firms failed to grant staff auditors immediate or ready access to all required records.

[10] The Commission has obtained injunctions against Hofmann, Kavanaugh Commodity Corp. and A. L. & T. Trading Co., together with Frankland Commodity Corp. which was under-capitalized by $40,534 as of November 30, 1977, enjoining any further business activity by these firms while undercapitalized. *CFTC* v. *Hofmann, Kavanaugh Commodity Corp., et al.*, Civ. No. 77-3928 (C.D. Cal. 1977); *CFTC* v. *A. L. & T. Trading Co., et al.*, Civ. No. 78-0161 (W.D. La. 1978); *CFTC* v. *Frankland Commodity Corp., et al.*, Civ. No. 78-120 (N.D. Ga. 1978).

[11] Voluntary petition in bankruptcy, dated June 20, 1977, *In the Matter of Sterling Industries, Inc.*, No. 77-B-4431 (N.D. Ill.); Pet. for arr. under Section 322 of Chapt. XI, *In the Matter of Palmer Trading Co., Inc.*, No. 77-B-5157 (N.D. Ill.); *In the Matter of Alan Abrams a/k/a James Carr*, Bankruptcy No. 78-00208-JG (U.S.D.C. Mass.) and *In the Matter of Lloyd, Carr & Co.*, Bankruptcy No. 78-00209-JG (U.S.D.C. Mass.). *See also, In the Matter of J. S. Love & Associates Options, Ltd.*, Bankruptcy No. 76-B-590 (S.D.N.Y., May 20, 1976 *In the Matter of American Overseas Trading Company*, Bankruptcy No. —— (N.D. Ga. ——); approximately $62,000 in liability to customers. *In the Matter of Sierra Commodities Corporation*, Bankruptcy No. —— (C.D. Cal.); approximately $93,000 in liabilities to customers.

[12] Voluntary petition in bankruptcy, dated June 20, 1977, *In the Matter of Sterling Industries, Inc.*, No. 77-B-4431 (N.D. Ill.).

[13] Pet. for arr. under Section 322 of Chapt. XI, *In the Matter of Palmer Trading Co., Inc.*, No. 77-B-5157 (N.D. Ill.).

[14] Copies of "disclosure" materials and related documents are provided in Appendix C.

[15] Recent information relating to a London firm which is believed to be one of the largest carrying brokers for U.S. commodity option firms indicates that the majority of options being sold to U.S. customers, at least through this carrying broker, are not being executed on the London exchanges but rather are being prearranged and/or granted by U.S interests which may in fact be aligned with the option companies who purchase the options. Requests for specific trade information relating to option transactions from this foreign carrying broker have been rebuked. Information developed to date reveals that the president of Firm O on the attached Schedule, a large domestic option dealer, which has grossed more than 8 million dollars in premiums in 1977, is a consultant and receives a substantial share of the profits of a company that grants options through the same London carrying broker that fills trades for the domestic firm. One of the reasons why the grantor company was formed was the inability of the London carrying broker to satisfy the demand on the taker side, much of which has been created by slick salesmanship in this country. It has also been learned that over 80% of the grants by the grantor company have been crossed with orders placed by domestic option dealers without going to the London exchanges for execution. Another instance has been uncovered in which the same large domestic dealer has been involved as a joint venturer with its London carrying broker for the purpose of granting options. These companies have dealt, in "out-of-the-money" options and fractionalized options which are in non-conformity with ICCH by-laws and regulations.

[16] Under Section 14 of the Act, 7 U.S.C. 18 (1975), any person claiming to have suffered as a result of the violation of the Commod-

Footnotes continued on next page

to date, 581 complaints against 76 firms, or 62%, relate to options transactions. In fact, if the current rate of such complaints continues (215 during the first quarter of fiscal year 1978), we can expect in excess of 800 reparation complaints relating to options transactions during fiscal year 1978.

A review of the reparations complaints relating to options transactions reveals that virtually all of the 581 complaints involve allegations of misrepresentation, specifically with respect to profit expectations, the nature of an investment in options, risks of investing in options, costs of options transactions, and protections received by options purchasers. The next most common category of alleged violation is unauthorized trading which allegedly took place after the customer notified the subject firm that he wished to exercise a profitable option. According to the general pattern alleged, following this notice the customer received confirmation showing that he had made a paper profit on one option but it had been immediately applied toward the purchase of two or three additional options on another commodity.[17]

Excluding about 49 complainants who were introduced to the subject firms by friends or relatives who repeated promises of low risk and high profits, the complainants in each instance were contacted by telephone solicitors. Very few complainants have any sophistication regarding commodity options and, in fact, the majority alleged that they did not learn that a commodity option was a non-recoverable investment until after the option had expired.[18]

Total damages alleged in the reparation complaints arising out of options transactions filed to date is approximately 5.6 million dollars. Eighteen options related reparation actions claiming a total of $128,000 have been adjudicated to date. Of these, seven claimants have received favorable judgments totalling approximately $81,000.

Conclusion

To date, the Commission through the Division has instituted 15 injunctive actions and 13 formal administrative proceedings against a total of 22 firms and 68 individuals involved in the sale of commodity options. In addition, thirty of the approximately thirty-eight firms currently selling commodity options are under active investigation at this time. It is anticipated that Enforcement actions will follow many of the investigations.

Despite vigorous enforcement and the institution of numerous enforcement actions, it is apparent that violations of the regulations are pervasive and continue unabated. As discussed above, in view of the pervasiveness of these fraudulent and unsound practices, the difficulty in verifying the details of option transactions purportedly effected in London, the questionable financial condition of many of the firms, and the alarming non-compliance with the interim regulations relating to the segregation of customer funds, minium capital requirements, and disclosures, the Division has concluded that adequate and timely protection to option customers can not reasonably be assured through enforcement actions.

Footnotes continued from last page
ity Exchange Act and rules thereunder at the hands of any person required to register with the Commission, may seek relief in an administrative forum provided by the Commission.

[17] The transient nature of some of these firms is demonstrated by the reparation filings. Eight companies against whom claims have been filed simply disappeared once the customer deposited money for the purchase of an option.

[18] Copies of eleven representative customer reparation complaints filed with the Commission are provided in Appendix D.

SCHEDULE OF ACTIONS AND INVESTIGATIONS

I. ADMINISTRATIVE AND INJUNCTIVE ACTION

			MISLEADING INACCURATE DISCLOSURES	MISLEADING PROMOTIONAL LITERATURE	MISLEADING SALES PITCHES	DECEPTIVE CUSTOMER STATEMENTS	UNREGISTERED EMPLOYEES	FAILURE TO ADEQUATELY SEGREGATE	UNDER CAPITALIZATION	FAILURE TO GIVE ACCESS	FAILURE TO KEEP COMPLETE AND ACCURATE RECORDS	
CI	1	AL&T Trading, Inc.				X				X	X	
CI	2	American Options Corp.		X				X				
CI	3	American Overseas Trading Corp.	X									
CI	4	British American Commodity Options	X			X				X		
PA	5	Commodity Options Ltd/Pan Amer Trd.	X			X	X					
PI	6	Crown Colony Commodity Options Ltd.	X	X	X	X	X					
CI	7	First Commodity Corp. of Boston	X	X	X	X	X	X	X		X	*
PA	8	First Dover Commodities, Ltd.				X			X			
PA	9	First London Commodity Options Ltd.	X			X	X					*
CA	10	First New York Commodity Options, Ltd.	X	X			X					
CI	11	Frankland Commodity Corp.							X		X	
CA	12	HGM Investments Inc./Gibralter Options	X	X								
CI	13	Hofmann, Kavanaugh Commodity Corp.						X	X			
PA	14	Imperial Options, Ltd.	X							X		
PI	15	International Commodity Corp.	X			X				X		
PA	16	International Commodity Options, Ltd.					X			X		
PAPI	17	Lloyd, Carr & Co.	X	X	X	X	X	X	X	X	X	
CA	18	London Commodity House, Inc.	X	X	X	X						
CI	19	J.S. Love & Associates, Inc.	X	X					X			
PI	20	John J. Muller & Associates	X			X						
CI	21	Neuberger Securities Corp.	X	X	X	X						
PA	22	Rosenthal & Co. Inc.	X	X	X	X						1
								D sells dealer options on domestic commodities				4
PA		Pending Administrative Proceedings	8					* sells dealer options on London Commodities (i.e. off of exchanges, limited risk forwards) not disclosed to customer or in violation of the Regulations.				
CA		Closed Administrative Proceedings	5									2
PI		Pending Injunctive Proceedings	7									
CI		Closed Injunctive Proceedings	8									
			28 (22 firms, some in more than one action)									

II. PENDING INVESTIGATIONS

			Misleading Inaccurate Disclosures	Misleading Promotional Literature	Misleading Sales Pitches	Deceptive Customer Statements	Unregistered Employees	Failure To Adequately Segregate	Under-Capitalization	Failure To Give Access	Failure to Keep Complete Accurate Records	
	A		X				X	X		X	X	A
	B							X	X		X	B
	C		X	X	X	X						C
	D		X	X	X	X		X	X		X	D
	E		X			X	X					E
	F		X			X		X				F
	G		X	X		X					X	G
	H			X		X		X	X		X	H
	I		X	X	X	X	X			X	X	I
	J	*	X	X		X	X	X		X	X	J
	K		X	X	X	X		X	X		X	K
	L	*	X	X		X	X	X	X	X		L
	M	D	X								X	M
	N	* D	X	X			X	X			X	N
	O	*	X	X	X	X						O
	P	*	X		X		X	X				P
	Q		X	X	X	X		X				Q
	R		X			X	X					R
	S		X	X	X	X		X				S
	T	*	X					X			X	T
	U		X	X	X	X		X		X		U
	V	*	X	X	X	X		X	X			V
	W	*	X	X	X	X		X				W
	X		X	X		X	X	X			X	X
	Y							X				Y
	Z	D	X					X			X	Z
	AA			X	X		X		X		X	AA
	BB		X		X	X						BB
	CC		X		X	X		X	X	X	X	CC
	DD		X	X		X	X			X		DD

[FR Doc. 78-10093 Filed 4-14-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—GENERAL PAYMENT PROCEDURES

PART 130—ADVANCE OF FUNDS

PART 140—REIMBURSEMENT

AGENCY: Federal Highway Administration, DOT.

ACTION: Rescission of regulations.

SUMMARY: FHWA's Regulation Reduction Task Force recommended that certain sections of the regulations be cancelled based upon their finding that the States had very infrequently applied for advance of funds or approval of a percentage reimbursable engineering rate. Accordingly, this action rescinds portions of the above regulations and future requests for advance of funds or approval of a percentage reimbursable engineering rate will be handled by FHWA on a case-by-case basis.

EFFECTIVE DATE: April 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard Bander, Finance Division, Office of Fiscal Services, 202-426-0575; Wilbert Baccus, Office of the Chief Counsel, 202-426-0786, 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 regulation rescission was not issued in proposed form, and no comments were solicited, as the matters affected relate to grants, benefits, or contracts within the preview of 5 U.S.C. 553(a)(2), thus general notice of proposed rulemaking was not required.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and 11949, and OMB Circular A-107.

Issued on: March 28, 1978.

L. P. LAMM,
Executive Director.

In consideration of the foregoing, the Federal Highway Administration is amending Chapter I of Title 23, Code of Federal Regulations as follows:

1. The Table of Sections of Subparts B and C of Part 130 are rescinded in their entirety and reserved.

* * * * *

Subpart B—Advance Fund Accounts

Sec.
130.201-130.209 [Reserved]

Subpart C—Advance Fund Accounts (Defense Access Road Projects)

130.301-130.310 [Reserved]

* * * * *

Subpart B—[Reserved]

Subpart C—[Reserved]

2. Subparts B, §§ 130.201—130.209, and C, §§ 130.301—130.310, of Part 130 are rescinded in their entirety and reserved.

3. The Table of Sections of Subparts C and D of Part 140 are rescinded in their entirety and reserved.

* * * * *

Subpart C—Percentage Reimbursement for Construction Engineering

Sec.
140.301-140.304 [Reserved]

Subpart D—Percentage Reimbursement for Preliminary Engineering

140.401-140.404 [Reserved]

* * * * *

Subpart C—[Reserved]

Subpart D—[Reserved]

4. Subparts C, §§ 140.301—140.304, and D, §§ 140.401—140.404, of Part 140 are rescinded in their entirety and reserved.

(23 U.S.C. § 315; 49 CFR 1.48(b)(35).)

[FR Doc. 78-10071 Filed 4-14-78; 8:45 am]

[4210-01]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-523]

PART 841—PUBLIC HOUSING PROGRAM; DEVELOPMENT PHASE

Appendix A—Prototype Cost Limits for Low Income Housing, Norton, Va., Region III and California, Region IX

AGENCY: Office of the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: On June 30, 1977, the Department published a revised Schedule A, "Prototype Cost Limits for Low-Income Housing," to Part 841. Consideration of subsequent factual cost data and other information received from the Field Offices and the public shows that new prototype cost schedules and areas should be established for Norton, Va., and Pala, Rincon, Barona, Campo, Morongo, Torres-Martinez, Chemehueui, and Santa Ynez, Calif.

EFFECTIVE DATE: April 17, 1978.

COMMENT DUE DATE: All comments received on or before May 15, 1978 will be considered.

ADDRESSES: Send comments to the Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert P. Cunningham, Director, Office of Technical Support, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-5730.

SUPPLEMENTARY INFORMATION: Based on information supplied by Field Offices and the public, new prototype per unit cost schedules for the new areas of Norton, Va., and Pala, Rincon, Barona, Campo, Morongo, Torres-Martinez, Chemehueui and Santa Ynez, Calif., are being published.

These cost limits, established pursuant to section 6(b) of the U.S. Housing Act of 1937, represents per unit cost schedules for low income housing and are required to be published at least annually in the FEDERAL REGISTER.

Section 6(b) of the Act provides that prototype costs be effective on the

date of publication in the FEDERAL REGISTER. However, timely written comments will be considered, and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the address indicated above.

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 will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address specified above.

Accordingly, the prototype cost limits for low income housing, pursuant to 24 CFR, part 841, appendix A, are amended as follows:

1. At 41 FR 33650, add a prototype per unit cost area and schedule for Norton, Va., as shown on the table set forth below entitled Prototype Per Unit Cost Schedule—Region III.

2. At 41 FR 33698, add eight prototype per unit cost areas and schedules as shown on the table set forth below, entitled Prototype Per Unit Cost Schedule—Region IX, for Pala, Rincon, Barona, Campo, Morongo, Torres-Martinez, Chemehueui and Santa Ynez, Calif.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); sec. 6(b) of the U.S. Housing Act of 1937, 42 U.S.C. 1437(d).)

NOTE.—It is hereby certified that the economic and inflationary impacts of this amendment to part 841 have been carefully evaluated in accordance with Executive Order No. 11821.

Issued at Washington, D.C., on April 7, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

REGION III.—*Virginia*

	Bedroom						
	0	1	2	3	4	5	6
Norton							
Detached and semidetached	16,300	19,700	24,200	29,050	34,950	38,800	40,500
Row dwellings	16,600	20,100	24,650	29,500	35,500	39,550	41,250
Walkup	14,250	17,600	22,450	26,300	30,650	33,650	35,300
Elevator-structure	26,000	30,100	38,200				

REGION IX.—*California*

	Bedroom						
	0	1	2	3	4	5	6
Pala							
Detached and semidetached	11,700	14,050	22,250	26,500	31,800	35,500	37,100
Row dwellings	11,250	13,400	21,150	25,150	30,200	33,725	35,500
Walkup	12,050	14,400	23,350	29,100	33,650	36,900	38,800
Elevator-structure							
Rincon							
Detached and semidetached	11,550	13,950	21,400	26,300	31,550	35,250	36,800
Row dwellings	11,050	13,300	20,350	25,000	30,000	33,550	34,000
Walkup	11,900	15,000	23,600	28,850	33,400	36,600	38,500
Elevator-structure							

REGION IX.—*California*—Continued

	Bedroom						
	0	1	2	3	4	5	6
Barona							
Detached and semidetached	10,800	13,500	20,750	25,500	30,600	34,170	35,700
Row dwellings	10,300	12,900	19,750	24,250	29,100	32,550	33,000
Walkup	11,100	14,550	22,900	27,950	32,350	35,500	37,350
Elevator-structure							
Campo							
Detached and semidetached	10,600	13,250	22,900	28,200	33,850	37,800	39,500
Row dwellings	10,100	12,650	21,800	26,800	32,150	35,900	36,500
Walkup	10,900	14,300	25,300	30,950	35,800	39,300	41,300
Elevator-structure							
Morongo							
Detached and semidetached	10,500	13,150	20,150	24,800	29,750	33,250	34,700
Row dwellings	10,000	12,550	19,150	23,600	28,250	31,650	32,050
Walkup	10,800	14,150	22,250	27,200	31,500	34,550	36,300
Elevator-structure							
Torres-Martinez							
Detached and semidetached	15,100	18,100	22,450	26,800	32,250	35,900	37,650
Row dwellings	14,250	17,050	20,950	25,050	30,200	33,550	35,100
Walkup	15,400	19,050	24,050	28,600	33,050	36,300	38,000
Elevator-structure							
Chemehueui							
Detached and semidetached	16,200	19,650	24,150	28,700	34,650	38,550	40,400
Row dwellings	15,300	18,500	22,550	26,900	32,550	36,100	37,650
Walkup	16,400	19,850	24,400	29,000	35,000	39,000	40,800
Elevator-structure							
Santa Ynez							
Detached and semidetached	13,750	16,550	20,500	24,400	29,450	32,800	34,350
Row dwellings	13,000	15,600	17,250	19,150	27,600	30,750	32,200
Walkup	13,900	16,700	20,700	24,650	29,750	33,100	34,700
Elevator-structure							

[FR Doc. 78-9987 Filed 4-14-78; 8:45 am]

[4210-01]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Wethersfield, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the town of Wethersfield, Conn. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the town of Wethersfield, Conn. that certain property is not within the Special Flood Hazard Area. This map amendment,

by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7 (b):

Map No. H & I 090040A, Panel 04, published on June 29, 1977, in 42 FR 33206 indicates that the existing structure on Parcel III of Wethersfield Investors, Inc. on Map No. 1321, as recorded in Book 22, Page 8, in the office of the Town Clerk of Wethersfield, Conn. is within the Special Flood Hazard Area.

Map No. H & I 090040A, Panel 4 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on May 2, 1977. The existing structure on the above property is in Zones B and C.

(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); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10269 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Dade County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Dade County, Fla. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Fla., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal of federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal of federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: the National Flood Insurance Program, P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § .1920.7(b):

Map No. H & I 125098 B Panel 32, published on June 29, 1977, in 42 FR 33208, indicates that Lot 3, Block 1, Sweet Pines Estates, located at 13640 Southwest 103 Avenue, Dade County, as recorded in Plat Book 99, Page 34, in the office of the County Clerk, Dade County, Fla., is within the Special Flood Hazard Area.

Map No. H & I 125098 B Panel 32 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on March 18, 1977. The property is in Zone C.

(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); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10270 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Volusia County, Fla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Volusia County, Fla. It has been determined by FIA, after acquiring additional flood information and after technical review of the Flood Insurance Rate Map for Volusia County, Fla., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or adquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

The National Flood Insurance Program, P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The map amendments listed below are in accordance with S1920.7(b): Map No. H&I 125155B Panel 07, published on June 29, 1977, in 42 F.R. 33210, indicates that Lots 69, 74 through 78, 81 through 87, 99 through 106, 113 through 128, and 153 through 160, Village of Pine Run, Volusia County, as recorded in Book 7, Page 108, Book 22, Page 171, Book 7, Page 71, Book 21, Page 78, and Book 11, Page 77, in the office of Public Records, Volusia County, Fla., are within the Special Flood Hazard Area.

Map No. H&I 125155B Panel 07 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on July 1, 1977. The property is in Zone B.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10271 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Borough of Bergenfield, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Bergenfield, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Borough of Bergenfield, N.J., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 340020A Panel 0001, published on June 29, 1977, in 42 FR 33224, indicates that Lot 30-B, Block 290, at 39 Brook Street, Bergenfield, N.J., as shown on the Borough Tax Assessor's Map, is within the Special Flood Hazard Area. This property is recorded as Lot 30 in Book 5738, Pages 401 and 402, in the office of the Recorder of Bergen County, N.J.

Map No. H&I 340020A Panel 0001 is hereby corrected to reflect the above property is in Zone B and is not within the Special Flood Hazard Area identified on June 1, 1977.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10272 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Fargo, N. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Fargo, North Dakota. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Fargo, N. Dak., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 385364A Panel 10, published on June 29, 1977, in 42 FR 33221, indicates that Lots 11 and 18, Block 1 and Lots 1 through 8, Block 2, Van Raden's First Addition; Lots 1 through 9, Block 1, Lots 1 through 30, Block 2, and Lots 1 through 28, Block 3, Van Raden's Second Addition; Lot 5, Block 1, Van Raden's Third Addition; and Lots 3 through 21, Block 1 and Lots 1 through 14, Block 2, Van Raden's Fourth Addition, Fargo, N. Dak., as recorded in Books I-18, I-64, J-55 and D-246, respectively, in the office of the Clerk of Cass County, North Dakota, are within the Special Flood Hazard Area.

Map No. H&I 385364A Panel 10 is hereby corrected to reflect the above property is within Zone C and not within the Special Flood Hazard Area identified on April 23, 1976.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10273 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Tulsa, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 29, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Tulsa, Oklahoma. It has been determined by FIA, after further technical review of the Flood Insurance Rate Map for the City of Tulsa, Oklahoma, in light of additional recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The text reads as follows: *§ 1920.7 Notice of Letter of Map Amendment.*

Map No. H & I 405381B Panel 73, published on June 29, 1977, in 42 FR 33226, indicates that Lot 27, Block 2, Maplewood Second Addition, Tulsa, Okla., as recorded in Book 4191, Page 240, in the office of the Clerk of Tulsa County, Oklahoma, is within the Special Flood Hazard Area.

Map No. H & I 405381B Panel 73 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on July 30, 1976. The property is located in Zone B.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10274 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment for the Town of Barrington, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Barrington, Rhode Island. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Barrington, R.I., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map Number H & I 445392B Panel 02, published on June 29, 1977, in 42 FR 33231, indicates that Lot 17, Robin Hollow Plat, Barrington, Rhode Island, as recorded in Plat 503, Pocket

6, Folder 4, in the Office of the Land Evidence Records of the Town of Barrington, R.I., is within the Special Flood Hazard Area.

Map No. H & I 445392B Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 15, 1970. The property is in Zone C.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10275 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Bedford, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Bedford, Tex. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Bedford, Tex., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 1920.7(b): Map No. H & I 486585A Panel 01, published on June 29, 1977 in 42 FR 33233, indicates that Lot 12, Block 2; Lots 1 though 10, Block 3; Lots 1 through 5, Block 4; Lots 1 through 6, Block 5, Spring Brook Estates, Bedford, Tex., as recorded in Plat Record Volume 388 106, Page 24, in the Office of the Clerk of the County Court of Tarrant County, Tex., are within the Special Flood Hazard Area.

Map No. H & I 486585A Panel 01 is hereby corrected to reflect that the existing structures on Lots 1 through 10, Block 3; and Lot 12, Block 2; Lots 1 through 5, Block 4; and Lots 1 through 6, Block 5 of the above property are not within the Special Flood Hazard Area identified on July 18, 1977. The property is in Zone C.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10276 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment for the County of Brazoria, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the County of Brazoria, Texas. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Brazoria, Tex., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map Number H & I 485458B Panels 26 and 27, published on June 29, 1977, in 42 FR 33233, indicate that a portion of a 2,800 acre tract in Brazoria County, Texas, depicted as "Limits of Area Above 100-year Flood Plain" on the map entitled "Detailed Topographic Map and Flood Plain Area Between Austin Bayou Stream Mile 6.95 and 8.54," Job Number 0045, Exhibit B, dated January 1978, as prepared by Farner and Winslow, Incorporated, being a portion of the property recorded in Volume 420, Pages 86 through 149, and Volume 1177, Page 107, in the Office of the Clerk of the County Court of Brazoria County, Tex., is within the Special Flood Hazard Area.

Map No. H & I 485458B Panels 26 and 27 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 10, 1977. The property is in Zone C.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10277 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment For the County of Harris, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the county of Harris, Tex. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Harris, Tex. that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H & I 480287B Panel 41, published on June 29, 1977, in 42 FR 33233, indicates that a forty-nine acre tract of land on Jones Road, Harris County, Tex., recorded as Deed Document Numbers 281896 and 968595, in the Office of the Clerk of Harris County, Tex., is within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 41 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 30, 1976. The property is in Zone C.

(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); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10278 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment For the County of Harris, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the county of Harris, Tex. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Harris, Tex. that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line, 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, phone, 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map Number H & I 480287B Panel 20, published on June 29, 1977, in 42 FR 33233, indicates that Lots 45 through 51, and Lots 58 through 69, Block 2; Lots 1 through 7, and Lots 15 through 20, Block 7; Glenloch Subdivision, Section 1, as recorded in Plat Volume 162, Page 121, in the Office of the Clerk of the County Court, Harris County, Tex., are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 20 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 30, 1976. The property is in Zone C.

(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); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10279 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment for the County of Harris, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the County of Harris, Tex. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Harris, Texas that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of publication in FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line: 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same year. The premium refund may be obtained thorugh the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map Number H & I 480287B Panel 21, published on June 29, 1977, in 42 FR 33233, indicates that Lots 2 through 12, Block 2; Lots 4 through 8, Lots 13 through 17, Block 3; Lots 1 through 5, Block 4; and Lots 1 through 6, Block 5; Candlelight Hills Section 2, Harris County, Tex., as recorded in Plat Volume 236, Page 73, in the Office of the Clerk of Harris County, Tex., are within the Special Flood Hazard Area.

Map Number H & I 480287B Panel 21 is hereby corrected to reflect that Lots 13 through 15, Block 3, of the above-mentioned properties are not within the Special Flood Hazard Area. The Lots are in Zone C;

The portions of Lots 1 through 5, Block 4, and Lots 1 through 6, Block 5, of the above-mentioned properties which are northwest of the Recorded 25 foot Building Lines are not within the Special Flood Hazard Area. The portions are in Zone C;

The portions of Lots 4 through 8, Block 3 of the above-mentioned properties which are east of the Recorded 25 foot Building Lines are not within the Special Flood Hazard Area. The portions are in Zone C;

The portions of Lots 16 and 17, Block 3 of the above-mentioned properties which are north of the Recorded 10 foot Utility Easement are not within the Special Flood Hazard Area. The portions are in Zone C;

The portions of Lots 2 through 12, Block 2 of the above-mentioned properties located between the Recorded Building Lines are not within the Special Flood Hazard Area. The portions are in Zone C.

All of the above listed properties were identified on July 30, 1976.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10280 Filed 4-14-78; 8:45 am]

[4210-01]

[Docket No. FI-3012]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Mequon, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Mequon, Wis. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Mequon, Wis., that certain property is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line: 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at:

P.O. Box 34294, Bethesda, Md. 20034, phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 555564B Panel 07, published on June 29, 1977, in 42 FR 33237, indicates that a 22 acre parcel of land containing Buildings 1 through 5, Mequon Colony Estates, Mequon, Wis., as recorded in Volume 2, Pages 362 through 364, in the office of the Register of Deeds of Ozaukee County, Wis., is within the Special Flood Hazard Area.

Map No. H&I 555564B Panel 07 is hereby corrected to reflect the existing structures on the above property are in Zone C and are not within the Special Flood Hazard Area identified on March 26, 1976.

(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; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: February 14, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-10281 Filed 4-14-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 43P—REVISION OF FINAL ROLL OF THE CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Preparation, Certification, Approval and Publication of Roll

APRIL 13, 1978.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau issues new regulations to establish procedures to govern the preparation of a current membership roll of the Confederated Tribes of Siletz Indians of Oregon as authorized by the Siletz Indian Tribe Restoration Act (the Act) of November 18, 1977.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, telephone: 202-343-2985, author, Janet L. Parks.

SUPPLEMENTARY INFORMATION: The Act of November 18, 1977, restores the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe and restores to the Siletz Tribes and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members. The Act declared the final roll prepared under the August 13, 1954, Termination Act open and charged the Secretary, the Interim Council and tribal officials with insuring the continuing accuracy of the roll.

Beginning on page 8555 of the March 2, 1978, FEDERAL REGISTER (43 FR 8555), there was published a notice of proposed rulemaking to amend Subchapter F, Chapter I of Title 25 of the Code of Federal Regulations, by adding a new Part 43p. The new Part established procedures for the revision of the final roll of the Confederated Tribes of Siletz Indians in Oregon.

A 30-day period was allowed for comments on the proposed regulations. All comments received have been considered.

The proposed regulations provided for the work on the revised roll to be done by an enrollment staff employed and directed by the Interim Council.

The Siletz Interim Council has requested that the revised roll be prepared by the Area Director with the Council's assistance. We have no objection to this procedure and have changed the proposed regulations where necessary to reflect that the Director, rather than the Interim Council, shall prepare the revised roll with the assistance and recommendations of a committee employed by the Council.

Minor changes have been made for clarity and substantive changes in the regulations are to the following sections:

§ 43p.1 Definitions. A new paragraph (g) defining "Committee" has been inserted and the following paragraphs redesignated accordingly.

The definition of "Staff," formerly paragraph (g) has been deleted and a definition of "Staff Officer" inserted and designated as paragraph (h).

§ 43p.1(j). At the request of the tribe the cutoff date for the roll has been changed to the date to be specified by the Director in his announcement of revision of the roll.

For clarification, definitions of "Descendant" and "Ancestor" have been added as paragraphs (m) and (n) to read as follows:

(m) "Descendants" means those persons who have issued from the ancestor or ancestors through whom enrollment rights are claimed, namely, children, grandchildren, etc. It does not include legally adopted children or collateral relatives such as brothers, sisters, nieces, nephews, cousins, etc.

(n) "Ancestor" means an ancestor, living or deceased, who is related to an applicant by direct ascent, namely, parent, grandparent, etc. It does not include adoptive parents or collateral relatives such as aunts, uncles, etc.

§ 43p.4 has been retitled "Enrollment Committee" and revised to provide for the establishment of an enrollment committee to assist the Director, review applications, and make recommendations to the Director as to the eligibility of applicants for enrollment.

To be consistent with other revisions, § 43p.5 has been retitled "Tenure of Enrollment Committee" and revised to delete "staff" and insert in lieu thereof where applicable the word "committee."

§ 43p.9 Application forms. For clarification, we have deleted the period at the end of the first paragraph and inserted "and the address to which it must be mailed."

§ 43p.12 Action on applications. We have deleted the reference to consideration of applications by an enrollment staff and inserted language to reflect action by the Director after review of the applications by the Committee and with acceptance of the committee's recommendations, unless recommendations are clearly erroneous.

§ 43p.17 Certification and approval of the revised roll, has been revised to provide for certifications of the completed roll by the staff officer and the Council and approval by the Director.

The authority for issuing these regulations is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

With the above revisions, Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is hereby amended by the addition of a new Part 43p to read as follows:

Sec.

43p.1 Definitions.
43p.2 Purpose.
43p.3 Announcment of revision of the roll.
43p.4 Enrollment Committee.
43p.5 Tenure of Enrollment Committee.
43p.6 Basic membership roll.
43p.7 Additions to the roll.
43p.8 Deletions from the roll.
43p.9 Application forms.
43p.10 Filing of applications and deadline for filing.
43p.11 Burden of proof.
43p.12 Action on applications.
43p.13 Posting of names of enrollees.
43p.14 Protests and Appeals.
43p.15 Decisions of Secretary on protests and appeals.
43p.16 Preparation of revised roll.
43p.17 Certification and approval of revised roll.
43p.18 Publication of revised membership roll.
43p.19 Current membership roll.
43p.20 Special Instructions.

AUTHORITY: 5 U.S.C. sec. 301, R. S. secs. 463 and 465; 25 U.S.C. secs. 2 and 9, and 95 Stat. 1415.

§ 43p.1 Definitions.

As used in these regulations:

(a) "Act" means the Act of Congress approved November 18, 1977, 95 Stat. 1415, Pub. L. 95-195.

(b) "Secretary" means Secretary of the Interior or his authorized representative.

(c) "Assistant Secretary" means Assistant Secretary of the Interior for Indian Affairs or his authorized representative.

(d) "Director" means Area Director, Portland Area Office, Bureau of Indian Affairs or his authorized representative.

(e) "Tribe" means the Confederated Tribes of Siletz Indians of Oregon.

(f) "Council" means the Interim Council elected under section 5 of the Act to represent the tribe and its members in implementing the Act.

(g) "Committee" means an Enrollment Committee employed by the Council to assist the Director in the revision of the roll.

(h) "Staff officer" means the Enrollment Officer or other person authorized by the Director to prepare the roll.

(i) "Final membership roll" means the final membership roll of the tribe published on July 20, 1956, on pages 5454-5462 of volume 21 of the FEDERAL REGISTER.

(j) "Living" means born on or prior to and living on the date to be specified in the Director's announcement of the revision of the roll.

(k) "Service area" means Benton, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill counties in the State of Oregon.

(l) "Sponsor" means a person who files an application for enrollment on behalf of another person. A sponsor may be a parent, recognized guardian, next friend, next of kin, spouse, executor or administrator of estate, or other person.

(m) "Descendants" means those persons who have issued from the ancestor or ancestors through whom enrollment rights are claimed, namely, children, grandchildren, etc. It does not include legally adopted children or collateral relatives such as brothers, sisters, nieces, nephews, cousins, etc.

(n) "Ancestor" means an ancestor, living or deceased, who is related to an applicant by direct ascent, namely, parent, grandparent, etc. It does not include adoptive parents or collateral relatives such as aunts, uncles, etc.

§ 43p.2 Purpose.

The regulations in this part govern the revision of the final membership roll of the tribe under the Act of November 18, 1977, 95 Stat. 1415, Pub. L. 95-195.

§ 43p.3 Announcement of revision of the roll.

When the application forms and other necessary documents have been devised and printed, the Director shall announce that the revision of the final membership roll of the tribe shall begin on a date to be specified in the announcement. The date specified shall be not less than fifteen (15) nor more than thirty (30) days from the date the announcement is issued. A press release shall be prepared announcing the date the preparation of the roll shall begin and other pertinent information such as the membership requirements, where application forms may be obtained and when and where they should be filed. The press release shall be distributed to appropriate newspapers and radio stations within the service area of the Siletz Indians with a request that it be given wide publicity. Copies of the press release shall also be sent to all Indian Centers and shall be posted in all Bureau of Indian Affairs installations and at various other public places throughout the service area as well as in appropriate post offices in the towns within and adjacent to the service area.

§ 43p.4 Enrollment Committee.

The Council shall employ either from within or without the membership of the Council, but not from without the membership of the tribe, at least five (5) persons to serve as the enrollment committee. The committee shall assist the staff officer in identifying deceased members named on the final roll and shall review all applications for enrollment filed in accordance with these regulations and shall recommend to the director approval or rejection of the applicant. If the recommendation is for rejection it shall be supported by a memorandum explaining the reasons for the recommendation. The committee may perform other functions relating to enrollment and membership in the tribe as the Director may request or the council may from time to time direct.

§ 43p.5 Tenure of Enrollment Committee.

The committee shall serve at least until the revision of the final membership roll has been completed but no later than the date that responsibility for the tribal roll is assumed by the tribal governing body.

§ 43p.6 Basic membership roll.

All living persons whose names appear on the final membership roll shall be members of the tribe.

§ 43p.7 Additions to the roll.

There shall be added to the basic membership roll of the tribe the names of all living persons who meet the following qualifications:

(a) they were entitled on August 13, 1954, to be on the final membership roll but their names were not listed on that roll; or

(b) they are descendants of persons whose names appear on the final membership roll or who were entitled to be included on that roll and possess at least ¼ degree of blood of members of the tribe or their Siletz Indian ancestors; and

(c) they have filed an application for enrollment in accordance with the procedures set forth in this part.

§ 43p.8 Deletions from the roll.

The name of any person who was not living on the specified date shall be removed from the final membership roll by the Director upon receipt of a death certificate or other evidence of death acceptable to the Secretary.

§ 43p.9 Application forms.

(a) Application forms will be furnished by the Director, Council, or committee or other designated persons upon written or oral request. Each person furnishing application forms shall keep a record of the names of the individuals to whom applications are given, the control numbers of the forms, and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing the application and the address to which it is to be mailed.

(b) Among other information, each application form shall contain:

(1) A certification as to whether the application is for a natural child or an adopted child of the parent through whom eligibility is being claimed.

(2) If the application is filed by a sponsor, the name, address, and relationship of the sponsor to the applicant.

(3) A control number for the purpose of keeping a record of applications furnished interested individuals.

§ 43p.10 Filing of applications and deadline for filing.

(a) Any person other than those persons whose names appear on the final membership roll who desires to be enrolled and who believes he meets the requirements for enrollment must file, or have filed in his behalf, a completed application form with the Director within one hundred twenty (120) days from the date specified in the announcement.

(b) Applications for minors, mental incompetents, or other persons in need of assistance may be filed on their behalf by a sponsor, but must be filed within the specified time.

§ 43p.11 Burden of proof.

The burden of proof of eligibility is on the applicant. If the applicant's ancestors through whom eligibility is claimed cannot be identified in the records, the staff officer may request the applicant to furnish whatever additional information and evidence he may consider necessary to determine the applicant's eligibility for enrollment. Failure of the applicant to furnish sufficient information to establish eligibility may be sufficient cause for rejection.

§ 43p.12 Action on applications.

(a) The Director shall consider each application, all documentation and the committee's recommendation. The Director shall accept the recommendations of the committee unless the recommendation is clearly erroneous. If the Director overrules the committee's recommendations, he shall notify the committee of his actions and the reasons therefor. Upon determining the eligibility of an applicant the Director shall notify the person who filed the application in writing of his decision. If the decision is favorable, the name of the applicant shall be placed on the roll. If the decision is not favorable, the person who filed the application shall be notified of the decision by certified mail, to be received by the addressee only, return receipt requested, together with a full explanation of the reasons for the rejection and of his right of appeal to the Secretary. (If correspondence is sent outside the

states of the United States, it may be necessary to use registered mail.) If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, the notice must list the name of each applicant involved.

(b) To avoid hardship or gross injustice, the staff may waive technical deficiencies in applications or other submissions.

§ 43p.13 Posting of names of enrollees.

When action has been taken on all applications filed the Director shall post in prominent places within and adjacent to the service area for review by interested persons a list of names of living persons named on the final membership roll and the names of approved applicants for enrollment. The list shall contain only the name of each enrollee and the name of the ancestor through whom eligibility was established. No other information shall be shown.

§ 43p.14 Protests and appeals.

(a) A member of the Tribe may file a protest with the Secretary with respect to the inclusion of any name on the roll and any person may protest the exclusion of any name from the roll. These protests must be in writing addressed to the Secretary, but mailed to the Area Director, Bureau of Indian Affairs, P.O. Box 3785, Portland, Oreg. 97208, and must be received by the Director before the close of business on the 30th day after the date the list of enrollees is posted as required by § 43.13. The burden of proof shall be on the person filing the protest.

(b) Any person against or for whom a protest has been filed shall be notified by the Director of the protest in writing by certified mail, to be received by the addressee only, return receipt requested, and shall have thirty (30) days from the receipt of such notice to submit additional information or documentation in his own behalf.

(c) Appeals from rejected applicants must be in writing and must be filed under Part 42 of this Chapter, except that all appeals shall be determined by the Secretary within ninety (90) days after an appeal is received.

§ 43p.15 Decisions of the Secretary on protests and appeals.

The decision of the Secretary on a protest or appeal shall be final and written notice of the decision shall be given the applicant, protestor, or sponsor. When so directed by the Secretary, the Director shall have entered on the roll the name of any person whose eligibility has been established or have removed from the roll the name of any person who ineligibility has been proved as the result of a protest or appeal.

§ 43p.16 Preparation of revised roll.

The Director shall prepare a minimum of ten (10) copies of the completed revised roll. The roll shall contain for each person a roll or identification number, name, address, sex, date of birth, degree of Siletz Indian blood, total degree of Indian blood, and the basic membership or other roll number, name and relationship of the ancestor or ancestors through whom eligibility was established.

§ 43p.17 Certification and approval of revised roll.

The roll shall be certified by the staff officer and Council with statements that to the best of their knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for membership. The Director shall approve the roll.

§ 43p.18 Publication of revised membership roll.

After approval by the Director the revised roll shall be published in the FEDERAL REGISTER.

§ 43p.19 Current membership roll.

Until the tribe assumes responsibility for the roll the staff officer shall keep the membership roll current by adding thereto the names of children who meet the qualifications for membership in the tribe specified in the Act, and for whom an application has been filed and by deleting thereform the names of persons who have relinquished their membership in the tribe in writing and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Director.

§ 43p.20 Special instructions.

To facilitate the work of the Director, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part.

No futher changes are made in the text of Subchapter F.

The Act of November 18, 1977, imposes critical time constraints on completing various phases of the restoration of services to the tribe. The 30-day deferred effective date would delay timely completion of the revised roll and severly hamper other actions required to be taken after completion and approval of the roll. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970).

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-10401 Filed 4-14-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 881-5]

Subchapter C—Air Programs

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS; APPROVAL OF REVISION OF THE STATE IMPLEMENTATION PLAN FOR THE DISTRICT OF COLUMBIA

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: A regulation submitted by the District of Columbia is being approved as a revision of the District's Implementation Plan. The regulation establishes a method to facilitate the recovery of hydrocarbon vapors from filling of vehicular gasoline tanks. This approved regulation is the same as the EPA promulgated regulation, and this approval action constitutes an amendment to 40 CFR 52.470.

EFFECTIVE DATE: May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Frankford, (3AH11), Air Programs Branch, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19106, 215-597-8392.

SUPPLEMENTARY INFORMATION: On December 6, 1973 (38 FR 33702), the Administrator of the Environmental Protection Agency promulgated a transportation control plan for the District of Columbia portion of the National Capital Interstate Air Quality Control Region. This plan, which to the maximum extent practicable reflected the control strategies preferred by the District of Columbia, included measures such as mass transit controls, emission inspection programs and additional stationary source controls.

On March 22, 1974, the District of Columbia submitted to the EPA Regional Administrator amendments to the District's Air Quality Control Regulations. The District requested that the amendments be reviewed and processed as revisions of its Implementation Plan. These revisions would re-

place or change portions of the federally promulgated Transportation Control Plan for the District of Columbia. The submission consisted of regulations to govern the storage of petroleum products (section 8-2:707(a)), to control volatile organic compounds when loading gasoline into tank trucks, trailers, and railroad cars (section 8-2:707(b)), to control vapors associated with gasoline transfer (section 8-2:707(c)), to control evaporative losses when filling vehicular tanks (section 8-2:707(d)), to control solvent evaporation from dry cleaning operations (section 8-2:707(e)), to control organic solvents (section 8-2:707(f)); and the submission included definitions of terms used in these regulations (section 8-2:702).

On may 13, 1974, the District provided certification to the Regional Administrator that after adequate public notice, a hearing on the proposed amendments was held on September 24, 1973.

On August 29, 1974, the Regional Administrator acknowledged receipt of these amendments and provided for a 30-day public comment (30 FR 31532). During this period no comments were received.

On June 23, 1975 (40 FR 26274), the Administrator approved certain amendments submitted by the District, but postponed action on the District's Health Regulation to control evaporative losses when filling vehicular tanks (section 8-2:707(d)) pending further evaluation of the regulation. In the same FEDERAL REGISTER notice, it was stated that the EPA would soon promulgate amendments to its own Stage II vapor recovery regulation (40 CFR 52.488). The amended regulation would establish a test procedure which would ensure a mass emission rate equivalent to a continuous 90 percent recovery of vapors. Because an acceptable test procedure has not yet been promulgated, neither the EPA nor the District regulation can ensure a 90 percent emission recovery level.

Notwithstanding this inadequacy, the District's regulation is consistent with the existing Federal regulation, and as such, does satisfy the procedural and substantive requirements of section 110(a)(2) of the Clean Air Act and also section 116 of the Act which requires that the regulation being approved is at least as stringent as EPA's regulation. EPA's regulation is set forth in 40 CFR 52.488 to which section 8-2:707(d) of the District's Health regulations corresponds. Further, the District's regulation meets the requirements set forth in 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans, and therefore, is approved as a revision of the District of Columbia Implementation Plan.

However, it must be recognized that new and/or stricter hydrocarbon controls may be required in the District of Columbia portion of the National Capital Interstate Air Quality Control Region. The Region is currently a non-attainment area for photochemical oxidants. The Clean Air Act Amendments of 1977 require that SIP's be revised to include additional control strategies necessary to ensure attainment and maintenance of national ambient air quality standards.

It should be noted that EPA does not require any State to incorporate regulations providing for Stage II controls into its SIP at this time. However, any State that wants to include such requirements may do so.

For purposes of the 1979 SIP revisions required by the Amendments, any State choosing to utilize Stage II Vapor Recovery as a hydrocarbon control measure must be able to demonstrate to EPA what degree of control will be achieved by its plan in order to have that control credited toward its timely attainment of the national ambient air quality standard for photochemical oxidants.

This requirement may necessitate enhancement of the existing District of Columbia Stage II vapor recovery program, possibly by including such measures as the use of better hardware and improved testing procedures. However, in preparing its attainment plan, the District, as well as other States, may consider the complexities of such a vapor recovery program worthwhile in light of the possibilities it may open up for commercial and industrial expansion. The District may also consider such a program desirable following any reassessment of effectiveness of other existing measures to control hydrocarbon emissions.

EPA will provide whatever assistance it can to the District or other States interested in pursuing improved approaches to Stage II vapor recovery testing. California has already developed new control technology and implemented new testing procedures. It currently has an extensive Stage II vapor recovery certification program underway which attempts to assess the degree of control that can be expected in actual operation.

EPA is continuing to develop State II regulations as it evaluates the potential of onboard controls as required by the Amendments. Depending on the Agency's conclusions with respect to the viability of onboard controls, EPA may promulgate regulations requiring State II controls at a later date, possibly as early as July, 1978.

Furthermore, when EPA publishes a requirement covering test procedures capable of determining whether sources actually recover 90 percent of the hydrocarbon vapors, then such requirements will be appropriate for the District of Columbia and will be included in its implementation plan by either adoption by the District or promulgation by EPA.

Effective Date: The effective date of this revision will be May 17, 1978.

Copies of the approved District of Columbia revision, and the analysis on which it is based, are available during normal business hours at the following locations:

United States Environmental Protection Agency, Curtis Building, 10th Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106. Attention: Mr. Harold Frankford (3AH11).

District of Columbia, Department of Environmental Services, Bureau of Air and Water Quality Control, 614 H Street NW., Washington, D.C. 20001. Attention: Mr. John Brink.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

(AUTHORITY: 42 U.S.C. 7410, formerly 42 U.S.C. 1857c-5.)

Dated: April 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart J—District of Columbia

In section 52.470, paragraph (c)(7) is added as follows:

§ 52.470 Identification of plan.

* * * * * *

(c) The plan revisions listed below were submitted on the dates specified
* * *

(7) Amendments to sections 8-2:702 (Definitions) and 8-2:707, (Control of Organic Compounds), subsections (a), (b), (c), (d), (e), and (f) of the District of Columbia Air Quality Control Regulations submitted on March 22, 1974 by the Mayor/Commissioner.

Section 52.488 is amended as follows:

§ 52.488 [Reserved]

This section is hereby revoked and reserved.

[FR Doc. 78-10017 Filed 4-14-78; 8:45 am]

[6560-01]

SUBCHAPTER R—TOXIC SUBSTANCES CONTROL

[FRL 882-1; OTS-081002B]

PART 710—INVENTORY REPORTING REGULATIONS

Supplemental Clarification and Availability

AGENCY: Environmental Protection Agency.

ACTION: Supplemental clarification and notice of availability.

SUMMARY: This supplement to the inventory reporting regulations, pro-

mulgated on December 23, 1977 in the FEDERAL REGISTER (42 FR 64572), clarified certain aspects of the regulations not addressed in the supplemental clarification published on March 6, 1978 in the FEDERAL REGISTER (43 FR 9254). Specifically, this supplement clarifies, in response to questions received by EPA in the last several weeks, certain other aspects of the reporting requirements, including the reporting obligations of natural gas producers. This supplement also announces the availability of two additional documents prepared to assist persons further in complying with the inventory reporting regulations: (1) Addendum III to the TSCA Candidate List of Chemical Substances, and (2) an EPA working document entitled "Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities."

DATES: Except as otherwise provided for by the Inventory Reporting Regulations, all persons who are either required or permitted to report for the Initial Inventory must submit Chemical Substance Inventory Reports (Forms A, B, and C) by May 1, 1978. The March 6, 1978 supplement to the inventory reporting regulations provides that Voluntary Product Trademark Reports (Form D) may be submitted until July 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-793), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. To obtain forms and instructions for inventory reporting, telephone the following toll-free number: 800-424-9065. In Washington, D.C. please telephone 554-1404.

I. CLARIFICATIONS

The Agency recognizes that many persons have already submitted their inventory reports and that many others are ready to do so. This notice is designed to assist persons who have not yet completed their inventory report forms. Anyone who has submitted an inventory report form or is ready to do so is not required to alter the forms or resubmit a form in order to comply with the preferred procedures outlined below.

REPORTING DEADLINE

Several persons have requested that § 710.6(a) of the inventory reporting regulations be amended to extend the May 1, 1978 reporting deadline for the initial inventory. The Agency has decided not to amend the regulations. EPA expects that most manufacturers and importers reporting under the inventory reporting regulations will submit their report forms by May 1, 1978. Effective implementation of the Toxic Substances Control Act is predicated on a timely publication of the inventory. Moreover, industry has expended substantial resources in reliance on the May 1, 1978 submission date. If an individual manufacturer or importer will be unable to meet the May 1, 1978 deadline with respect to the reporting of certain chemical substances, he may request before May 1, 1978 an extension for reporting those substances by writing: Dr. Marilyn C. Bracken, Deputy Assistant Administrator for Program Integration and Information, (TS-793), Environmental Protection Agency, 401 M Street SW., Washington, D.C., 20460. Any request for an extension must set forth the special extenuating circumstances that would make it impossible for the person to meet the May 1st deadline and state the date by which the report forms will be submitted. No extension will be granted which extends beyond June, 1, 1978.

NATURAL GAS

Several persons who manufacture natural gas and related chemical substances, and trade associations who represent such persons, have asked the EPA to clarify and in certain instances provide relief from inventory reporting requirements.

These persons requested clarification on the intent and meaning of certain terms in § 710.4(b) of the inventory reporting regulations. This section states in part:

> Any chemical substance which is naturally occurring and (1) which is (i) unprocessed or (ii) processed only by manual, mechanical, or gravitational means, * * * shall automatically be included in the inventory * * * Examples * * * are * * * natural gas and crude oil * * *.

This section intentionally exempts from inventory reporting any chemical substance which is removed from nature, for a commercial purpose, by any of the means listed in the section. It further exempts any other chemical substance derived from the substance originally removed from nature, provided such derivation involved only the means specified in the section.

Raw natural gas is a chemical substance obtained from underground reservoirs. Normally, it is a complex combination of relatively low molecular weight hydrocarbons, but, depending upon the reservoir's location, it may also contain various amounts of non-hydrocarbons such as water and sulfur-containing compounds. Upon its release from these reservoirs, the raw natural gas has not been processed by any means and, hence, is appropriately cited in § 710.4(b) as an example of a naturally occurring substance.

In practice, raw natural gas upon its release from underground reservoirs often separates or is intentionally separated into two broadly defined gaseous and liquid streams. This two-part separation may occur at the well site, at transmission separator sites, within pipelines, or at processing facilities, by a number of means, only some of which are listed in § 710.4(b). The separation may also be performed in conjunction with other processes which remove from the two streams water and other impurities, some of which may be removed for a separate commercial purpose.

Because of the variability in means by which the two streams are produced—some of which would make the streams reportable, others which would exempt the streams from reporting—and because of the exceedingly high number of possible manufacturing sites, EPA will permit all persons to report the following four chemical substances through a trade association or other agent under § 710.5(f) of the regulations. These substances will appear on the initial inventory, each bearing an appropriate CAS Registry Number, if reported.

LIQUID STREAMS

NATURAL GAS CONDENSATE—NATURAL GAS

A complex combination of hydrocarbons which is produced by separation from natural gas and/or naturally condensed from natural gas during transportation and is collected at the wellhead and/or from the production, gathering, transmission, and distribution pipelines in drips, scrubbers, etc. It consists mainly of hydrocarbons having carbon numbers predominantly in the range of C_2 through C_8.

RAW NATURAL GAS LIQUID MIX—PETROLEUM, *64741-48-6, F000-0176

A complex combination of hydrocarbons separated as a liquid from natural gas in a gas recycling plant by processes such as refrigeration or absorption. It consists mainly of saturated aliphatic hydrocarbons having carbon numbers in the range of C_2 through C_8.

NATURAL GAS CONDENSATE—PETROLEUM, *64741-47-5, F000-0281

A complex combination of hydrocarbons separated as a liquid from natural gas in a surface separator by retrograde condensation. It consists mainly of hydrocarbons having carbon numbers predominantly in the range of C_2 through C_{20}. It is a liquid at atmospheric temperature and pressure.

GASEOUS STREAM

NATURAL GAS

Raw natural gas, as found in nature, or a gaseous combination of low molecular weight hydrocarbons derived from raw natural gas by the removal of Natural Gas Condensate (Petro-

leum), Raw Natural Gas Liquid Mix (Petroleum), and/or Natural Gas Condensate (Natural Gas).

Persons who separate or fractionate raw natural gas and/or any of the liquid streams produced from raw natural gas into more specific fractions by various combinations of heat, refrigeration, and/or absorption should report each stream so manufactured.

The following list of chemical substances should be useful in identifying these streams and other chemical substances which may be derived from raw natural gas for a commercial purpose.

	CAS registry No.
Methane	74-82-8
Ethane	74-84-0
Propane	74-98-6
Butane	106-97-8
Carbon dioxide	124-38-9
Hydrogen sulfide	7783-06-4
Sulfur	7704-34-9
Nitrogen	7727-37-9
Helium	7440-59-7
Argon	7440-37-1

(These substances appear in the TSCA Candidate List of Chemical Substances (April 1977) and may be reported on Form A using the appropriate EPA Code Designations found in that document.) As stated in TSCA Candidate List of Chemical Substances, Addendum I, "Generic Terms Covering Petroleum Refinery Process Streams" (January 1978), "It is suggested that gaseous and liquid hydrocarbon streams with a single hydrocarbon as the major component be listed by the major component's name. For example, as gas stream that contains say 85 percent isobutylene and the remainder a mixture of other C_4's would be listed as 'isobutylene' ". In addition, the two streams identified below are also reportable.

NATURAL GASOLINE—PETROLEUM, *8006-61-9, F000-0399

A complex combination of hydrocarbons separated from natural gas by processes such as refrigeration or absorption. It consists predominantly of saturated aliphatic hydrocarbons having carbon numbers predominantly in the range of C_4 through C_8 and boiling in the range of approximately minus 20° C to 120° C (−4° F to 248° F).

NATURAL GASOLINE—NATURAL GAS

A complex mixture of liquid hydrocarbons remaining after the extraction of ethane, propane, butane, and possible pentane from natural gas liquids and/or natural gas condensates (natural gas) which is not further processed, fractionated, or distilled at that plant site and is sold in commerce for further processing. It consists predominantly of hydrocarbons having carbon numbers in the range of C_5 through C_8. It is a liquid at atmospheric temperature and pressure.

The former stream may be reported on Form A; the latter *must* be reported on Form C and identified in the following manner:

Specific Chemical Name: Natural Gasoline (Natural Gas)
Supplementary Information: (Cite this FEDERAL REGISTER Notice.)

EXCLUSIONS

Natural gas streams are sometimes subjected to processes which remove contaminants or impurities such as water, acid gases, and organic sulfur. The resulting purified streams are not considered "manufactured" by these operations. The contaminants or impurities should not be reported unless they are produced for a separate commercial purpose.

CLAIMING CONFIDENTIALITY OF PROCESS DESCRIPTION INFORMATION ON FORM C

In many cases, in order to identify a chemical substance whose composition cannot be represented by a definite chemical structure diagram (a Class 2 chemical substance) on Form C, a manufacturer must provide a description of the method used to manufacture the substance, in addition to a specific name for the substance. In those cases where EPA does not consider the name supplied by the manufacturer to be specific enough for inclusion on the Inventory, EPA will select a more specific name based in part upon the manufacturing process. Several persons have indicated that they wish to claim the process description confidential, even though they do not consider their specific name for the substance to be confidential.

Persons wishing to claim the process description on a Form C as confidential should proceed as follows:

1. Check the box labeled "Chemical Substance Identity is Confidential" in Block V of the form.

2. On the line labeled "Proposed Generic Name," enter the same chemical name entered in the block labeled "Specific Chemical Name." This will alert EPA to the fact that the process description is claimed as confidential, rather than the specific chemical name.

3. Check the box which states that you agree to the terms of the Confidential Chemical Substance Identity Statement on the back of the form.

4. Refer to page 57, Chapter VII, of the instruction booklet, "Reporting for the Chemical Substance Inventory" (December 1977), which details the procedure for claiming chemical substance identity confidential. In writing the substantiation for your claim, answer all eleven questions (pages 57-58) as to why process information (as opposed to the specific substance name) must be held confidential. In questions 2 and 10 there is no change in wording. In questions 1, 3, and 11, the substitution of "process description" for "chemical identity" is straightforward. Questions 4-7 should be answered by a discussion of the current confidentiality of the process information, addressing each of the issues raised by the questions. As part of your answer to questions 8-9, discuss whether a sample of the substance would reveal the process.

COMBINATIONS OF WATER AND OTHER CHEMICAL SUBSTANCES

Several persons have asked EPA to clarify the conditions under which a combination of water and another chemical substance is a mixture, and under which conditions it is a chemical substance. Because hydrates and hydrated ions are defined as mixtures by § 710.2(q) of the regulations, combinations of water and a simple acid, base, or salt (such as HNO_3, KOH, or NaCl) are considered mixtures of water and the acid, base, or salt, respectively. Substances produced by minor chemical changes which occur when a solvent, such as water, functions as intended are excluded from the inventory by § 710.4(d)(7); for example, solutions of weak acids or bases or their salts, such as ammonium chloride (NH_4Cl), potassium carbonate (K_2CO_3), or acetic acid (CH_3COOH), are also viewed as mixtures of water and the weak acid, weak base, or salt.

Calcium hydroxide ($Ca(OH)_2$), however, formed by the reaction of calcium oxide (CaO) and water is not exempt from inventory reporting. This substance is deliberately manufactured by a chemical reaction in which water serves as a reactant.

Some resins or polymers are manufactured in the presence of water and distributed in commerce in a hydrated form. These combinations are considered mixtures of the polymer and water. Accordingly, the polymer should be identified in terms of its unhydrated form; the relevant production range should be that for the theoretically unhydrated polymer, i.e., its "dry" weight, as specified in the EPA publication "Reporting for the Chemical Substance Inventory" (December 1977), pages 6-7.

FORM D REPORTING

Several persons have asked whether trademarks which are voluntarily reported on Form D must be registered trademarks. As explained on page 61 of the EPA publication "Reporting for the Chemical Substance Inventory" (December 1977), trademarks that are reported "may or may not be registered". Such trademarks should, however, clearly distinguish one manufacturer's product from similar products manufactured by others. For example, trademarks comprised solely of common chemical names, such as "caustic soda" are not acceptable

trademarks; "John Doe's Caustic Soda", however, is an acceptable trademark.

REPORTING BY PERSONS WHO HAVE NOTHING TO REPORT

Several persons have submitted Inventory report forms on which they have indicated to EPA that they do not manufacture chemical substances, that they manufactured no chemical substances in 1977, or that they only manufactured chemical substances in 1975 or 1976 and choose not to report. Persons who have nothing to report need not submit Inventory Report Forms to EPA.

II. AVAILABILITY OF DOCUMENTS

ADDENDUM III TO THE TSCA CANDIDATE LIST

The third addendum to the Toxic Substances Control Act (TSCA) *Candidate List of Chemical Substances* (April 1977) (GPO number 005-007-00001-2) is now available. The Candidate List is a reference document prepared to simplify reporting to EPA of chemical substance identities in accordance with the inventory reporting regulations. In January 1978, EPA published two addenda to the Candidate List. The first identified petroleum refinery intermediate and final process stream chemical substances, and the second identified an additional 3,000 Class 1 substances. Addendum III identifies an additional group of primarily Class 2 chemical substances. (A Class 2 chemical substance is one whose composition, except for impurities, cannot be represented by a definite chemical structure diagram.)

Addendum III is organized into ten sections which list substance identifiers developed by EPA in conjunction with various trade associations and other persons. These identifiers cover Class 2 chemical substances which are difficult to define precisely, either due to variability in the process of manufacture or because the composition of these substances is not completely known or is variable.

The addendum is divided as follows:

Section I: Class 2 Chemical Substances Derived from Natural Fats and Oils and Synthetic Substitutes: An Alternate Procedure for Substance Identification and Reporting for the Chemical Substance Inventory. (Developed in conjunction with The Soap and Detergent Association.)

Section II: Coke and Selected Coal Chemicals. (Developed in Conjunction with the American Coke and Coal Chemicals Institute.)

Section III: Chemical Substances Common to the Iron and Steel Industry. (Developed in conjunction with the American Iron and Steel Institute.)

Section IV: Wood and Pulp Chemicals. (Developed in conjunction with the Pulp Chemicals Association.)

Section V: Chemical Substances Manufactured in the Paper Industry. (Developed in conjunction with the American Paper Institute.)

Section VI: Chemical Substances Manufactured in the Fertilizer Industry. (Developed in conjunction with The Fertilizer Institute.)

Section VII: Natural Oils and Extractives. (Developed in conjunction with the Essential Oils Association.)

Section VIII: Selected Polymers.

Section IX: Chemical Substances Manufactured as Part of Mixtures. (Developed in conjunction with the Portland Cement Association, the Glass Packaging Institute, et. al., and the Porcelain Enamel Institute.)

Section X: Other Class 2 Chemical Substances. (Developed in conjunction with the Leather Tanners Council, the International Technical Caramel Assocation, and the Corn Refiners Association.)

All chemical substances identified in Addendum III, with the exception of those in Section I, are listed with Chemical Abstracts Service (CAS) Registry Numbers and EPA Code Designations, and may be reported on Inventory Report Form A. The substances identified in Section I must be reported on Form C according to the procedures specified in that section.

Printed copies of Addendum III will automatically be mailed to those persons to whom the printed TSCA Candidate List of Chemical Substances and the two other addenda by EPA were sent. Others may order one by calling toll free 800-424-9065 (in Washington, D.C., call 554-1404) or by contacting the Industry Assistance Office as specified at the beginning of this notice.

GENERIC NAMES FOR CONFIDENTIAL SUBSTANCE IDENTITIES

In addition, an EPA working document entitled "Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities" is now available to the public. Section 710.7 of the inventory reporting regulations requires persons who claim the identity of a chemical substance as confidential, to submit certain information in support of the claim at the time the substance is reported, and to submit, at the same time, a generic name for the chemical substance which "is only as generic as necessary to protect the confidential identity of the particular chemical substance." This document contains guideline procedures for developing generic names for chemical substances whose identities are claimed confidential. The guideline procedures are intended to provide an approach which may be followed in developing such a generic name and also to indicate the types of generic names which EPA will, in general, find acceptable for inclusion in the Confidential Chemical Substance Appendix to the Inventory, provided the EPA General Counsel first determines that the specific chemical substance identity should not appear on the inventory because its inclusion would disclose a trade secret. Moreover, adherence to the procedures may obviate the need for invoking the name selection process specified in § 710.7(f) of the regulations.

Persons wishing to receive a copy of this document should contact EPA's Industry Assistance Office as specified above.

Dated: April 12, 1978.

WARREN R. MUIR,
Acting Assistant Administrator for Toxic Substances.

[FR Doc. 78-10325 Filed 4-14-78; 8:45 am]

[1505-01]

Title 49—Transportation

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

[Docket No. FE-77-05; Notice 4]

PART 523—VEHICLE CLASSIFICATION

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

Standards for Model Years 1980 and 1981

Correction

In FR Doc. 78-7300, appearing at page 11995 in the issue for Thursday, March 23, 1978, the table appearing on page 12014 in § 533.5(a), should read as set forth below:

Model year	2 wheel drive light trucks		4 wheel drive light trucks		Limited product line light trucks
	Captive imports	Other	Captive imports	Other	
1979		17.2		15.8	
1980	16.0	16.0	14.0	14.0	14.0
1981	*18.0	*18.0	*15.5	*15.5	*15.0

*These standards are 0.5 mile per gallon less if, by Jan. 1, 1980, the Environmental Protection Agency has not fully approved improved lubricants for use in fuel economy testing.

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMSSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S. O. No. 1309]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Revised Service Order No. 1309).

SUMMARY: Service Order No. 1309 requires railroads to perform designated movements of plain boxcars, plain gondolas, covered hoppers and TOFC flat cars within 24 hours. Because there are now severe car shortages of other types of cars, the order is being revised to include all other boxcars, all other gondola cars, all other flat cars, and open hopper cars in addition to the car types previously subject to the order.

DATES: Effective April 15, 1978. Expires May 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of April 1978.

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1309 Revised Service Order No. 1309.

(a) *Railroad operating regulations for freight car movement.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 under the headings: "Class 'X'—Box Car Type," "Class 'G'—Gondola Car Type," "Class 'H'—Hopper Car Type,"[1] "Class 'F'—Flat Car Type," and those special type cars described under the heading "Class 'L'—Special Car Type" which bear mechanical designations[1] "LC"—boxcar with roof hatches, "LO"—Covered hopper car, and[1] "LU"—boxcar with doors running substantially the length of the car, including cars bearing mechanical designations modified in the manner described in the various notes thereto.

(iii) *Exceptions.* Empty cars owned by The Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this order.

(iv) *Exception.* Empty cars described in paragraph (a)(1)(ii) of this section, owned by and bearing the registered reporting marks assigned to the line holding the car, and empty cars of private ownership reported and awaiting instructions from the car owner, are exempt from the provisions of this order.

(v) *Exception.* To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

(vi) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other-than-public-delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(vii) Holidays shall be those listed in Item 525 of Agent D. M. Rogers' Tariff 4-K, ICC H-74, General Car Demurrage Rules and Charges, supplements thereto, or successive issues thereof.

(2) *Placing of cars.* (i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty cars which after placement will be subject to demurrage, storage or detention rules applicable to cars for loading, or which are subject to storage rules and charges applicable to assigned cars held empty awaiting placement for loading by the assignee, shall be actually placed or appropriate notice as required by applicable tariffs issued within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange track or to an other-than-public-delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding

[1] Car types added.

for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) *Removal of cars.* (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty cars not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 24 hours following removal of empty cars.

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipping instructions covering the cars. Such cars must be forwarded, weighed, if to be weighed at that point, or set aside for repairs within 24 hours following release and removal.

(iii) Cars subject to paragraphs (a)(3) (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of Rules 14 and 27 of the Uniform Freight Classification, I.C.C. 8, issued by J. D. Sherson, supplements thereto, or reissues thereof.

Exception: Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipping instructions are received by the carrier prior to 5:00 p.m., of the first day, which is not a Saturday, Sunday, or holiday, immediately following release of the car.

(4) *Forwarding of cars.* (i) Loaded cars and empty cars shall be forwarded within 24 hours, except cars described in paragraphs (a)(3) (ii), (iii), or (iv) of this section, or cars described in subdivision (ii) of paragraph (a)(2) of this section.

(ii) *Exception.* Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) *Exception.* Cars held for repairs, weighing, or cleaning. (See subparagraph (5) of this paragraph.)

(iv) *Exception.* Cars held because no train or switch engine service is available between hold point and destination.

(5) *Cars held for repairs, weighing, or cleaning.* (i) Cars of system foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7:00 a.m., exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restencilled, if required, within 24 hours, exclusive of Sundays and holidays, after arrival at the point at which weighing is to be accomplished, or after request for weight is received, if weights are requested by shipper or by car owner.

(iv) Cars which have been repaired, cleaned or weighed shall become subject to Sections 2, 3, or 4, as applicable, from the date such repairs, cleaning or weighing have been accomplished.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate Commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Back-hauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from consignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(7) *Force majeure defence protected.* Nothing in this order shall deny any carrier its defence of force majeure as construed by the courts.

(b) *Rules and Regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 12:01 a.m., April 15, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10318 Filed 4-14-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Bowdoin National Wildlife Refuge, Montana, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Bowdoin National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 1, 1978 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Gene A. Sipe, Refuge Manager, P.O. Box J, Malta, Mont. 59538, phone: 406-654-2863.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Bowdoin National Wildlife Refuge, Montana, only on the areas designated by signs as being open to fishing. These areas are delineated on maps available at the refuge headquarters and from the office of the Regional Director, P.O. Box 25486, Denver, Colo. 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions: None.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: March 31, 1978.

GENE A. SIPE,
Refuge Manager, Bowdoin National Wildlife Refuge, Malta, Mont.

[FR Doc. 78-10038 Filed 4-14-78; 8:45 am]

proposed rules

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.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1004]

MILK IN THE MIDDLE ATLANTIC MARKETING AREA

Proposed Suspension of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend an order provision affecting the regulatory status of milk distributing plants. The action was requested by two cooperative associations to continue the association of producers' milk with the order. The proposed suspension would be for the period April through August 1978.

DATE: Comments are due on or before April 24, 1978.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of the following provision of the order regulating the handling of milk in the Middle Atlantic marketing area is being considered for the period April through August 1978:

In § 1004.7(a) the words "not less than 50 percent."

All persons who want to send written data, views, or arguments about the proposed suspension should send four copies of them to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before April 24, 1978.

The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include April 1978 in the period of suspension.

The documents that are sent will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

STATEMENT OF CONSIDERATION

The proposed suspension would make inoperative for the period April through August 1978 the provision that at least 50 percent of the receipts of milk at a pool distributing plant be disposed of as Class I milk. The suspension was requested by Maryland Cooperative Milk Producers, Inc., and Lehigh Valley Cooperative Farmers.

The cooperative associations indicate that substantially increased milk production by their producers that is not being matched by Class I sales will jeopardize the pooling of some distributing plants during the April through August period. This will occur because less than 50 percent of the receipts at such plants would be disposed of as Class I milk.

The Maryland Cooperative Milk Producers supplies Class I milk to distributing plants serving the Baltimore segment of the market. The continuing impact of substantially lower Class I sales that resulted when a major customer closed a distributing plant last year will jeopardize the pooling of some of the plants in the coming months of heavy production. This will occur because the reserve milk resulting from the reduced Class I sales and the increased milk production must be associated with distributing plants for pooling.

The Lehigh Cooperative Farmers distributes fluid milk through its own distributing plant. Increased milk production from its producers will jeopardize the pooling of the plant because Class I sales are not matching the increased production.

The cooperatives maintain that there is every likelihood that milk production by their producers will increase in the months ahead, without much prospect that Class 1 sales will strengthen materially.

The cooperatives indicate that the requested suspension is necessary to assure that producers who are regular suppliers of milk for the fluid market will continue to have their milk pooled under the order during the period April through August 1978.

Signed at Washington, D.C., on April 11, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR Doc. 78-10084 Filed 4-14-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Assistant Secretary for Conservation and Solar Applications

[10 CFR Part 470]

APPROPRIATE TECHNOLOGY SMALL GRANTS PROGRAM

Establishment of Guidelines

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy is proposing to amend its regulations in order to establish guidelines for implementation of an appropriate technology small grants program under the Energy Research and Development Administration Appropriations Authorization of 1977. This proposal is intended to provide full opportunity for public comment before the guidelines are prescribed

DATES: Comments by May 18, 1978, 4:30 p.m.; requests to speak by May 4, 1978, 4:30 p.m.; statements by May 12, 1978, 4:30 p.m., hearing to be held on May 15, 1978, at 9:30 a.m.

ADDRESSES: Comments, requests to speak at the hearing and statements to: Public Hearing Management, Room 2313, Box SU Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Jerry D. Duane (Buildings and Community Systems), Office of Conservation and Solar Applications, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4711.

Robert C. Gillette (Hearing Procedures), 2000 M Street NW. Room 222A, Washington, D.C. 20461, 202-254-5201.

Leslie Braunstein (Media Contact), Office of Public Affairs, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4058.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

Section 112 of the Energy Research and Development Administration Appropriation Authorization of 1977 (Act) (Pub. L. 95-39, 91 Stat. 180, 42 U.S.C. 5907a) requires the Energy Research and Development Administration (ERDA) to establish within it a small grants program for the purpose of encouraging projects for the development and demonstration of appropriate technology and sets forth the requirements for the conduct of the program. Section 112 also requires that "guidelines for implementing this section shall be promulgated with full opportunity for public comment."

The Department of Energy (DOE) became responsible for carrying out the functions of ERDA under the Act, pursuant to section 301 of the Department of Energy Organization Act (Pub. L. 95-91, 91 Stat. 565, 42 U.S.C. 7101). Pursuant to section 112 of the Act, DOE proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe guidelines for an appropriate technology small grants program.

The purpose of the program is stated in paragraph (c) of section 12 of the Act, as follows:

(c) Funds made available under this section shall be used to provide for a coordinated and expanded effort for the development and demonstration of, and the dissemination of information with respect to, energy-related systems and supporting technologies appropriate to—

(1) The needs of local communities and the enhancement of community self-reliance through the use of available resources;

(2) The use of renewable resources and the conservation of non-renewable resources;

(3) The use of existing technologies applied to novel situations and uses;

(4) Applications which are energy-conserving, environmentally sound, small scale, durable, and low cost; and

(5) Applications which demonstrate simplicity of installation, operation and maintenance.

Subparagraph (d)(1) provides that those eligible for support by grants, agreements or contracts are individuals, local nonprofit organizations and institutions, State and local agencies, Indian tribes and small businesses, and that simplified procedures shall be developed with respect to applications for support under the program.

B. PILOT REGIONAL PROGRAM

In order properly to plan for a national program, ERDA directed its San Francisco Operations Office (SAN) to conduct a pilot regional program in Federal Regiona IX, which includes Arizona, California, Hawaii, Nevada, American Samoa, Guam, and the Pacific Trust Territories. Region IX was chosen for the pilot program because of its high degree of interest in appropriate technology. This program has available $500,000 for grant awards.

After public comment had been obtained upon the method of implementation of the pilot program, SAN issued on September 15, 1977, a Program Announcement, a copy of which is available for inspection as provided for later in this notice. Over 1100 proposals have been received in response to this solicitation. These proposals are now undergoing evaluation, and awards are excepted to be announced in early April.

The pilot program experience has provided DOE with extremely valuable assistance in planning for the implementation of the national program through the guidelines proposed today. Most important, the pilot program has demonstrated the merit and feasibility of implementing the program on a regional basis. The pilot program has also demonstrated the effectiveness of using a simple program announcement as the means of solicitation and has provided a valuable testing opportunity for the use of technical and state review panels in the evaluation process. It has also been useful in determining the types of projects that will be considered for funding and in establishing procedures for publicizing the program and processing the proposals.

C. THE PROPOSED GUIDELINES

The guidelines proposed today implementing section 112 of the Act flow from the requirements of that section and the experience gained in the development and operation of the pilot program. They would consititue Part 470, Chapter II of Title 10, Code of Federal Regulations. Proposed § 470.2 contains the definitions applicable to Part 470.

Proposed § 470.10 establishes the program and states its statutory purpose. Proposed § 470.11 sets forth the eligibility requirements for financial support under the program. It specifies the potential participants, the projects which shall be considered, and the funding limits under the program.

Proposed § 470.12 provides that the program shall be implemented regionally with Regional Program Managers being responsible for the design and management of the regional programs. The DOE headquarters office in Washington, D.C., will be responsible for the formulation of general policy governing the design and conduct of the program, preparation of the program budget and administration of financial matters, coordination and liaison with Congress, other Federal agencies and special interest groups; the preparation of plans for technology transfer, information dissemination and commercialization of successful projects; and the selection and direction of Regional Program Managers.

Proposed § 470.13 provides that program announcements shall be used for the solicitation of proposals for support under the program pursuant to simplified application procedures. It specifies the general content of the program announcements and the procedures for notice to potential proposers.

The evaluation and selection process is set forth in proposed § 470.14. This includes preliminary review, technical feasibility evaluation by a technical evaluation panel, state review evaluation by a state review panel, evaluation and ranking by a selection panel, and selection by a selection official. Proposed § 470.14 also specifies the evaluation criteria and program policy factors which shall be considered in the evaluation and selection of proposals. DOE is especially interested in comments on the proposed criteria and factors. It is anticipated that 60 days will be allowed for the submission of proposals in response to program annoucements and that the evaluation and selection process will take no longer than 120 days.

Proposed § 470.15 provides for the allocation of funds available for support: Fiscal year 1978 funds to be allocated among the standard Federal regions I, II, V, IX, and X according to population; and fiscal year 1979 funds to be allocated to the remaining regions, with any 1979 funds in excess of the amount of 1978 funds being allocated among all regions according to population. Proposed § 470.16 encourages cost sharing and would handle this on a case by case basis.

While DOE considered nationwide implemention at one time, this approach has two major problems; the tremendous response to the pilot program indicated that the $3,000,000 in fiscal year 1978 funds would allow the funding of only a few proposals in each region, and a large portion of the funds would be absorbed in administration. A decision, therefore, was made to implement the program on a phased-in regional basis.

Grants, cooperative agreements and contracts under the program would be administered pursuant to applicable DOE and Federal procedures and requirements, according to proposed § 470.17. Proposed § 470.17 also states that certain standard and/or relevant award or support agreement requirements shall be contained in those agreements. Proposed § 470.18 and 470.19 provide for the treatment of proposal information and of inventions and patents, respectively.

D. PUBLIC HEARING AND WRITTEN COMMENT PROCEDURES

1. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submit-

ting data, views or arguments with respect to the proposed guidelines. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Appropriate Technology Small Grants Program—Proposed Guidelines." Fifteen copies should be submitted. All comments received by May 18, 1978, before 4:30 p.m., and all other relevant information, will be considered by DOE before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

2. PUBLIC HEARING

a. *Request procedures*

The time and place of the public hearing are indicated in the dates and addresses section of this preamble. The hearing will be continued, if necessary, on May 16, 1978.

DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble and must be received before 4:30 p.m. on May 4, 1978. Such a request may be hand delivered to such address between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope: "Appropriate Technology Small Grants Program—Proposed Regulations."

The person making the request should briefly describe the interest concerned; if appropriate, state why the person is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where the person may be contacted through the day before the hearing.

DOE will notify before 4:30 p.m., May 9, 1978, each person selected to appear at the hearing. Each person selected to be heard must submit 100 copies of the proposed statement to the address and by the given date in the addresses and dates section of this preamble.

b. *Conduct of hearings*

DOE reserves the right to select the persons to be heard at this 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. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of the persons presenting statements. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given an opportunity if she or he 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.

Any interested person may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., May 10, 1978. DOE will determine whether the questions are relevant, and whether the time limitations permit them to be presented for an answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., 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. Also available for inspection at the DOE Freedom of Information Office is the Program Announcement for the Pilot Regional Program.

E. ENVIRONMENTAL AND INFLATIONARY REVIEW

In compliance with the National Environmental Policy Act of 1969 (NEPA), DOE has reviewed the proposed regulation to determine if it will have any significant environmental impacts. It has been determined that the proposed regulation presents no significant environmental impacts.

The proposed regulation also has been reviewed in accordance with Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

Pursuant to the requirements of Section 404 of the Department of Energy Organization Act (Pub. L. 95-91), upon issuance of this proposed rule, a copy of this Notice will be referred to the Federal Energy Regulatory Commission for a determination, in its discretion, whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 402(a)(1), (b), and (c)(1) of that Act. The Commission will have until May 18, 1978, the date the public comment period closes, to make this determination.

(Energy Research and Development Administration Appropriation Authorization of 1977, Pub. L. 95-39; Energy Reorganization Act of 1974, Pub. L. 93-438; Department of Energy Organization Act, Pub. L. 95-91.)

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Part 470 as set forth below.

Issued in Washington, D.C., April 12, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

Chapter II of Title 10, Code of Federal Regulations, is amended by establishing Part 470 as follows:

Sec.
470.1 Purpose and scope.
470.2 Definitions.
470.10 Establishment of program.
470.11 Eligibility requirements.
470.12 Management.
470.13 Program announcement.
470.14 Evaluation and selection.
470.15 Allocation of funds.
470.16 Cost sharing and funds from other sources.
470.17 Administration.
470.18 Proposal information.
470.19 Inventions and patents.

AUTHORITY: Sec. 112 of the Energy Research and Development Administration Appropriation Authorization of 1977 (Pub. L. 95-39, 91 Stat. 180, 42 U.S.C. 5907a).

§ 470.1 Purpose and scope.

This part contains guidelines for the implementation of the appropriate technology small grants program required to be prescribed by section 112 of the Act.

§ 470.2 Definitions.

As used in this part—

"Act" means the Energy Research and Development Administration Appropriations Authorization of 1977, Pub. L. 95-39, 91 Stat. 180, 42 U.S.C. 5907a.

"Affiliate" means a small business concern which, either directly or indirectly, controls or has the power to control another concern, is controlled by or is within the power to control of another concern or, together with another business concern, is controlled by or is within the power to control of a third party, taking into consider-

ation all appropriate factors including common ownership, common management and contractual relationships.

"DOE" means the Department of Energy.

"ERDA-FAM" means the Energy Research and Development Administration Federal Assistance Manual (42 FR 27630, May 31, 1977), or its DOE successor.

"ERDA-PR" means the Energy Research and Development Administration Procurement Regulations (42 FR 48878, September 26, 1977), or its DOE successor.

"Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (2) is located on, or in proximity to, a Federal or State reservation or rancheria, acting through its tribal organization.

"Local agency" means an agency or instrumentality of a local government.

"Local government" means a local unit of government including specifically a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, and sponsor group representative organization, and other regional or intrastate government entity.

"Local nonprofit organization or institution" means any corporation, trust, foundation, trade association, or other institution (1) which is entitled to exemption under section 501(c)(3) of the Internal Revenue Code or (2) which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual.

"Program" means the appropriate technology small grants program.

"Small business" means a concern, including its affiliates, which is organized for profit, is independently owned and operated, is not dominant in the field of operation in which it is submitting a proposal to DOE, and has 100 employees or less.

"Standard federal regions" means the ten standard Federal regions established by Office of Management and Budget Circular A-105 entitled "Standard Federal Regions."

"State agency" means an agency or instrumentality of a State government.

"State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession or instrumentality thereof, or interstate organization.

"Tribal organization" means the recognized governing body of an Indian tribe, or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

§ 470.10 Establishment of program.

There is established, under direction of the Assistant Secretary for Conservation and Solar Applications of DOE, an appropriate technology small grants program for the purpose of encouraging development and demonstration of, and the dissemination of information with respect to, energy-related systems and supporting technologies appropriate to—

(a) The needs of local communities and the enhancement of community self-reliance through the use of available resources;

(b) The use of renewable resources and the conservation of non-renewable resources;

(c) The use of existing technologies applied to novel situations and uses;

(d) Applications which are energy-conserving, environmentally sound, small scale, durable and low cost; and

(e) Applications which demonstrate simplicity of installation, operation and maintenance.

§ 470.11 Eligibility requirements.

(a) Grants, cooperative agreements or contracts under this part may be made to or with individuals, local nonprofit organizations and institutions, State and local agencies, Indian tribes and small businesses.

(b) The aggregate amount of financial support made available to any participant in the program, including affiliates, shall not exceed $50,000 during any two-year period. This restriction does not apply to funds expended by DOE for services in support of the program.

(c) Projects which shall be considered for financial support are those which carry out the purpose of the program as expressed in § 470.10 and which are within the following categories—

(1) Concept development, i.e., the development of an idea or concept or an investigative finding in areas ranging from development of new concepts of energy sources to the utilization of old procedures or systems for a new application;

(2) Development, i.e., the systematic use and practical application of investigative findings and theories of a scientific or technical nature toward the production of, or improvements in, useful products to meet specific performance requirements but exclusive of manufacturing and production engineering. The dominant characteristic is that the effort be pointed toward specific energy problem areas to develop and evaluate the feasibility and practicability of proposed solutions and determine their parameters. Development includes studies, investigations, initial hardware development and ultimately development of hardware, systems, or other means for experimental or operational test; or

(3) Demonstration, i.e., the testing of a system or technique under operation conditions to show that commercial application is technically, economically and environmentally feasible.

(d) Funding for each category in paragraph (c) shall not, for a single participant, exceed the following limits—

(1) For concept development, $10,000;

(2) For development, $50,000; and

(3) For demonstration, $50,000.

§ 470.12 Management.

(a) The program shall be managed by a National Program Director within the Office of the Assistant Secretary for Conservation and Solar Applications of DOE.

(b) The program shall be implemented regionally, based on the ten standard Federal regions or combinations thereof, to ensure substantial consideration of the needs, resources, and special circumstances of local communities. Regions may be combined provided the requirements of Office of Management and Budget Circular A-105 entitled "Standard Federal Regions" are met. Regional Program Managers shall design and manage the regional programs as directed by the National Program Director.

§ 470.13 Program announcement.

(a) The Regional Program Manager shall be responsible for the preparation of program announcements which solicit proposals for financial support under the program pursuant to simplified application procdures. Projects may be supported under the program only if they have successfully competed under a program announcement.

(b) Each program announcement shall include—

(1) A summary of the area(s) of program interest, expanded as appropriate, to include problems and objectives;

(2) An identification of the type(s) of support or award instruments that DOE may use;

(3) A time schedule for submission of, and action on, proposals;

(4) Information to be provided in the proposals, including, as appropriate, the information set forth in ERDA-PR § 9-4.5802-4(a);

(5) Evaluation criteria, along with a narrative description of their relative importance;

(6) Program policy factors;

(7) Other applicable information, terms and conditions, including the desired budget format;

(8) Place for, and manner of, submission;

(9) A unique number for identification purposes;

(10) A statement notifying potential proposers that an announcement does not commit DOE to pay any proposal preparation costs and that DOE reserves the right to select for award or support any, all, or none of the proposals received in response to announcement; and

(11) A late proposal provision.

(c) Each program announcement shall be synopsized in the *Commerce Business Daily* prior to or concurrent with release. The program announcement also shall be announced to appropriate newspapers, trade and technical publications, and State and local governments, and shall be circulated directly to interested individuals, entities, and associations thereof, to the maximum extent feasible.

§ 470.14 Evaluation and selection.

(a) Prior to making a comprehensive evaluation of a proposal, the receiving office shall determine that it contains sufficient technical, cost, and other information to enable comprehensive evaluation and that it has been properly signed. If the proposal does not meet these requirements, a prompt reply shall be sent to the proposer, indicating the reason(s) for the proposal not being selected for award or support under the program announcement.

(b) The Regional Program Manager shall select a technical evaluation panel representing several different disciplines to ensure adequate technical review of the proposals. The technical evaluation panel shall provide its findings and comments to the selection panel established pursuant to paragraph (e) of this section. The major criteria to be considered by the technical evaluation panel include—

(1) Whether the proposal is technically feasible, including a determination as to whether the proposed energy savings or energy production can be technically achieved;

(2) Whether the results being proposed are capable of being measured;

(3) Whether the proposal addresses any possible environmental impacts; and

(4) From a technical standpoint, whether the proposal can be carried out within the funds being requested.

(c) The Regional Program Manager shall select a State review panel, taking into account the advice and recommendations of the States. The State review panel shall provide its findings and comments to the selection panel. The criteria to be considered by the State review panel include—

(1) The potential impact of the proposal on the energy needs and requirements of the community or region;

(2) The energy resource involved and its importance or availability to the community or region;

(3) The expected energy savings or production that will result from the proposal and the significance of those savings or production to the energy requirements of the community or region;

(4) The institutional barriers that may substantially affect the proposal and the potential of the proposal to deal with those barriers;

(5) The likelihood of commercialization or utilization of the technology, process, or items within the proposal and extent of such commercialization/utilization;

(6) The innovativeness of the proposal;

(7) Any potential environmental impacts of the proposal upon the community or region;

(8) The extent to which work beyond the funded project period might be required;

(9) The extent to which local resources, material and manpower will be utilized; and

(10) The adequacy of the business aspects of the proposal, including as required and/or appropriate, the evaluations set forth in ERDA-FAM 503.

(d) In order to assure that the proposal is accorded objective and impartial review, the technical evaluation and State review panel members shall be selected so as to avoid any actual or apparent conflicts of interest. Panel members are forbidden to use privileged information contained in the proposals for personal gain or other improper purposes and shall be required to sign a non-disclosure agreement prior to reviewing any proposals as provided in ERDA-PR § 9.3.150-4 and to comply with any other applicable conflict of interest and nondisclosure of information requirements.

(e) A DOE selection panel, appointed by the Regional Program Manager, shall, taking into account the findings and comments of the technical evaluation panel and the State review panel, evaluate the proposals in accordance with the criteria stated in the program announcement and rank them in order of excellence.

(f) A DOE selection official shall select proposals for support or award from the ranking established by the selection panel, taking into account the following program policy factors in order to determine the mix of proposed projects which will best further specific program goals—

(1) Regional distribution including geography, population and climate;

(2) Project type distribution including a diversity of methods, approaches, and technologies;

(3) Diversity of participants, but ensuring substantial participation by individuals and small businesses; and

(4) The best overall use of the funds available.

§ 470.15 Allocation of funds.

(a) DOE shall allocate fiscal year 1978 funds available for support among the standard Federal regions I, II, V, IX, and X according to population.

(b) DOE shall allocate fiscal year 1979 funds available for support among the standard Federal regions III, IV, VI, VII, and VIII, according to population, with any available funds in excess of the amount of funds allocated under paragraph (a) being allocated among all regions according to population.

(c) For purposes of this section, population shall be that contained in the U.S. Bureau of the Census, Census of Population 1970, Vol. I—Characteristics of the Population, Part I—U.S. Summary, U.S. Government Printing Office, Washington, D.C. (1973).

§ 470.16 Cost sharing and funds from other sources.

Proposers are encouraged to offer to share in the costs of their proposed projects or to arrange that other entities provide cost sharing on their behalf. Regional Program Managers, with the consent of the proposer, may work with States, local governments or other entities to obtain supplemental funding. Such arrangements shall be handled on a case by case basis, taking into account, as appropriate, the applicable cost sharing provisions of ERDA-FAM and ERDA-PR.

§ 470.17 Administration.

(a) Grants, cooperative agreements and contracts under this part shall be administered in accordance with ERDA-FAM and ERDA-PR, as applicable, such other procedures applicable to grants, cooperative agreements and contracts under this part as DOE may from time to time prescribe, and any Federal requirements applicable to grants, cooperative agreements and contracts under this part.

(b) Each grant, cooperative agreement or contract under this part shall require that a recipient of financial assistance submit a full written report of activities supported in whole or in part by Federal funds made available under this part and shall contain any additional report provisions and other provisions dealing with records, allowable expenses, accounting practices, publication and publicity, copyrights, patents, discrimination, conflict of interest, insurance, safety, changes, resolution of disputes and other standard and/or relevant award or support agreement requirements required by, or appropriate to, the needs of the program.

§ 470.18 Proposal information.

Information contained in proposals shall be treated, handled and disclosed

in accordance with the policies and procedures set forth in ERDA-PR § 9-3.150.

§ 470.19 Inventions and patents.

Each grant, cooperative agreement or contract under the program shall be governed by the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974, 42 U.S.C. 5908, and any agreements by DOE to waive title to inventions that may be made under the program shall be pursuant to the policies and procedures of the applicable provisions of ERDA-FAM and ERDA-PR.

[FR Doc. 78-10314 Filed 4-14-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 225]

[Reg. Y; Docket No.: R-0151]

BANK HOLDING COMPANIES

Nonbanking Activities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rules.

SUMMARY: In order to clarify its policy, the Board of Governors proposes to amend its Regulation Y to formalize procedures for the establishment of foreign offices of bank holding companies' domestic nonbanking subsidiaries.

DATE: Comments must be received on or before May 23, 1978.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the docket number R-0151.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Associate General Counsel, 202-452-3274; or C. Keefe Hurley, Jr., Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3269.

SUPPLEMENTARY INFORMATION: The proposed rule sets forth procedures to be followed by bank holding companies in establishing a foreign de novo office to engage in activities permissible for bank holding companies. According to the proposed rule, bank holding companies seeking to establish such an office need not publish notice of the proposed office in the country where the office is to be located. Notification must, however, be given to the appropriate Reserve Bank 45 days prior to the opening of such office. Such notification shall include the location of the proposed office and a complete description of the activities to be engaged in by the office as well as the areas to be served. As with the other foreign operations of United States banking organizations, bank holding companies that establish foreign nonbanking offices pursuant to these procedures will be expected to comply with the Board's Statement of Policy on Availability of Information to Facilitate Supervision of Foreign Operations of Member Banks, 12 CFR 211.110 and 213.104. Bank holding companies that wish to acquire shares of foreign companies must still do so under § 4(c)(13) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(13), and § 225.4(f) of the Board's Regulation Y, 12 CFR 225.4(f). This action is taken pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(8) and 1844(b).

It is proposed that 12 CFR Chapter II be amended as follows:

PART 225—BANK HOLDING COMPANIES

1. By subsituting a colon for the period at the end of the first sentence of § 225.4(b)(1) and adding a proviso thereafter so that § 225.4(b)(1) reads as follows:

225.4 Nonbanking activities

* * * * *

(b) (1) *De novo* entry * * *

provided, however, That in the case of a *de novo* office to be located outside the United States, in lieu of published notice, the company shall notify its Reserve Bank of the proposal, including in such notification the location of the office and a complete description of the activities to be engaged in and the area to be served.

* * * * *

Board of Governors of the Federal Reserve System, April 7, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-10320 Filed 4-14-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 529a]

[No. 78-213]

FEDERAL HOME LOAN BANK SYSTEM

Additional Nondiscrimination in Federally Assisted Programs

APRIL 10, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board proposes a new regulation to prohibit discrimination against the handicapped in Federally assisted programs. The new regulation is required by statute and Presidential order. It incorporates by reference (1) the procedural and general definition sections of existing Board regulations pertaining to nondiscrimination in Federally assisted programs and (2) applicable sections of regulations of the Department of Health, Education, and Welfare on this matter.

DATE: Comments must be received on or before: May 30, 1978.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Bank Board, 1700 G Street NW., Washington, D.C. 20552. Telephone number 202-377-6440.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board proposes to amend its regulations under Executive Order 11914 (41 FR 17871; April 28, 1976), which requires Federal agencies "empowered to provide Federal financial assistance" to implement Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394, 29 U.S.C. 794), according to guidelines established by the Department of Health, Education, and Welfare (HEW) (45 CFR Part 85, 43 FR 2132-39; January 13, 1978). Under the terms of an interagency agreement with the Department of Housing and Urban Development (HUD), the Bank Board provides Federal financial assistance to the Office of Neighborhood Reinvestment (ONR), which is the only active Board program subject to this regulation.

Because the Board's regulation will apply only to a narrow area of Board activity (operation of ONR), and its regulation must be compatible with HEW guidelines, the Board proposes to incorporate by reference applicable sections of (1) HEW regulations and (2) existing Board regulations.

The proposed regulation prohibits unlawful discrimination against handicapped persons in employment practices or accessibility to services, provides for a system of compliance and enforcement, and outlines the responsibilities of recipients.

Section 529a.1(a) defines the regulation's purpose and scope.

Section 529a.1(b)(1) incorporates by reference the Board's general definitions and existing system of compliance and enforcement pertaining to programs subject to Title VI of the Civil Rights Act of 1964 by virtue of

receiving Federal financial assistance (12 CFR 529).

(b)(2) Incorporates by reference sections of HEW regulations pertaining to pre-employment inquiries (45 CFR Part 84, § 84.14(a) (c) and (d), 42 FR 22677; May 4, 1977); standards for determining "handicapped"—and "qualified handicapped" persons, general prohibitions against discrimination, and program accessibility (45 CFR Part 85, §§ 85.31-85.32, 85.51-85.54, and 85.56-58, 43 FR 2132-39; January 13, 1978).

(b)(3) Requires recipients with more than 25 employees to consult with handicapped persons or organizations representing them in order to evaluate and modify, if necessary, policies and practices which may result in discrimination.

Accordingly, the Board proposes a new Part 529a to read as follows:

PART 529a—ADDITIONAL NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

§ 529a.1 Handicapped persons.

(a) *Purpose and scope.* (1) The purpose of this Part is to implement Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

(2) This part applies to any recipient of Federal financial assistance from the Federal Home Loan Bank Board other than (i) any Federal financial assistance by way of insurance or guaranty contracts; or (ii) money paid, property transferred, or other assistance extended before the effective date of this part.

(b) *General.* (1) This part incorporates by reference the following regulations of the Board relating to Title VI of the Civil Rights Act of 1964: §§ 529.2 (General definitions), 529.5-529.10 (Required assurances, compliance, and procedures). For purposes of this Part, references therein to Title VI shall be deemed references to Section 504 of the Rehabilitation Act of 1973.

(2) This part incorporates by reference the following regulations of the Department of Health, Education, and Welfare (45 CFR Parts 84 and 85): §§ 84.14 (a), (c), and (d) (Preemployment inquiries), 85.31 and 85.32 (Standards for determining "handicapped"—and "qualified handicapped persons"), 85.51-85.54 (General prohibitions against discrimination), and 85.56-58 (Program accessibility).

(c) After consultation with interested persons, including handicapped persons or organizations representing them, a recipient with more than 25 employees, shall, within 2 years of the effective date of this part, evaluate and, if necessary, modify its policies and practices which may result in noncompliance with this part.

(Sec. 504, the Rehabilitation Act of 1973, Pub. L. 93-112, 85 Stat. 394 (29 U.S.C. 794); E.O. 11914, 41 FR 17871; Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-10282 Filed 4-14-78; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-8-AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 737-100/200/200C/T43A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: It is proposed to amend existing Airworthiness Directive (AD) 78-04-02, published in 43 FR 7203 (Feb. 21, 1978), which requires a one-time inspection of the horizontal stabilizer hinge outboard fitting attach bolts of Boeing Model 737-100/200/200C, including T43A, series airplanes. The proposed amendment would require an additional inspection and eventual replacement of the attach bolts. Replacement is believed necessary to prevent attach bolts from backing out from the installation, which could result in loss of the stabilizer.

DATE: Comments must be received on or before June 1, 1978.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-8-AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Wash. 98108. All communications received on or before June 1, 1978, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

On January 13, 1978, a telegraphic emergency Airworthiness Directive (AD) was issued and made effective January 16, 1978, to all known U.S. operators of Boeing Model 737-100/200/200C series, including T43A series, airplanes, The AD was published in the FEDERAL REGISTER on February 21, 1978 (43 FR 7203). The AD was issued to require a one-time inspection of the horizontal stabilizer hinge outboard fitting attach bolts for looseness or absence from the installation; an operator had reported finding fourteen (14) of the sixteen (16) bolts, which attach the fitting to the body structure, missing on one side of an airplane. Backing out of the bolts is attributed to insufficient protrusion of the bolt through the nut plate and resultant inadequate self-locking. The AD applies to all airplanes which have not had the bolts replaced per Boeing Service Bulletin No. 737-53-1048. The FAA believes that the bolts should be replaced in accordance with Boeing Service Bulletin No. 737-53-1048 or approved equivalent. This NPRM proposes this replacement with an interim inspection.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, Northwest Region, and Richard Salwen, Acting Regional Counsel, Northwest Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Federal Aviation Regulations (14 CFR 39.13) by adding the following paragraphs to Amendment 39-3140 (14 FR 7203), AD 78-04-02:

C. Within the next 3,000 flight hours time-in-service after the inspection accomplished per paragraph A of this AD, accomplish the inspection of paragraph B.

D. As terminating action to this AD, prior to July 1, 1980, unless previously accomplished, replace the attach bolts of the horizontal stabilizer hinge outboard fittings in accordance with Figure 1 of Boeing Service Bulletin No. 737-53-1048, or later FAA approved revisions, or in a manner approved

by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacturer's specifications 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 Co., P.O. Box 3707, Seattle, Wash. 98124. The documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash.

NOTE.—An evaluation of the anticipated impacts has been made, and it is expected that the final regulation is neither costly nor controversial. The preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 is not required.

(Sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a); 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Seattle, Wash. on April 7, 1978.

J. H. TANNER,
Acting Director,
Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc. 78-10075 Filed 4-14-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-NW-4]

VOR FEDERAL AIRWAY

Proposed Extension

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to extend south alternate route of VOR Federal Airway V-448S from RUBEL Intersection, Wash., to Moses Lake, Wash. The present termination of V-448S at the RUBEL Intersection requires clearance via multiple airway segments for flights proceeding beyond RUBEL. The proposed action would improve air traffic service by reducing air-to-ground communications.

DATE: Comments must be received on or before May 17, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 78-NW-4, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

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:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Bowing Field, Seattle, Wash. 98108. All communications received on or before May 17, 1978, will be considered before action is taken on the proposed amendment. 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 rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would extend V-448S from RUBEL Intersection, Wash., to Moses Lake, Wash.[1] Presently V-448S begins at Yakima, Wash., and terminates at RUBEL Intersection. The FAA believes the proposed extension of V-448S from Yakima to Moses Lake via RUBEL Intersection would improve air traffic service to users by simplifying flight planning. Currently V-448S terminates at RUBEL Intersection, thereby requiring pilots who prefer that route to file multiple airway segments or to contact Air Traffic Control for additional routing instructions. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

[1]Map filed as part of the original document.

DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) to read as follows:

V-448 From Portland, Oreg., via Yakima, Wash., including a south alternate; Moses Lake, Wash., including a south alternate from Yakima to Moses Lake via the INT of Yakima 129° and Ephrata, Wash., 203° radials and the INT of Ephrata 203° and Moses Lake 231° radials; Spokane, Wash., 45 miles 12 AGL, 21 miles 75 MSL, 20 miles 80 MSL, 59 miles 12 AGL, to Kalispell, Mont.

(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. 16559(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on April 11, 1978.

LOWELL L. LUNN,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 78-10072 Filed 4-14-78; 8:45 am]

[1505-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC—10162, File No. S7-738]

PREVENTION OF UNLAWFUL ACTIVITIES WITH RESPECT TO REGISTERED INVESTMENT COMPANIES

Correction

In FR Doc. 78-7976 appearing at page 12721 in the issue for Monday, March 27, 1978, in § 270.17; 1(e)(4) on page 12724, in the fourth line, after "States" insert the following: "or an instrumentality of the government of the United States".

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR PART 835]

SUPPORT OF NONGOVERNMENTAL TEST AND EVALUATION

Proposed Rule

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to add a new part stating policy, authority, and limitations on procedures for providing Air Force support, services and facilities to nongovernmental organizations. This rule will permit DOD agencies to sponsor nongovernment test requests. Since contractors occasionally have had difficulty finding non-DOD agencies with mutually aligned interest, this rule should have a favorable impact.

DATE: Comments must be received by May 15, 1978.

ADDRESS: Comments should be submitted to Major Melvin Hayashi, Headquarters U.S. Air Force, Planning, Programming and Analysis (AF/RDXT), Washington, D.C. 20330.

FOR FURTHER INFORMATION CONTACT:

Major Melvin Hayashi at above address. Phone 202-694-4590.

SUPPLEMENTARY INFORMATION: This rule is issued under authority of 10 U.S.C. 8012. The Department of the Air Force proposes to add this new Part 835 to Title 32 CFR, Chapter VII, Subchapter C. The proposed part describes procedures for providing Air Force support, services and facilities to nongovernmental organizations. These procedures give ways to test and evaluate products, techniques and equipment. This part applies to government-owned facilities and serves as a specific guide for carrying out portions of DOD Directive 3200.11 that apply.

Interested persons are invited to comment on this proposed rulemaking. Comments and suggestions should be forwarded in writing.

The new part is proposed to read as follows:

PART 835—SUPPORT OF NONGOVERNMENTAL TEST AND EVALUATION

Sec.

835.1 Purpose.
835.2 Background information.
835.3 Exceptions.
835.4 Terms explained.
835.5 Policies and procedures.
835.6 Responsibilities.
835.7 Authority for direct communication.

AUTHORITY: 10 U.S.C. 8012.

§ 835.1 Purpose.

This part states policy, authority, and limitations on procedures for providing Air Force support, services and facilities to nongovernmental organizations. These procedures give ways to test and evaluate products, techniques, and equipment. It applies to government-owned facilities and serves as a specific guide for carrying out portions of DOD Directive 3200.11 that apply.

§ 835.2 Background information.

The Air Force maintains and operates many kinds of unique facilities to meet its testing needs. These facilities can also accommodate many needs of the other Services and, in some cases, Government agencies outside the Department of Defense (DOD). Many of these facilities cannot be economically duplicated by other agencies (governmental or private). Frequently, businesses and institutions ask the Air Force to let them use its facilities to test and evaluate their products or techniques. DOD Directive 3200.11 gives procedures for using, managing, and operating major DOD ranges and test facilities designated collectively as the Major Range and Test Facility Base (MRTFB). The DOD directive covers both governmental and nongovernmental use. This part, however, adds to the DOD guidance that specifically pertains to nongovernmental use. It applies not only to the U.S. Air Force facilities in the MRTFB, but also to all other U.S. Air Force test facilities.

§ 835.3 Exceptions.

(a) This part does not apply to Government-owned and contractor-operated industrial facilities whose nongovernmental use is according to accountable contracts and pertinent regulations.

(b) AFP 400-7, Matrix Illustrating Reimbursement Policies for Interservice / Interdepartmental / Interagency Support, AFR 400-27, Basic Policies and Principles for Interservice, Interdepartmental, and Interagency Support, and DOD Directive 4000.19-M explain inter-Service support agreements and apply to Air Force test facilities.

(c) AFR 400-15, Logistic Support of United States Nongovernmental, Nonmilitary Agencies and Individuals in Oversea Military Commands, covers logistic support of military departments to U.S. nongovernment agencies or individuals in overseas military command areas.

(d) Section 13, Armed Services procurement regulation, governs the use of Government property by firms and institutions that perform Air Force contracts. Requests for test support in performing such contracts are not covered.

(e) The Arnold Engineering Development Center (AEDC) is exempted from the requirements of this part because it is authorized to provide industry with wind tunnel testing on a reimbursable basis.

§ 835.4 Terms explained.

(a) *Air Force test facility.* Any Air Force laboratory, range, or other facility intended for test and evaluation purposes. The facility may be operated by Service personnel or maintenance and operations contractors, or a combination of them.

(b) *Business.* A nongovernmental organization, other than an institution, desiring to test a product or technique that is not related to a government prime contract or subcontract.

(c) *Evaluation.* The review and analysis of qualitative or quantitative data from design review, hardware inspection, testing, or operational usage of equipment (AFR 80-14, Test and Evaluation).

(d) *Government sponsor.* A Federal executive agency whose directives or direct interest lead to a unique testing requirement.

(e) *Institution.* A nongovernmental organization, having an educational or scientific purpose, desiring to test a product or technique that is not related to a Government prime contract or subcontract.

(f) *Statement of support requirements.* A definitive statement prepared by an institution or business listing type, level, and how long support is required.

(g) *Support.* Services, supplies, equipment, and technical assistance provided to an institution or business.

(h) *Test.* Any program or procedure which is designed to obtain, verify, or provide data for the evaluation of: research and development (other than laboratory experiments); progress in reaching development goals; or performance and operational capability of systems, subsystems, components, and equipment items (AFR 80-14).

(i) *Test support request (TSR).* A formal request for support sent by a Government sponsor that contains:

(1) A brief description of the mission or purpose of the requesting institution or business.

(2) A brief description of the nature of the test.

(3) A statement of support requirements.

(4) A "certificate of nonavailability" of suitable commercial facilities.

(5) A certification that the proposed test program is in the public interest.

(6) A statement that the business or institution has agreed not to use information regarding Air Force testing in connection with its advertising, and that such test support will not be interpreted as, nor constitute, an Air Force indorsement of that product.

§ 835.5 Policies and procedures.

(a) The Air Force may provide test support to businesses and institutions

if such services are not reasonably available in private industry and can be supported without additional Service manning. In all cases, the items or techniques to be tested and evaluated must be in the public interest.

(b) Any business or institution desiring Air Force facilities and supporting services must seek as a sponsor a Federal executive agency. This agency must have regulations that require such testing or whose interests are directly aligned to the unique testing being proposed. The Government-agency sponsor must be responsible for filing with the Air Force the TSR in § 835.4(i).

(c) Except for the use of those facilities excluded from the uniform reimbursement policy (DODD 3200.11), the Air Force will be reimbursed for all costs (both direct and indirect) according to user-charge procedures of Part 812 of this chapter and other regulations that apply. The Air Force test facility comptroller bills the institution or business direct, NOT through the Government sponsor.

(d) The requesting institution or business must agree in all cases to indemnify the United States against all loss of, or damage to, Government property and injury to Government personnel, and to hold the United States harmless against all third-party claims unless willful misconduct of Air Force personnel is involved. AF Form 180, Hold Harmless Agreement, must be executed.

(e) Operations not within the scope of the stated purpose of such testing are prohibited. All tests must be accepted and approved on a noninterference basis and without rescheduling other planned Government activities. Any Government needs that arise during a test take precedence.

§ 835.6 Responsibilities.

(a) Major commands (MAJCOMs):

(1) Review TSRs sent by the Government sponsor.

(2) Transfer the TSR to another MAJCOM if the other command's test facilities are more appropriate.

(3) Disapprove and return TSRs that fall outside the scope of this part.

(4) Approve valid requests and direct proper action.

(5) Make sure that the Government sponsor has proved that Air Force test support is needed.

(6) Get an evaluation and recommendation from the Air Force test facility commander or a statement of whether the test can be accommodated and its probable impact on the facility's resources.

(b) Each Air Force test facility:

(1) Reviews TSRs sent by its MAJCOM headquarters.

(2) Estimates (according to Part 812 of this chapter) the cost of supporting the test, and explains cost factors involved.

(3) If the TSR involves aircraft, complies with Part 855 of this chapter.

(4) Estimates the resource impact on the Air Force test facility, if the test is accommodated.

(5) Within 30 calendar days after receiving the TSR, informs the MAJCOM headquarters as to the facility's capability to accommdate the test.

(6) Makes sure that all necessary safety measures are taken to prevent personal injury or property damage.

(7) Ensures compliance with security directives that apply.

(c) The government sponsor:

(1) Sends a TSR in letter format containing the information in § 835.4(i), to the proper MAJCOM headquarters.

(2) Proves that the test is needed, and determines that such a test is indeed in the public interest.

(3) Verifies that test support services are not reasonably available in private industry.

§ 835.7 Authority for direct communication.

Direct communication is authorized between separate MAJCOM headquarters, between MAJCOM headquarters and Government sponsors, and, after the TSR is received, between MAJCOM Headquarters and the requesting business or institution.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-10037 Filed 4-14-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 177]

[CGD 76-183]

VISUAL DISTRESS SIGNALS ON BOATS

Public Hearing

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice—public hearings.

SUMMARY: The Coast Guard intends to hold a series of public hearings concerning the proposed regulations for Visual Distress Signals on Boats (CGD 76-183). These proposed regulations would require certain boats operating on coastal waters to carry approved visual distress signals. The proposed regulations were published in the FEDERAL REGISTER on April 10, 1978 (43 FR 15118).

DATES: The Coast Guard will hold public hearings as follows:

1. May 2, 1978, at 7:30 p.m., at the District Court Building, in Court Room No. 1, Rowe Boulevard and Taylor Ave., Annapolis, Md.

2. May 5, 1978, at 7:30 p.m., at the Broward County Court House, in the Hearing Room, 201 SE. 6th St., Ft. Lauderdale, Fla.

3. May 11, 1978, at 8 p.m., at the Amityville Municipal Building, 21 Green Avenue, Amityville, N.Y.

ADDRESSES: All comments that are received on the Visual Distress Signals Notice of Proposed Rulemaking (CGD 76-183) will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to attend the public hearings and present oral or written statements on the proposed regulation. It is requested that anyone desiring to make comments notify Captain Greiner before the scheduled date of the public hearing and specify the approximate length of time needed for the presentation. It is urged that a written summary or copy of the oral presentation be included with the request.

DRAFTING INFORMATION

The principal persons involved in drafting this supplemental notice are: Lt. D. R. Gauthier, Project Manager, Office of Boating Safety, and Lt. G. S. Karavitis, Project Counsel, Office of the Chief Counsel.

(5 U.S.C. 553.)

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

Dated: April 11, 1978.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc. 78-10319 Filed 4-14-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 881-2]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Approval of an Administrative Order by Indianapolis Air Pollution Control Board to Citizens Gas & Coke Utility

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Indianapolis Air Pollution Control Board issued an Administrative Order on December 19, 1977, requiring Citizens Gas & Coke Utility to bring its coke batteries at Indianapolis, Ind., into compliance with Regulations APC-3 and APC-5, parts of the federally approved Indiana Implementation Plan. The date for final compliance established by the Order is July 1, 1979. The purpose of this notice is to invite public comment on EPA's proposed approval of this Order under section 113(d)(2) of the Clean Air Act (the Act).

DATE: Written comments must be received on or before May 17, 1978.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Robert B. Hurwitz at Enforcement Division, EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604, telephone 312-353-2082.

SUPPLEMENTARY INFORMATION: Citizens Gas & Coke Utility operates a coke oven facility at Indianapolis, Ind. The Order under consideration addresses charging and pushing emissions from this facility, which are subject to Rules APC-3 and APC-5 of the Indiana Implementation Plan. These regulations limit the emissions of particulate matter and are part of the federally approved State Implementation Plan. The Order requires final compliance with these regulations by July 1, 1979, through realignment of charging holes and installation of an enclosed pushing control system. The source has consented to the terms of the Order.

Because this source is a major source of particulate emissions and this order permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a delayed compliance Order under section 113(d) of the Act. EPA proposes herein to approve the Order because it satisfies the appropriate requirements of section 113(d) of the Act.

If the Order is approved by EPA, the source's compliance with its terms would preclude Federal enforcement against this source for violation of the regulation covered by the Order while the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. Final approval or disapproval will also be published in the FEDERAL REGISTER.

After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under Section 113(d) of the Act. In addition, Part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

If approved by EPA, the Order will become effective as a delayed compliance Order under section 113(d) of the Act and will constitute an addition to the Indiana Implementation Plan for the purposes of section 110 ("Implementation Plans"), section 304 ("Citizens Suits"), and section 307 ("General Provisions Relating to Administrative Proceedings and Judicial Review") of the Act. Under section 113(d)(10) of the Act, EPA approval of the Order would also insulate the source from Federal enforcement and citizen enforcement for noncompliance with the regulation covered by the Order so long as the Order is in effect and the source is complying with its terms.

Dated: March 8, 1978.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator,
Region V.

[FR Doc. 78-9940 Filed 4-14-78; 8:45 am]

[6560-01]

[40 CFR Part 65]

[FRL 881-3]

STATE AND FEDERAL ADMINISTRATIVE ENFORCEMENT OF IMPLEMENTATION PLAN REQUIREMENTS AFTER STATUTORY DEADLINES

Proposed Delayed Compliance Order for Ten State Owned Facilities in the State of Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: United States Environmental Protection Agency (U.S. EPA) proposes to Issue Orders under section 113(d)(1) of the Clean Air Act, 42 U.S.C. 7401 et seq., (the Act), requiring ten (10) facilities of the Ohio Department of Mental Health and Mental Retardation to bring their boiler houses (the sources) at various locations throughout the State of Ohio into compliance with Regulation AP-3-11, a part of the federally approved Ohio Implementation Plan. The dates for final compliance established by the Orders vary from May 1, 1978, to July 1, 1979. If the Orders are issued by U.S. EPA, they would insulate the sources from further Federal enforcement and from citizen enforcement for noncompliance with the regulation covered by the Orders so long as the Orders are in effect and the sources are complying with their terms. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on these proposed Orders.

DATE: Written comments and requests for a public hearing must be received on or before May 17, 1978.

ADDRESS: Comments and requests for a public hearing should be submitted to Mr. James O. McDonald, Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Michael G. Smith, Enforcement Attorney, at the above address or phone 312-353-2082.

SUPPLEMENTARY INFORMATION: The Ohio Department of Mental Health and Mental Retardation operates coal fired boilers in power plants located at the following facilities:

FACILITY AND LOCATION
Apple Creek State Institute, Apple Creek, Ohio.
Athens Mental Health Center, Athens, Ohio.

Cambridge Mental Health and Mental Retardation Center, Cambridge, Ohio.
Central Ohio Psychiatric Hospital, Columbus, Ohio.
Columbus State Institute, Columbus, Ohio.
Gallipolis State Institute, Gallipolis, Ohio.
Mount Vernon State Hospital, Mount Vernon, Ohio.
Orient State Institute, Orient, Ohio.
Tiffin Mental Health and Mental Retardation Center, Tiffin, Ohio.
Toledo Mental Health Center, Toledo, Ohio.

All of the above ten (10) facilities are subject to the Ohio Implementation Plan Regulation AP-3-11. This regulation governs the emission of particulate matter and is part of the federally approved State Implementation Plan. The Orders require final compliance with this regulation by dates varying from May 8, 1978, to July 1, 1979, depending on the source, and the sources have consented to the terms of the Orders.

This Agency believes that the proposed Orders satisfy the applicable requirements of section 113(d) of the Act. If the Orders are issued, source compliance with its terms would preclude further U.S. EPA enforcement against these sources for violation of the regulation covered by the Orders while the Orders are in effect. Enforcement against the sources under the citizen suit provisions of the Act (section 304) would be similarly precluded.

Comments received on or before May 17, 1978, will be considered in determining whether U.S. EPA should issue the Orders. Testimony given at any public hearing concerning the Orders will also be considered. Final action on the Orders will be published in the FEDERAL REGISTER.

After the public comment period, and after EPA has reviewed any comments received in response to this notice, the Administrator of EPA will publish in the FEDERAL REGISTER the Agency's final action on the Orders in 40 CFR Part 65.

The provisions of 40 CFR Part 65 will be promulgated by EPA soon, and will contain the procedures for EPA's issuance, approval, or disapproval of an order under section 1139d) of the Act. In addition, Part 65 will contain sections listing or including orders issued, approved, or disapproved by EPA. A prior notice proposing regulations for Part 65, published at 40 FR 14876 (April 2, 1975), will be withdrawn, and replaced by a notice promulgating these new regulations.

All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after thirty days prior notice of the time and place of the hearing has been given in this publication.

Dated: March 17, 1978.

THOMAS E. YEATES,
Acting Regional Administrator, Environmental Protection Agency, Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter I, as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By adding § 65.400 to read as follows:

§ 65.400 Federal delayed compliance orders issued under Section 113(d)(1), (2), and (4) of the Act.

[Order No. ——]

In the Matter of Apple Creek State Institute, Apple Creek.

This Order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

1. On August 3, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-76-A-68, pursuant to Section 113(a)(1) of the Act, to the Apple Creek State Institute (the institute) upon a finding that the Institute's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in Section 110(d) of the Act. This finding was based upon emission calculations derived from date submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the August 3, 1976, Notice of Violation.

3. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Institute, and on april 20, 1977, an enforcement conference was held.

4. It has been determined that the Institute is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts including public comment, it is determined that the schedule for compliance set forth in this ORDER is expeditious as practicable, and that the terms of this ORDER comply with Section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Apple Creek State Institute will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install an electrostatic precipitator to control all boilers in boiler house.

1. April 1, 1978—submit final control plan and award contracts.
2. June 1, 1978—commence construction.
3. April 1, 1979—complete construction.
4. May 1, 1979—complete testing.
5. June 1, 1979—achieve, and submit test results demonstrating, final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Apple Creek State Institute shall comply with the following requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid an imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Institute is able to comply during the period this Order is in effect:

A. The Institute shall immediately initiate an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Apple Creek State Institute shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Institute shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by June 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Institute shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Institute shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notifications to U.S. EPA pursuant to this order shall be made to James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Institute to comply with any State, local, or other Federal regulations.

V. The Apple Creek State Institute is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Institute will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This Order is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAVIER OF RIGHTS TO CHALLENGE ORDER

The Applce Creek State Institute, by the duly authorized undersigned, hereby consents to the provisions of this Order and wavies any and all rights under any provision of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Athens Mental Health Center, Athens, Ohio.

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On September 13, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-76-A-84 pursuant to section 113(a)(1) of the Act, to the Athens Mental Health Center (the Center) upon a finding that the Center's boilerhouse was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 13, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Center, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Center is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Athens Mental Health Center will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install an electrostatic precipitator to control each boiler in boilerhouse:

1. April 1, 1978—submit final control plan.
2. May 1, 1978—award contracts.
3. June 1, 1978—commence construction.
4. May 1, 1979—complete construction.
5. June 1, 1979—complete testing.
6. July 1, 1979—achieve, and submit test results demonstrating final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Athens Mental Health Center shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section I, above), are necessary to avoid imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Center is able to comply during the period this Order is in effect:

A. The Center shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Athens Mental Health Center shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Center shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Center shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Center shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notification to U.S. EPA pursuant to this Order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Center to comply with any State, local, or other Federal regulations.

V. The Athens Mental Health Center is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Center will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. The Order is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Athens Mental Health Center, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provision of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Cambridge Mental Health and Mental Retardation Center, Cambridge, Ohio.

This Order is issued this date pursuant to section 1139(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule of compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 1139(d)(1) of the Act.

FINDINGS

1. On September 28, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-76-A-88, pursuant to section 113(a)(1) of the Act, to the Cambridge Mental Health and Mental Retardation Center (the Center) upon a finding that the Center's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 28, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Center, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Center is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Center will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install an electrostatic precipitator to control all boilers in boiler house:

1. June 1, 1978—submit final control plan.
2. July 1, 1978—award contracts.
3. September 1, 1978—commence construction.
4. June 1, 1979—complete construction.
5. July 1, 1979—achieve, and submit test results demonstrating, final compliance

with Ohio Implementation Plan Regulation AP-3-11.

II. That the Center shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid an imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Center is able to comply during the period this Order is in effect:

A. The Center shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Center shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Center shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Center shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirements. If delay is anticipated in meeting any requirement of this Order, the Center shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notifications to U.S. EPA pursuant to this Order shall be made to James O. McDonald, Director, Enforcement Division, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Center to comply with any State, local, or other Federal regulations.

V. The Center is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Center will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

VIII. This Order is effective immediately.

Date ————.

————————,
ADMINISTRATOR, U.S. ENVIRONMENTAL *Protection Agency.*

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Cambridge Mental Health and Mental Retardation Center, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Central Ohio Psychiatric Hospital, Columbus, Ohio.

This Order is issued this date pursuant to Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to Section 113(d)(1) of the Act.

FINDINGS

1. On November 8, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-77-A-80 pursuant to Section 113(a)(1) of the Act, to the Central Ohio Psychiatric Hospital (Hospital) upon a finding that the Hospital's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in Section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 2, 1976, Notice of Violation.

3. In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Hospital, and on April 22, 1977, an enforcement conference was held.

4. It has been determined that the Hospital is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with Section 113(d) of the Act. *Therefore, it is hereby Ordered:*

ORDER

I. That the Center Ohio Psychiatric Hospital will comply with the Ohio Implementation Plan Regulations in accordance with the following schedule on or before the dates specified therein:

A. Permanently cease operation of Number 1 boiler on or before May 1, 1978.

B. Install sufficient pollution control equipment for each boiler in boilerhouse:

1. Immediately—submit final control plan.
2. April 1, 1978—complete construction.
3. May 1, 1978—achieve, and submit test results demonstrating final compliance with Ohio Implementation Plan Regulation AP-3-11.

C. If compliance is not achieved as expected through the installation of pollution controls pursuant to I.A. above, the Hospital shall install an electrostatic precipitator to control all boilers in the boilerhouse according to the following schedule:

1. May 1, 1978—submit final control plan.
2. June 1, 1978—award contracts.
3. July 1, 1978—commence construction.
4. June 1, 1979—complete construction.
5. July 1, 1979—achieve, and submit test results demonstrating final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Hospital shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Hospital is able to comply during the period this Order is in effect:

A. The Hospital shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Hospital shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring:

1. The Hospital shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements:

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Hospital shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Hospital shall immediately notify U.S. EPA in writing of the aniticpated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack data for a minimum of three years.

3. All submittals and notification to U.S. EPA pursuant to this order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Hospital to comply with any State, local, or other Federal regulations.

V. The Hospital is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Hospital will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator or his delegate deter-

mines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to Section 120 of the Act.

VIII. This Order is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Central Ohio Psychiatric Hospital, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Columbus State Institute, Columbus, Ohio.

This order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On October 28, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-77-A-6, pursuant to section 113(a)(1) of the Act, to the Columbus State Institute (Institute) upon a finding that the Institute's boilerhouse was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the October 28, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Institute, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Institute is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Columbus State Institute will comply with the Ohio Implementation Plan Regulations in accordance with the following schedule on or before the dates specified therein:

A. Install an electrostatic precipitator to control all boiliers in boilerhouse:

1. June 1, 1978—submit final control plan.

2. July 1, 1978—award contracts.

3. August 1, 1978—commence construction.

4. June 1, 1979—complete construction.

5. July 1, 1979—achieve, and submit test results demonstrating final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Institute shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid an imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Institution is able to comply during the period this Order is in effect:

A. The Institute shall immediately initiate an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Columbus State Institute shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring:

1. The Institute shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this order, the Institute shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this order, the Institute shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notifications to U.S. EPA pursuant to this order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of Columbus State Institute to comply with any State, local, or other Federal regulations.

V. The Institute is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Institute will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record, after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This order is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Columbus State Institute, by the duly authorized undersigned, hereby consents to the provisions of this order and waives any and all rights under any provisions of law to challenge this order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Gallipolis State Institute, Gallipolis, Ohio.

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On November 9, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-77-A-9, pursuant to section 113(a)(1) of the Act, to the Gallipolis State Institute (the Institute) upon a finding that the Institute's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violations has extended beyond the thirtieth day after issuance of the November 9, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Institute, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Institute is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Gallipolis State Institute will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install an electrostatic precipitator to control boilers number 1 and 2:

1. June 1, 1978—submit final control plan.
2. July 1, 1978—award contracts.
3. August 1, 1978—commence construction.
4. June 1, 1979—complete construction.
5. July 1, 1979—achieve, and submit test results demonstrating final compliance with Ohio Implementation Plan Regulation AP-3-11.

B. Convert boilers number 4 and 5 to burn oil only by June 1, 1978. Permanently cease the burning of coal in boilers number 4 and 5 on or before May 1, 1978.

II. That the Gallipolis State Institute shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered on section 1, above), are necessary to avoid imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Center is able to comply during the period this order is in effect:

A. The Institute shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Institute shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Institute shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this order, the Institute shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this order, the Institute shall immediately notify U.S. EPA in writing of the aniticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notification to U.S. EPA pursuant to this Order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Institute to comply with any State, local, or other Federal regulations.

V. The Institute is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Center will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirements pursuant to section 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This Order is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE

The Gallipolis State Institute, by duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provision of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

In the matter of Mt. Vernon State Institute, Mt. Vernon, Ohio.

[Order No. ——]

This ORDER is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This ORDER contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On September 2, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-76-78 pursuant to section 113(a)(1) of the Act, to Mt. Vernon State Institute (Institute) upon a finding that the institute's boilerhouse was in violation of Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 2, 1976, Notice of Violation.

3. In satisifaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Institute, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Institute is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this ORDER is expeditious as practicable, and that the terms of this ORDER comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That Mt. Vernon State Institute will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install sufficient pollution control equipment for each boiler in boilerhouse:

1. Immediately—submit final control plan.
2. April 1, 1978—complete construction.
3. April 15, 1978—complete testing.
4. May 1, 1978—achieve, and submit test results demonstrating final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Institute shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Institute is able to comply during the period this order is in effect:

A. The Institute shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That Mt. Vernon State Institute shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Institute shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by May 1, 1978.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this order, the Institute shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Institute shall immediately notify U.S. EPA in writing of the aniticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack data for a minimum of three years.

3. All submittals and notification to U.S. EPA pursuant to this order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Mt. Vernon State Institute to comply with any State, local, or other Federal regulations.

V. The Mt. Vernon State Institute is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Institute will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This order shall be terminated in accordance with section 113(d)(8) of the Act if

the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This ORDER is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Mt. Vernon State Institute, by the duly authorized undersigned, hereby consents to the provisions of this order and waives any and all rights under any provisions of law to challenge this order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Orient State Institute, Orient, Ohio.

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. section 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On August 2, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-76-A-66, pursuant to section 113(a)(1) of the Act, to the Orient State Institute (the Institute) upon a finding that the Institute's boiler house was in violation of the Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the August 2, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Institute, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Institute is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Orient State Institute will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install sufficient pollution control equipment for each boiler in boiler house:

1. Immediately—submit final control plan.
2. April 1, 1978—complete construction.
3. May 1, 1978—achieve, and submit test results demonstrating compliance with Ohio Implementation Plan Regulation AP-3-11.

B. If compliance is not achieved as expected through the installation of pollution controls pursuant to 1.A. above, the Institute shall install an electrostatic precipitator to control all boilers in the boilerhouse according to the following schedule:

1. June 1, 1978—submit final control plan.
2. July 1, 1978—award contracts.
3. August 1, 1978—commence construction.
4. June 1, 1979—complete construction.
5. July 1, 1979—achieve, and submit test results demonstrating, final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Orient State Institute shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid an imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Institute is able to comply during the period this Order is in effect:

A. The Institute shall immediately initiate an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Institute shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Institute shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Institute shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Institute shall immediately notify U.S. EPA in writing of the aniticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notification to U.S. EPA pursuant to this Order shall be made to James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Institute to comply with any State, local, or other Federal regulations.

V. The Institute is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Institute will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113(a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This Order is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Orient State Institute, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Tiffin Mental Health and Mental Retardation Center, Tiffin, Ohio.

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On September 8, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-76-A-82, pursuant to section 113(a)(1) of the Act, to Tiffin Mental Health and Mental Retardation Center (the Center) upon a finding that the Center's boilerhouse was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the September 8, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Center, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Center is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That Tiffin Mental Health and Mental Retardation Center will comply with the Ohio Implementation Plan Regulations in accordance with the following schedule on or before the dates specified therein:

A. Install sufficient pollution control equipment for each boiler in the boilerhouse:

1. June 1, 1978—submit final control plan.
2. July 1, 1978—award contracts.
3. August 1, 1978—commence construction.
4. April 1, 1979—complete construction.
5. May 1, 1979—achieve, and submit test results demonstrating, final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Center shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Center is able to comply during the period this Order is in effect:

A. The Center shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Center shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Center shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by May 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Center shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirement. If delay is anticipated in meeting any requirement of this Order, the Center shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack monitoring opacity data for a minimum of three years.

3. All submittals and notification to U.S. EPA pursuant to this Order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Center to comply with any State, local, or other Federal regulations.

V. The Tiffin Mental Health and Mental Retardation Center is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the Center will be formally notified, pursuant to Section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this Order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This ORDER is effective immediately.

Date ————.

————————,
Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

Tiffin Mental Health and Mental Retardation Center, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this Order.

Date ————. (Signature of authorized representative of source) ————————.

[Order No. ——]

In the matter of Toledo Mental Health Center, Toledo, Ohio

This Order is issued this date pursuant to section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. (the Act). This Order contains a schedule for compliance, interim control requirements, and monitoring and reporting requirements. Public notice, opportunity for a public hearing, and thirty days notice to the State of Ohio has been provided pursuant to section 113(d)(1) of the Act.

FINDINGS

1. On October 7, 1976, the United States Environmental Protection Agency (U.S. EPA) issued Notice of Violation EPA-5-77-A-1, pursuant to section 113(a)(1) of the Act, to the Toledo Mental Health Center (the Center) upon a finding that the Center's boiler house was in violation of the Ohio Implementation Plan Regulation AP-3-11, a part of the applicable Ohio Implementation Plan as defined in section 110(d) of the Act. This finding was based upon emission calculations derived from data submitted to U.S. EPA by the subject facility.

2. Said violation has extended beyond the thirtieth day after issuance of the October 7, 1976, Notice of Violation.

3. In satisfaction of section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to the Center, and on April 20, 1977, an enforcement conference was held.

4. It has been determined that the Center is unable to immediately comply with the applicable implementation plan.

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule for compliance set forth in this Order is expeditious as practicable, and that the terms of this Order comply with section 113(d) of the Act. *Therefore, it is hereby ordered:*

ORDER

I. That the Toledo Mental Health Center will comply with the Ohio Implementation Plan regulations in accordance with the following schedule on or before the dates specified therein:

A. Install sufficient pollution control equipment for each boiler in boiler house:

1. May 1, 1978—submit final control plan.
2. June 1, 1978—award contracts.
3. August 1, 1978—commence construction.
4. June 1, 1979—complete construction.
5. July 1, 1979—achieve, and submit test results demonstrating, final compliance with Ohio Implementation Plan Regulation AP-3-11.

II. That the Toledo Mental Health Center shall comply with the following interim requirements which are determined to be reasonable and the best practicable interim system of emission reduction (taking into account the requirement for which compliance is ordered in section 1, above), are necessary to avoid an imminent and substantial endangerment to health of persons, and are necessary to assure compliance with the Ohio Implementation Plan insofar as the Center is able to comply during the period this Order is in effect:

A. The Center shall immediately initiate an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day to day basis during the interim period preceding final compliance.

III. That the Toledo Mental Health Center shall comply with the following emission monitoring and reporting requirements on or before the dates specified:

A. Emission monitoring.

1. The Center shall install and utilize boiler operation monitoring equipment and continuous in-stack monitoring devices for each boiler and stack by July 1, 1979.

B. Reporting requirements.

1. No later than five days after any date for achievement of an incremental step or final compliance, specified in this Order, the Center shall notify U.S. EPA in writing of its compliance, or noncompliance and reasons therefor, with the requirements. If delay is anticipated in meeting any requirement of this Order, the Center shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefor. Notification to U.S. EPA of any anticipated delay does not excuse the delay.

2. On a quarterly basis, report any excursions above the 20 percent opacity limitation set out in AP-3-07. Keep on file all stack data for a minimum of three years.

3. All submittals and notifications to U.S. EPA pursuant to this Order shall be made to Mr. James O. McDonald, Director, Enforcement Division, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Ill. 60604.

IV. Nothing herein shall affect the responsibility of the Center to comply with any State, local, or other Federal regulations.

V. The Toledo Mental Health Center is hereby notified that its failure to achieve final compliance by July 1, 1979, will result in a requirement to pay a noncompliance penalty under section 120. In the event of such failure, the Center will be formally notified, pursuant to section 120(b)(3) and any regulations promulgated thereunder, of its noncompliance.

VI. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or his delegate determines on the record after notice and hearing, that an inability to comply with Ohio Implementation Plan Regulation AP-3-11 no longer exists.

VII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Sections 113 (a), (b), or (c) of the Act, including possible judicial action for an injunction and/or penalties and in appropriate cases, criminal prosecution.

B. Revocation of this order, after notice and opportunity for a public hearing, and subsequent enforcement of Ohio Implementation Plan Regulation AP-3-11 in accordance with the preceding paragraph.

C. If such violation occurs on or after July 1, 1979, notice of noncompliance and subsequent action pursuant to section 120 of the Act.

VIII. This Order is effective immediately.

Date ————.

Administrator, U.S. Environmental Protection Agency.

WAIVER OF RIGHTS TO CHALLENGE ORDER

The Toledo Mental Health Center, by the duly authorized undersigned, hereby consents to the provisions of this Order and waives any and all rights under any provisions of law to challenge this order.

Date ————. (Signature of authorized representative of source) ————.

[FR Doc. 78-9942 Filed 4-14-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-133; RM-2963]

FM BROADCAST STATION IN IRON MOUNTAIN, MICH.

Proposed changes in Table of Assignments; Order to Show Cause

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking and Order to Show Cause.

SUMMARY: Action taken herein proposes the assignment of two Class C FM channels to Iron Mountain, Mich., and the deletion of a Class A channel. The proposal was made in response to a petition by Iron Mountain-Kingsford Broadcasting Co. An Order to Show Cause is directed to the Class A station licensee to show why its license should not be modified to operate on one of the proposed Class C channels. The proposed assignments could provide first and second FM service to substantial areas.

DATES: Comments must be received on or before June 7, 1978, and reply comments on or before June 27, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

ADOPTED: April 7, 1978.

RELEASED: April 13, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Iron Mountain, Mich.), BC Docket No. 78-133. RM-2963.

1. The Commission has before it a petition for rulemaking[1] filed on August 26, 1977, by Iron Mountain-Kingsford Broadcasting Co. ("petitioner"), licensee of full-time AM Station WMIQ, Iron Mountain, proposing the assignment of Class C FM Channels 226 and 268 to Iron Mountain and the deletion of Channel 280A there. An opposition to the petition was filed by J & R Electronics, Inc. ("J & R"), licensee of FM Station WJNR, Channel 280A, Iron Mountain. Reply comments were filed by petitioner.

2. Iron Mountain (pop. 8,702),[2] seat of Dickenson County (pop. 23,753), is located in the Upper Peninsula of Michigan, approximately 144 kilometers (90 miles) north of Green Bay, Wis. It adjoins Kingsford, a community of 5,276. It is served locally by full-time AM Station WMIQ and Station WJNR(FM), Channel 280A.

3. Petitioner states that Iron Mountain is the largest community in Dickenson County and the major economic, political and recreational center for the southern Upper Peninsula. We are told that the area is predominantly rural in character and economically supported by its abundant wood and mineral resources. Petitioner asserts that tourism is a year-round industry with a substantial influx of tourists in the summer and fall. It notes that Dickenson County's total retail sales for 1975 were estimated to be $81,802,000 by the Dickenson Chamber of Commerce. Petitioner states that, according to the U.S. Census estimate for 1975, Dickenson County's population has increased 5.1 percent since 1970. It claims that the population growth is expected to continue over the next ten years as a result of existing industries (including tourism) and expected new industries.

4. *Preclusion Studies:* Petitioner's engineering study indicates that twenty-seven communities of greater than 1,000 populations would sustain preclusion on one or more channels as a result of the assignment of Channel 268 to Iron Mountain. Eleven communities of greater than 1,000 population would be precluded on one or two channels as a result of the assignment of Channel 226 to Iron Mountain. Twenty[3] of the precluded communities that would sustain preclusion as a result of one or both proposals have neither FM channel assignments nor local AM service. However, petitioner claims that, if the proposed channels were assigned to Iron Mountain, they could be used in nearby Norway, Mich. or Niagara, Wis., under the Commission's 15-mile rule (§ 73.203(b)). Petitioner further claims that Calumet, Laurium or Lake Linden could utilize unoccupied Channel 249A in Houghton, Mich., and Stambaugh or Caspian could utilize unoccupied Channel 244A in Iron River, Mich. It shows that alternate channels are available for assignment to Wakefield, Gladstone and Negaunee. However, several communities remain, and petitioner is requested to indicate in comments whether alternate channels are available for assignment to Gwinn, Bessemer and White Pine, Mich.; Mellen and Crandon, Wis.; and Grand Marais, Minn.

5. *Roanoke Rapids Study:* Petitioner's *Roanoke Rapids* study indicates that a first FM service would be provided to 10,839 persons in a 3,800 square kilometer (1,475 square miles) area, and a second FM service to 31,077 persons in a 3,200 square kilometer (1,250 square miles) area. However, petitioner has not indicated whether there are any areas and populations which would receive first or second nighttime aural service. (See *Anamosa-Iowa City, Iowa*, 46 FCC 2d 520 (1974).)

6. J & R in its opposition alleges that the economy of the Iron Mountain-Kingsford area would not sustain

[1] Public Notice of the petition was given on September 19, 1977, Rept. No. 1075.

[2] Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

[3] *Michigan:* Wakefield (pop. 2,757); Ontonagan, 2,432; Calumet, 1,007; Laurium, 2,868; Baraga, 1,116; Gladstone, 5,237; L'Anse, 2,538; Caspian, 1,165; Stambaugh, 1,458; Negaunee, 5,248; Gwinn, 1,054; Lake Linden, 1,214; Crystal Falls, 2,000; Norway, 3,033; Bessemer, 2,805; White Pine, 1,218; *Wisconsin:* Crandon, 1,582; Mellen, 1,168; Niagara, 2,347; *Minnesota:* Grand Marais, 1,301.

two Class C stations and that petitioner has failed to make a showing of the existence of an economic market base to support their operation. Although it has been Commission policy to defer consideration of such economic factors until the application stage, J & R urges that such consideration be given at this time. It also urges that consideration be given the fact that its station has been on the air only since 1972, and has been able to operate profitably only since 1976. J & R makes several requests if the Commission decides to assign the two Class C stations to Iron Mountain and to delete Channel 280A. It asks (1) that it not be required to convert to Class C operation until the other Class C station begins operation; (2) that its license be modified to operate on Channel 268 rather than Channel 226 to lessen the confusion in shifting of dial position; and (3) that it be reimbursed by the ulitmate licensee of the second Class C channel for the reasonable costs of converting to Class C operation.

7. In reply comments, petitioner asserts that J & R has not offered sufficient reasons for denial of its proposal. As to J & R's claim that its station took four years to make a profit, petitioner contends that such losses are neither unusual for a new station nor relevant to the area's ability to support an additional station. Further, it states that the unprofitability of the station may result from reasons other than those related to the economic potential of the market. As to J & R's preference for Channel 268, it argues that public interest factors would favor making that channel available to the petitioner. Petitioner asserts that the location of its AM station's (WMIQ) is close to that of Channel 268 on the AM-FM receivers and would allow its listeners to conveniently switch from AM to FM service at times when the AM station's nighttime power is reduced or under adverse atmospheric conditions.

8. *Comments.* Although it has been the general policy of the Commission to assign Class C channels only to large communities, exceptions have been made in cases like this where the assignment of a Class C channel would result in an FM station which would provide first or second FM service to a large rural area.[4] Additionally, although population criteria often is a factor in determining how many channels are assigned to a particular community, the population distribution in the Upper Peninsula suggests that two Class C channel assignments could be appropriate to provide FM service to the area and insure the opportunity for residents to have a choice of FM service. With this in mind we think consideration of the proposal is warranted.

9. Not only do Class C operations seem better designed to extend service where it is needed, proposing a second Class C assignment as a substitute for the existing Class A assignment avoids intermixture of classes of channels. Therefore, we are issuing an Order to Show Cause to Station WJNR(FM) as to why its license should not be modified to specify one of the Class C channels. Since the changeover of an existing station from one frequency to another should be accomplished with as little disruption in operation as possible, and since Station WJNR's license would have to be modified to a new channel, we believe it preferable to follow J & R's request and specify Channel 268. Although we understand petitioner's preference in regard to choice of channel, we note that there is no assurance that the petitioner would be the ultimate licensee of the other proposed Class C channel. Thus, we do not think it appropriate to base our action on its preference on dial position.

10. It is well settled Commission policy that if a change is made requiring an operating station to change its channel of operation, it is entitled to be reimbursed for this change from the benefiting party, and that the matter of what this includes is normally left to the good faith negotiations of the parties. However, petitioner has not clearly stated its willingness to reimburse J & R for the changeover of its station to a Class C channel. Petitioner is thus requested to make clear its agreement to reimburse J & R for its changeover in frequency[5] if the petitioner ultimately becomes the licensee on Channel 226.

11. Since Iron Mountain is located within 420 kilometers (250 miles) of the U.S.-Canada border, the proposed Class C channel assignments to Iron Mountain, Mich., require coordination with the Canadian Government.

12. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the community below, as follows:

Channel No.
City, present, proposed, Iron Mountain, Mich., 280A, 226, 268.

13. *It is ordered,* That pursuant to section 316(a) of the Communications Act of 1934, as amended, the licensee of Station WJNR(FM), Iron Mountain, Mich., shall show cause why its license should not be modified to specify operation on Channel 268 if the Commission determines that the public interest would best be served by adopting the proposed assignments.

14. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station WJNR(FM), Iron Mountain, Mich., may not later than June 7, 1978, request that a hearing be held on the proposed modifications. Pursuant to § 1.87(f), if the right to request a hearing is waived, WJNR(FM) may, not later than June 7, 1978, file a written statement showing with particularity why its license should not be modified as proposed in the Order to Show Cause. In this case, the Commission may call on WJNR(FM) to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the license as provided in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, WJNR(FM) will be deemed to consent to modification as proposed in the Order to Show Cause and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

15. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

16. Interested parties may file comments on or before June 7, 1978, and reply comments on or before June 27, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced

[4] *Lyons, Kansas,* 42 FCC 2d 215, 216 (1973); *Saratoga, Wyoming,* 37 R.R. 2d 813 (1976).

[5] Reimbursement costs would be limited to those involved in the changeover in frequency, not to those involved in upgrading facilities from a Class A to a Class C operation. See *Mitchell, S.D.,* 62 FCC 2d 70 (1976).

in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-10087 Filed 4-14-78; 8:45 am]

notices

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.

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A599]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Zepata County, Tex., as a result of drought January 1, 1977, through March 14, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommenation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than October 4, 1978, for physical losses and April 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 10th day of April 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-10066 Filed 4-14-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 31774, 32376; Order 78-4-30]

FRONTIER AIRLINES, INC.

Order Instituting Investigation Regarding San Antonio-Denver Route Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of April 1978.

Frontier Airlines filed an application for nonstop authority between San Antonio, Tex. and Denver, Colo., on December 2, 1977. In support of its application, it argues that the Board in 1969 found that this market required competitive nonstop service;[1] that, as a result, it certificated Texas International to compete against Braniff, the incumbent nonstop carrier; that no nonstop service has been provided by either carrier since 1973; that the market can clearly support nonstop service since it generated 66,850 local O. & D. plus interline connecting passengers for the year ended March 31, 1976 (or an average of 183 per day); and that the one-stop service provided by the incumbents is insufficient to meet demand, requiring 35 percent of the local passengers to travel via connecting flights.

Answers in support of Frontier's motion were filed by the City of San Antonio and Greater San Antonio Chamber of Commerce, the Utah Agencies[2] and the City of Rapid City. The City and County of Denver and the Denver Chamber of Commerce filed a Petition to Intervene under rule 15.[3]

Answers in opposition to Frontier's motion were filed by Braniff and Texas International. The arguments against grant of Frontier's motion are that the market cannot support additional service; that subsidy requirements will be increased; that Texas International's low-fare service will be jeopardized; and that the Board's hearing resources can be applied with greater benefit to other matters.

Hughes Airwest filed an answer stating that, while it was not opposed to Frontier's application per se, it was opposed to Frontier indirectly receiving Salt Lake City-San Antonio one-stop authority.[4] Continental filed an answer stating that, if we hear Frontier's application, the issues should include the removal of both Continental's one-stop restriction in the San Antonio-Denver market and its restriction against single-plane service in the San Antonio-Portland/Seattle markets.

Motions for leave to file otherwise unauthorized documents, with replies to answers attached, were filed by Frontier and by the City of San Antonio and Greater San Antonio Chamber of Commerce.[5]

We have decided to institute the *San Antonio-Denver Route Proceeding,* Docket 32376, to consider the need for second competitive nonstop authority in the San Antonio-Denver market.

In accordance with the policy announced in our order instituting the *Chicago-Albany/Syracuse-Boston Competitive Service Investigation,* Order 77-12-50, the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and, if so, which carrier(s) should be selected. We therefore expect the instituted case to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50. We repeat, however, that traditional service benefits, including the benefits of city-pair competition, are important issues which will be weighed with price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

We will not include, as an issue in this case, the removal of Continental's single-plane restriction in the San Antonio-Portland/Seattle markets. Continental's answer states that this request qualifies under the realignment guidelines, and since Continental's realignment application is now being processed we prefer to consider this issue in that context.[6]

---

[1] Reopened Pacific Northwest-Southwest Service Case, 50 CAB 698,739 (1969).

[2] Consisting of the State of Utah, the Salt Lake City Corporation and the Salt Lake Area Chamber of Commerce.

[3] The petition will be granted.

[4] Airwest's claim is based on its earlier filing of an extensive application to extend its system into Texas, which would have permitted it to operate one-stop Salt Lake City-San Antonio service. It argues that a prior grant of Frontier's application would be an arbitrary and unfair action. This application was dismissed, in part, by Order 78-2-100, February 21, 1978, instituting the Las Vegas-Houston Competitive Service Investigation. Airwest has petitioned for reconsideration of that order and has filed an amended application. We will not impose any pre-trial restriction here, but Airwest will, of course, be free to argue the merits of its position at hearing.

[5] We will grant the motions.

[6] We refer Continental to Order 78-3-42 for a discussion of our policy deferring re-

Footnotes continued on next page

Accordingly, it is ordered, That:

1. The motion for hearing of Frontier Airlines, in Docket 31774, be granted;

2. A route proceeding designated the *San Antonio-Denver Route Proceeding,* Docket 32376, be instituted under section 204 of the Act and set for hearing before an Administrative Law Judge of the Board at a time and place to be determined later;

3. This case shall consider whether the public convenience and necessity require that new nonstop authority be granted in the San Antonio-Denver market; if so, which air carriers should be authorized; and whether the new or existing authority should be subject to any terms, conditions or limitations;

4. Any authority awarded in this investigation shall be ineligible for subsidy;

5. The application of Frontier Airlines in Docket 31774 be consolidated into the proceeding instituted by paragraph 2, above;

6. The petition to intervene under Rule 15 filed by the City and County of Denver and the Denver Chamber of Commerce be granted;

7. Motions for leave to file otherwise unauthorized documents filed by Frontier and the City of San Antonio and Greater San Antonio Chamber of Commerce be granted;

8. The following be made parties to the proceeding instituted by paragraph 2, above: Braniff Airways, Continental Air Lines, Frontier Airlines, Texas International Airlines, the City of San Antonio and the Greater San Antonio Chamber of Commerce, the Utah Agencies (the State of Utah, the Salt Lake City Corporation and the Salt Lake Area Chamber of Commerce), the City of Rapid City and the City and County of Denver and the Denver Chamber of Commerce.

9. Applications, amendments to applications, motions to consolidate and petitions for reconsideration of this order shall be filed within 20 days of the date of service of this order and answers shall be filed within 10 days thereafter;[7] and

10. All carriers filing applications which they seek to have consolidated into this proceeding shall file environmental evaluations under section 312.12 of the Board's Regulations within 30 days of the date of this order.[8]

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[9]
Secretary.

[FR Doc. 78-10284 Filed 4-14-78; 8:45 am]

Footnotes continued from last page

striction removal applications while a realignment application is pending.

[7]We delegate to the presiding Administrative Law Judge the authority to consolidate by order any new applications which conform to the scope of the proceeding.

[8]Frontier's environmental evaluation was filed as part of its motion for hearing.

[9]All Members concurred.

[6320-01]

[Docket 32294]

UNITED STATES-BAHAMAS INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 18, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of International Aviation will circulate its material on or before May 3, 1978, and the other parties on or before May 12, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of International Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., April 11, 1978.

WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc. 78-10283 Filed 4-14-78; 8:45 am]

[6335-01]

CIVIL RIGHTS COMMISSION

IOWA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Iowa Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 3 p.m. on May 5, 1978, at 1050 6th Avenue, Des Moines, Iowa.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to receive report of regional conference held in April and project planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10018 Filed 4-14-78; 8:45 am]

[6335-01]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 3 p.m. and will end at 10 p.m. on May 3, 1978, Hyatt Regency, Cambridge, Mass.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss programing.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10019 Filed 4-14-78; 8:45 am]

[6335-01]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 4 p.m. on May 2, 1978, at Sheraton Airport Inn, 4201 North Lindbergh Boulevard, St. Louis, Mo. 63044.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to receive report of regional conference held in April and project planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10020 Filed 4-14-78; 8:45 am]

[6335-01]

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) of the Commission will convene at 9 a.m. and will end at 4 p.m. on May 8, 1978, at Howard Johnson's Motor Lodge, 3650 South 72nd Street, Omaha, Nebr.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas City, Mo. 64106.

The purpose of this meeting is to receive report of regional conference held in April and project planning.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10021 Filed 4-14-78; 8:45 am]

[6335-01]

NEW JERSEY ADVISORY COMMITTEE

Amended Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission originally scheduled for April 18, 1978, (FR Doc 78-9267) on page 14709 has been changed.

The meeting will be held at the Resorts International, Boardwalk and North Carolina, Atlantic City, N.J. The meeting will begin at 7:30 p.m. and will end at 10 p.m. on April 25, 1978.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10024 Filed 4-14-78; 8:45 am]

[6335-01]

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a fact-finding meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 1 p.m. and will end at 5 p.m. on May 10, 1978, 211 Monroe Street, Fairmont City Hall, Conference Room, Fairmont, W.V. 26554.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within West Virginia.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 11, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10022 Filed 4-14-78; 8:45 am]

[6335-01]

WISCONSIN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 10 a.m. and will end at 12 noon on May 9, 1978, at Howard Johnson Regents Room, 525 W Johnson, Madison, Wis. 53703.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Western Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Ill. 60604.

The purpose of this meeting is to discuss SAC Conference, Insurance Redlining Projects and new projects.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., April 10, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-10023 Filed 4-14-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending March 17, 1978

Total bituminous coal exports for this week were 24,182 short tons compared with 102,698 short tons exported the preceding week and average weekly exports of 156,000 short tons for the preceding 6 weeks. All bituminous coal exports for the week were of metallurgical grades. It should be noted that the coal export data reported for this week are subject to possible upward revision since available information indicates that an additional coal shipment of less than 10,000 short tons may also have been exported during the week. The Department of Commerce is currently seeking to verify this information. However, even with the possible additional shipment included in this weekly total, the bituminous coal exports for this week are at the lowest level since the start of the coal strike and represent less than 3 percent of normal exports. With the low level of export activity, only a small number of firms reported coal shipments during the week. A breakdown of these exports by volatility, area of destination, and price is, therefore, withheld from this report to prevent disclosure of information deemed to be confidential pursuant to section 7(c) of the Export Administration Act of 1969, as amended.

Exports of coke manufactured from coal for this week were 3,359 short tons compared with 4,651 short tons exported the preceding week and a weekly average of 23,500 short tons for the preceding 6 weeks. The weighted average price of this commodity for the week was $127.33 per short ton with a reported high and low price of $142.79 and $121.00 per short ton, respectively. No apparent price change is indicated since the high price of $142.79 per short ton reported for this week is the same as that reported for the past 9 weeks.

Domestic coal production for the week was 8,485,000 short tons, an increase from the 7,580,000 short tons produced the preceding week. This week's production is at the highest level since the start of the strike. Coal production has been increasing steadily since the week ending January 28 when the lowest weekly production for this strike period was reported at 4,970,000 short tons.

Total coal consumption for the week was estimated to be 9,519,000 short tons compared with 10,143,000 short tons consumed the preceding week. Weekly coal consumption has decreased each week since the week

ending January 21, 1978, when a high for this strike period of 12,183,000 short tons was consumed. Total end-of-week coal inventories were estimated to be 84,221,000 short tons, a decrease of 2,181,000 short tons from the preceding week.

No upward movement in domestic metallurgical coal prices is noted for the week ending March 17, 1978. However, both average spot market and contract prices for other bituminous (steam) coal have advanced approximately 50 cents per short ton from last week's levels.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

TABLE 1.—*U.S. Exports of Bituminous Coal and Coke of Coal, in short tons*

[For Week Ending March 17, 1978]

Commodity	Exports						
	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile [1] metallurgical coal	NA	NA	***133,877	199,136	96,895	(4)	(4)
Medium volatile [2] metallurgical coal	NA	NA	NA	283,420	118,632	(4)	(4)
High volatile [3] metallurgical coal	NA	NA	NA	47,055	176,827	(4)	(4)
Total metallurgical coal	NA	NA	889,125	*550,459	**436,605	521,109	128,822
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922
	Average			Week ending			
		January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Low volatile [1] metallurgical coal		NA	NA	(4)	(4)	(4)	(4)
Medium volatile [2] metallurgical coal		NA	NA	(4)	(4)	(4)	(4)
High volatile [3] metallurgical coal		NA	NA	(4)	(4)	(4)	(4)
Total metallurgical coal		NA	NA	174,709	311,331	97,800	262,585
Other bituminous coal		NA	NA				
Total bituminous coal		834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal		12,326	20,514	4,466	5,062	29,143	30,634
	Weekly average			Week ending			
		February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Low volatile [1] metallurgical coal		NA	NA	(4)	(4)	(4)	(4)
Medium volatile [2] metallurgical coal		NA	NA	(4)	(4)	(4)	(4)
High volatile [3] metallurgical coal		NA	NA	(4)	(4)	(4)	(4)
Total metallurgical coal		NA	NA	251,327	72,569	139,143	206,762
Other bituminous coal		NA	NA		(4)(5)		
Total bituminous coal		736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal		22,185	12,805	3,998	75,173	43,315	8,595
	Weekly average			Week ending			
			March 1976	March 1977	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978
Low volatile [1] metallurgical coal			NA	NA	(4)	(4)	(4)
Medium volatile [2] metallurgical coal			NA	NA	(4)	(4)	(4)
High volatile [3] metallurgical coal			NA	NA	(4)	(4)	(4)
Total metallurgical coal			NA	NA	162,451	102,698	[5]24,182
Other bituminous coal			NA	NA	(4)(5)		
Total bituminous coal			898,473	765,515	162,451	102,698	24,182
Coke of coal			19,541	24,320	4,998	4,651	3,359

[1] 22 percent or less volatile matter.
[2] 31 percent or less and more than 22 percent volatile matter.
[3] More than 31 percent volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[5] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.
* Includes 20,848 short tons of metallurgical grade coal not identified as to volatility.
** Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
*** Partial, in content tons.

(5)—Revised.
NA—Not available.
Sources: Office of Export Administration, and Bureau of the Census.

TABLE 2.—*Contracts for export of bituminous coal and coke of coal, in short tons*

[For week ending Mar. 17, 1978]

Commodity	Contracts							
	Week ending							
	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Apr. 28, 1978	Next 6 weeks	Total for 12 weeks
Low volatile [1] metallurgical coal	129,816	100,716	84,216	84,216	124,216	84,216	991,208	1,598,604
Medium volatile [2] metallurgical coal	211,763	222,310	112,857	119,150	280,450	245,450	2,597,345	3,789,325
High volatile [3] metallurgical coal	31,510	38,510	31,510	36,710	36,710	59,210	323,875	557,035
Total metallurgical coal	373,089	361,536	228,583	240,076	441,376	388,876	3,911,428	5,944,964
Other bituminous coal	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Coke of coal	3,984	3,704	3,654	3,504	3,546	3,244	42,104	63,740

[1] 22 percent or less volatile matter.
[2] 31 percent or less and more than 22 percent volatile matter.
[3] More than 31 percent volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*

[For week ending Mar. 17, 1978]

Commodity and area of destination	Exports						
	Weekly average		Week ending				
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Low volatile metallurgical coal: [1]							
Asia			7,458	111,525	24,808	(4)	(4)
Europe			43,463	40,893	69,440	(4)	(4)
Western Hemisphere			82,956	46,718	2,647	(4)	(4)
Total	NA	NA	**133,877	199,136	96,895	(4)	(4)
Medium volatile metallurgical coal: [2]							
Asia				102,906	93,291	(4)	(4)
Europe				173,711	15,958	(4)	(4)
Western Henisphere				6,803	9,383	(4)	(4)
Total	NA	NA	NA	283,420	118,632	(4)	(4)
High volatile metallurgical coal: [3]							
Asia				11,331		(4)	(4)
Europe					76,532	(4)	(4)
Western Hemisphere				35,724	100,295	(4)	(4)
Total	NA	NA	NA	47,055	176,827	(4)	(4)
Total metallurgical coal:							
Asia			377,151	225,762	118,099	134,389	(4)
Europe			269,606	214,604	161,930	206,831	(4)
Western Hemisphere			224,411	*110,093	*112,325	136,928	(4)
Total	NA	NA	***889,125	*550,459	*436,605	521,109	128,822

	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Low volatile metallurgical coal: [1]							
Asia	(4)	(4)	(4)	(4)			
				(4)		(4)	(4)
	(4)	(4)	(4)	(4)			
				(4)		(4)	(4)
Western Hemisphere	(4)	(4)	(4)	(4)			
				(4)		(4)	(4)
Total	(4)	(4)	(4)	(4)			
				(4)		(4)	(4)
Medium volatile metallurgical coal: [2]							
Asia	(4)	(4)	(4)	(4)			
				(4)		(4)	(4)
Europe	(4)	(4)	(4)	(4)			
				(4)		(4)	(4)

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*—Continued

[For week ending Mar. 17, 1978]

Commodity and area of destination	Exports						
	Week ending						
	Jan.6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan.27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Western Hemisphere	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Total	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
High volatile metallurgical coal:[3]							
Asia	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Europe	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Total	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Total metallurgical coal:							
Asia	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Europe	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Western hemisphere	(*)	(*)	(*)	(*)			
				(*)		(*)	(*)
Total	174,709	311,311	97,800	262,585	251,327	72,569	139,143

	Week ending			
	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978
Low volatile metallurgical coal:[1]				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)
Western hemisphere	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)
Medium volatile metallurgical coal:[2]				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)
High volatile metallurgical coal:[3]				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)
Total	(*)	(*)	(*)	(*)
Total metallurgical coal				
Asia	(*)	(*)	(*)	(*)
Europe	(*)	(*)	(*)	(*)
Western Hemisphere	(*)	(*)	(*)	(*)
Total	206,762	162,451	102,698	[4]24,182

Commodity	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Other bituminous coal	NA	NA	158,326	129,424	351,669	59,500	0
Total bituminous coal	1,023,827	1,044,281	1,047,451	679,883	788,274	580,509	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

TABLE 3.—*U.S. exports by commodity and area of destination, in short tons*—Continued

[For week ending Mar. 17, 1978]

Commodity and area of destination	Exports						
	Week ending						
	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978
Other bituminous coal	0	0	0	0	0	0	0
Total bituminous coal	174,709	311,331	97,800	262,585	251,327	72,569	139,143
Coke of coal	4,466	5,062	29,143	30,634	3,998	75,173	43,315
	Week ending						
	Feb. 24, 1978	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978			
Other bituminous coal	0	0	0	0			
Total bituminous coal	206,762	162,451	102,698	[5]24,182			
Coke of coal	8,595	4,998	4,651	3,359			

[1] 22 percent or less volatile matter.
[2] 31 percent or less and more than 22 percent volatile matter.
[3] More than 31 percent volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[5] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.
* Includes 44,251 short tons of metallurgical grade coal not identified by volatility.
** Partial, in content tons.
*** Includes 17,957 short tons of metallurgical grade coal to destinations not listed above.
NA: Not available.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 4.—*Anticipated exports by commodity and area of destination, in short tons*

[For week ending Mar. 17, 1978]

CONTRACTS

Commodity and area of destination	Week ending —							
	Mar. 24, 1978	Mar. 31, 1978	Apr. 7, 1978	Apr. 14, 1978	Apr. 21, 1978	Apr. 28, 1978	Next 6 weeks	Total for 12 weeks
Total metallurgical: [1]								
Asia	133,968	142,555	81,262	92,755	185,055	241,555	1,654,654	2,531,804
Europe	153,226	113,226	113,226	113,226	222,226	113,226	1,545,204	2,373,560
Western Hemisphere	85,895	105,755	34,095	34,095	34,095	34,095	424,570	752,600
Total	373,089	361,536	228,583	240,076	441,376	388,876	*3,911,428	*5,944,964
Other bituminous	([2])	([2])	([2])	([2])	([2])	([2])	([2])	([2])
Total bituminous coal	([2])							
Coke of coal	3,984	3,704	3,654	3,504	3,546	3,244	42,104	63,740

[1] Votatility data by destination have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[2] Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.
[3] Data withheld to avoid disclosure of data withheld above. See footnote 2.
* Includes 286,460 tons to destinations not listed above.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 5.—*Export prices of bituminous coal and coke of coal, in dollars per short ton*

[Week ending Mar. 17, 1978]

Commodity	Average					
	March 1976	March 1977	November 1977	Weighted	High	Low
Low volatile metallurgical coal [1]	NA	NA	NA	(4)	(4)	(4)
Medium volatile metallurgical coal [2]	NA	NA	NA	(4)	(4)	(4)
High volatile metallurgical coal [3]	NA	NA	NA	(4)	(4)	(4)
Total metallurgical coal	NA	NA	53.84	(4)	(4)	(4)
Other bituminous coal	NA	NA	35.01	(4)	(4)	(4)
Total bituminous Coal	50.79	50.64	50.99	(4)	(4)	(4)
Coke of coal	62.97	57.19	79.70	127.33	142.79	121.00

[1] 22 pct or less volatile matter.
[2] 31 pct or less and more than 22 percent volatile matter.
[3] More than 31 pct volatile matter.
[4] Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to sec. 7(c) of the Export Administration Act of 1969, as amended.

NA: Not available.

TABLE 6.—*U.S. trade in bituminous coal and coke of coal, in short tons*

[For week ending Mar. 17, 1978]

	Weekly average			Week ending			
	December, 1975	December, 1976	November, 1977	Dec. 9, 1977	Dec. 16, 1977	Dec. 23, 1977	Dec. 30, 1977
Imports:							
Bituminous coal [1]	20,097	21,452	31,158	NA	NA	NA	NA
Coke of coal	20,774	28,903	41,267	NA	NA	NA	NA
Exports:							
Bituminous coal [1]	1,023,827	1,044,281	1,047,451	679,883	788,274	580,609	128,822
Coke of coal	16,646	7,287	33,179	3,922	9,624	2,843	3,922

	Average		Week ending			
	January 1976	January 1977	Jan. 6, 1978	Jan. 13, 1978	Jan. 20, 1978	Jan. 27, 1978
Imports:						
Bituminous coal [1]	16,346	27,198	NA	NA	NA	NA
Coke of coal	3,483	5,987	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	834,857	483,983	174,709	311,331	97,800	262,585
Coke of coal	12,326	20,514	4,466	5,062	29,143	30,634

	Weekly average		Week ending			
	February 1976	February 1977	Feb. 3, 1978	Feb. 10, 1978	Feb. 17, 1978	Feb. 24, 1978
Imports:						
Bituminous coal [1]	NA	NA	NA	NA		NA
Coke of coal	NA	NA	NA	NA		NA
Exports:						
Bituminous coal [1]	736,138	769,840	251,327	72,569	139,143	206,762
Coke of coal	22,185	12,805	3,998	75,173	43,315	8,595

	Weekly average		Week ending			
	Mareh 1976	March 1977	Mar. 3, 1978	Mar. 10, 1978	Mar. 17, 1978
Imports:						
Bituminous coal [1]	NA	NA	NA	NA	NA
Coke of coal	NA	NA	NA	NA	NA
Exports:						
Bituminous coal [1]	898,473	765,515	162,451	102,698	24,182
Coke of coal	19,541	24,320	4,998	4,651	3,359

[1] Includes both metallurgical grade and steam coal.
[2] Subject to revision. Less than 10,000 short tons of additional bituminous coal may have been exported; the Department of Commerce is seeking to verify this information.

Sources: Office of Export Administration and Bureau of the Census.

TABLE 7.—*Bituminous coal and coke of coal* production, consumption, and stocks, in thousand short tons*

[For week ending Mar. 18, 1978]

	Weekly average			Week ending			
	December 1975	December 1976	November 1977	Dec. 10, 1977	Dec. 17, 1977	Dec. 24, 1977	Dec. 31, 1977
Total bituminous coal production**	12,019	12,593	14,798	9,100	5,080	r5,515	5,700
Consumption:							
Metallurgical***	1,519	1,568	NA	1,290	1,368	1,364	1,324
Other bituminous:							
Electric utility	8,414	9,387	NA	9,228	9,550	9,398	8,928
General industry	1,358	1,421	NA	1,330	1,252	1,163	1,146
Total other	9,772	10,808	NA	10,558	10,802	10,561	10,074
Total bituminous	11,291	12,376	NA	11,848	12,170	11,925	11,398
Bituminous coal stocks (end of specified periods):							
Metallurgical***	8,671	9,804	NA	r15,084	14,776	13,982	13,088
Other bituminous:							
Electric utility	109,707	117,468	NA	r146,171	141,691	136,993	131,808
General industry	8,504	6,900	NA	9,495	9,248	8,896	8,425
Total other	118,211	124,368	NA	155,666	150,939	145,889	139,713
Total bituminous	126,882	134,172	NA	170,750	165,715	159,871	152,801

	Weekly average		Week ending				
	January 1976	January 1977	Jan. 7, 1978	Jan. 14, 1978	Jan. 21, 1978	Jan. 28, 1978	Feb. 4, 1978
Total bituminous coal production**	11,627	9,520	5,755	r5,260	r5,045	r4,970	5,440
Consumption:							
Metallurgical***	1,505	1,428	1,291	1,192	1,221	1,161	1,129
Other bituminous:							
Electric utility	9,009	9,730	9,359	9,652	9,763	9,765	9,386
General industry	1,211	1,442	1,220	1,298	1,199	1,152	1,185
Total other	10,220	11,172	10,579	10,950	10,962	10,917	10,571
Total bituminous	11,725	12,600	11,870	12,142	12,183	12,078	11,700
Bituminous coal stocks (end of specified periods):							
Metallurgical***	8,115	8,107	11,992	10,900	9,771	8,821	r7,772
Other bituminous:							
Electric utility	104,456	103,883	126,268	119,399	112,535	105,945	r99,244

	Week ending					
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978	Mar. 4, 1978	Mar. 11,1978	Mar. 18, 1978
Electric industry	6,425	5,960	8,046	7,579	7,246	6,811	6,484
Total other	110,881	109,843	134,314	126,978	119,781	112,756	r105,728
Total bituminous	118,996	117,950	146,306	137,878	129,552	121,577	r113,500

	Week ending					
	Feb. 11, 1978	Feb. 18, 1978	Feb. 25, 1978	Mar. 4, 1978	Mar. 11,1978	Mar. 18, 1978
Total bituminous coal production**	r6,110	6,570	6,680	r7,330	7,580	8,485
Consumption:						
Metallurgical***	1,069	1,035	970	969	926	866
Other bituminous:						
Electric utility	9,479	8,923	8,660	8,360	8,034	7,474
General industry	1,189	1,188	1,167	1,222	1,183	1,179
Total other	10,668	10,111	9,827	9,582	9,217	8,653
Total bituminous	11,737	11,146	10,797	10,551	10,143	9,519
Bituminous coal stocks (end of specified periods):						
Metallurgical***	6,888	6,024	r5,479	r4,834	r4,353	4,022
Other bituminous:						
Electric utility	92,937	87,692	r83,421	r79,604	r76,697	74,954
General industry	6,121	5,882	5,706	5,483	5,352	5,245
Total other	99,058	93,574	r89,127	r85,087	r82,049	80,199
Total bituminous	105,946	99,598	r94,606	r89,921	r86,402	84,221

*Data on coke of coal production, consumption, and stocks are not available on a weekly basis.
**More detailed production data are not available.
***More detailed data in terms of volatile content are not available.
rRevised.
Data sources: Department of Energy.

[FR Doc. 78-10003 Filed 4-14-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 4, 1978.

The USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions will hold meetings at the Pentagon on May 4 and 5, 1978 from 8:30 a.m. to 5 p.m. each day.

The Committee will receive classified briefings and hold classified discussions on Air Force munitions research and procurement programs. The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-100201 Filed 4-14-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Bonneville Power Administration

DEVELOPMENT OF AN ENERGY CONSERVATION POLICY FOR THE BONNEVILLE POWER ADMINISTRATION

Request for Public Comment; Correction

In FR Doc. 78-8177 appearing at page 13092 in the FEDERAL REGISTER of March 29, 1978, the date in the last sentence of the "Dates" section is corrected to read as follows:

Written recommendations concerning the development of BPA energy conservation policy will be received through May 15, 1978."

Dated: April 12, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-10308 Filed 4-14-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. RP71-77 (Remand), RP73-107, RP74-90 and RP75-91 (Depreciation)]

CONSOLIDATED GAS SUPPLY CORP.

Order Denying Motion To Rescind Notice of Commission's Secretary and Denying Stay of Refunds

APRIL 7, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.[1]

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —— provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On March 9, 1978, Consolidated Gas Supply Corp. (Consolidated) filed a motion to rescind or to grant rehearing of the Commission Secretary's "Notice Granting in Part and Denying in Part Extension of Time," issued in these proceedings on February 28, 1978. Consolidated further seeks a stay, pending judicial review, of those portions of Opinion Nos. 3 and 3-A which require the company to file revised tariff sheets, to implement reduce depreciation rates, and to make refunds to its jurisdictional customers. The Public Service Commission of the State of New York (PSNY) opposed Consolidated's motion, By this order, the Commission will deny Consolidated's motions.

On January 30, 1978, Consolidated filed a motion requesting an extension of time for the filing of its amended tariff sheets as required by Opinion No. 3. Consolidated requested that the time be extended to a date ninety days after the Commission issues its order on rehearing of Opinion No. 819 or in the Stipulation and Agreement filed on November 28, 1977, in Docket Nos. RP73-107, RP74-90, RP75-91, RP77-7 and RP77-140. PSNY opposed Consolidated's motion to the exent that Consolidated sought an extension of time to file its required tariff sheets or make the necessary refunds with respect to Docket No. RP71-77. On February 28, 1978, the Commission Secretary issued a notice granting the extension of time which Consolidated sought until and including May 31, 1978, with the exception that refunds should be issued pursuant to Opinion Nos. 3 and 3-A in Docket No. RP71-77.[2]

The subject of this order is Consolidated's motion to rescind or grant rehearing of the Secretary's notice filed on March 9, 1978.[3] Consolidated first argues that no refunds should be required in Docket No. RP71-77 (Remand), because Consolidated experienced a revenue deficiency in the amount of $1,672,561 during the locked-in period covered by that particular docket.[4]

---

[1] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] On February 27, 1978, one day before the Commission Secretary's notice was issued, Consolidated filed a reply to PSNY's response. Replies to answers to motions are not provided for in the Commission's regulations.

[3] On March 10, 1978, Consolidated submitted copies of the last page of its motion which were properly subscribed, to be substituted for the last page of the motion filed on March 9, 1978, which was not subscribed.

[4] Filing of October 24, 1974, Schedule No. 1; see, Appendix A of Consolidated's motion filed on March 9, 1978.

PSNY vigorously opposes Consolidated's motion to rescind the Secretary's notice. In essence, PSNY argues that the Secretary properly refused to extend the time for compliance with Opinion Nos. 3 and 3-A as to Docket No. RP71-77. PSNY next focuses on the question as to whether refunds can appropriately be ordered in Docket No. RP71-77. PSNY notes that, if Consolidated is permitted to retain revenues found to be excessive as a result of a determination of the depreciation issue in Docket No. RP71-77, then the Commission's action in remanding the depreciation issue in that docket for further hearing "was meaningless, if not void ab initio." PSNY argues that Consolidated should be estopped from raising this issue at this late date. PSNY contends that serious problems of laches or waiver would exist, if no refunds could be required, as a result of Consolidated's untimely argument.

Consolidated's contention is without merit. The rates which Consolidated actually charged, subject to refund, during the locked-in period covered by Docket No. RP71-77, were based on Consolidated's estimated cost of service filed in that proceeding. If the company's revenues had been more than the cost of service ultimately found to be just and reasonable, it (and its shareholders) would have earned a higher rate of return than that actually approved by the Commission. In Docket No. RP71-77, Consolidated's revenues were less than those approved by the FPC as a just and reasonable cost of service for that period.[5] As a result, Consolidated and its shareholders earned a lower return than that found to be just and reasonable. This is not an inequitable result, however, "for the obvious reason that the hazard that the [utility] will not earn a profit remains on the company in the case of regulated, as well as an unregulated, industry."[6]

The FERC will not permit the company to employ revenues found to be excessive in the severed depreciation case to offset the revenue deficiency it experienced in the cost of service phase of these proceedings. This decision is in keeping with established ratemaking principles.[7] Additionally, this decision serves to assure a finality of decisions on those severed issues decided first by the Commission.

Consolidated miscasts the Secretary's notice as "purporting to require immediate refunds for the Docket No. RP71-77." The Secretary's notice did not modify nor was it intended to modify Opinion Nos. 3 and 3-A, all which required that "all amounts found in excess of the approved rates of depreciation shall be refunded."

Consolidated further argues that the Commission Secretary's notice also purports "to require the filing of tariff sheets and disbursement of refunds by May 31, 1978, thus modifying the Commission's orders of July 5, 1977, approving the provision of the settlement proposal that refunds would not be made in Docket No. RP73-107, RP74-90 and RP75-91 until determination of cost allocation issues by the Commission." The Commission Secretary established May 31, 1978, as the date for the disbursement of refunds, since it appeared that the Commission would issue either an order on rehearing of Opinion No. 819 or an order on the Stipulation and Agreement filed on November 28, 1977 in Docket No. RP73-107, RP74-90, RP75-91, RP77-7 and RP77-140 concerning the cost allocation issues, before May 31, 1978. This is indeed the case. The Commission is today issuing an order approving the Stipulation and Agreement filed on November 28, 1977, thereby rendering moot Consolidated's motion to rescind or grant rehearing of the Secretary's notice.

In its motion of March 9, 1978, Consolidated requests the Commission to stay its orders requiring refunds in Docket Nos. RP71-77 (Remand), RP73-107, RP74-90, and RP75-91 (Depreciation), since it is seeking judicial review of Opinion Nos. 3 and 3-A. PSNY also opposes Consolidated's motion for a stay of the Commission's order to issue refunds in Opinion Nos. 3 and 3-A.

The Commission finds that Consolidated has failed to meet the test established by *Virginia Petroleum Jobbers Association* v. *F.P.C.* [8] and *Washington Metropolitan Area Transit Commission* v. *Holiday Tours, Inc.*[9] *Consolidated has not shown that it will be irreparably injured in refunding excess depreciation charges to its customers.*

The Commission further finds that, while the issuance of a stay would not substantially harm the other parties to these proceedings, the public interest requires that the Consolidated's customers receive the refunds which have been withheld from them in the course of these protracted regulatory proceedings. Finally, the Commission finds that Consolidated has not made a strong showing that it would prevail on the merits of its appeal of Opinion Nos. 3 and 3-A.

In accordance with the Court's findings in *Holiday Tours, Inc.*, the Commission finds that Consolidated has not raised questions "so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation."[10] Indeed, the U.S. Court of Appeals for the District of Columbia has already ruled on the issue of depreciation rates for natural gas pipeline companies in the Memphis case,[11] on which the FERC relied in Opinion Nos. 3 and 3-A.

In conclusion, Consolidated's motion of March 9, 1978, should be denied in its entirety.

The Commission finds: The Consolidated's motion of March 9, 1978, should be denied in its entirety.

The Commission orders: Consolidated's motion of March 9, 1978, is hereby denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-10060 Filed 4-14-78; 8:45 am]

---

[5] *Consolidated Gas Supply Corp.*, Docket No. RP71-77, Opinion No. 703, issued on August 28, 1974. In Opinion No. 703, the FPC prescribed a just and reasonable cost of service, among other things, for Consolidated. Consolidated's filed rates were less than those determined to be just and reasonable by the FPC. Consolidated claims it experienced a "revenue deficiency" since it did not collect its full just and reasonable cost of service.

[6] *F.P.C.* v. *Natural Gas Pipeline Co.*, 315 U.S. 575, 590 (1942).

[7] *F.P.C.* v. *Tennessee Gas Transmission Co.*, 371 U.S. 145 (1962).

[8] 259 F. 2d 921 (D.C. Cir. 1958).

[9] 559 F. 2d 841 (D.C. Cir. 1977). v. *Benrus Watch Co.*, 206 F. 2d 738, 740 (2d Cir. 1953).

[10] 559 F. 2d at 844, citing *Hamilton Watch Co.*

[11] *Memphis Light, Gas and Water Division* v. *F.P.C.*, 504 F.2d 225 (D.C. Cir. 1974).

[6740-02]

[Docket Nos. RP73-107, RP74-90, RP75-91, RP77-7, and RP77-140 [1]]

CONSOLIDATED GAS SUPPLY CORP.

Order Denying Rehearing of Opinion No. 819 on Zoning Issue, Approving Settlement Agreement, Ordering Filing of Revised Tariff Sheets and Refunds and Ordering Prehearing Conference

APRIL 7, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of section 705(b) of the DOE Act provide that

---

[1] These docketed proceedings have not been officially consolidated by this Commission, and the Commission intends to consolidate only the rate of return issue in Docket No. RP75-91 with Docket No. RP77-7 and Docket No. RP77-140 by this order.

proceedings pending before the FPC on the date the DOE Act takes effect shall not be effected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a) (1) or 402(a) (2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On November 28, 1977, Consolidated Gas Supply Corp. (Consolidated) filed with the Commission[2] a Stipulation and Agreement signed by Consolidated and twelve of its jurisdictional customers.[3] Consolidated states that the agreement resolves all issues related to cost classification and allocation, rate design, and methods of zoning arising in Docket Nos. RP73-107, RP74-90, RP75-91, RP77-7, RP77-140, and Consolidated's next general proposed rate increase filing. Consolidated also filed revised tariff sheets in keeping with the terms of the agreement in Docket No. RP77-7, and requests the Commission to approve these rates and to make them effective December 1, 1977 in Docket No. RP77-7.

On February 17, 1978, Consolidated filed a motion requesting the Commission to revise its order of July 5, 1977 in Docket No. RP77-7, whereby the proceedings in that docket were held in abeyance. Consolidated also requests the Commission to consolidate the reserved rate of return issue in Docket No. RP75-91 with the pending cost of service issues in Docket Nos. RP77-7 and RP77-140. PSNY filed a response to this motion, urging the FERC to authorize the presiding Administrative Law Judge to phase the consolidated proceedings and to require the parties to update their testimony in Docket No. RP75-91. The Commission will consolidate these proceedings, but finds it unnecessary to grant to the Administrative Law Judge authority which the Commission regulations already bestow upon him.

The Commission's Acting Secretary issued a notice of the filing of this agreement and the revised tariff sheets on December 12, 1977, providing for the filing of initial comments on or before December 22, 1977 and for the filing of reply comments on or before January 4, 1978. Certain parties filed timely comments while other parties, including the Commission Staff, filed untimely comments accompanied by motions requesting the Commission for leave to file comments in an untimely fashion. The Commission hereby grants these motions. The settlement agreement was actively supported in comments from the Staff, the Public Service Commission of New York (PSNY), Rochester Gas and Electric Co. (RG&E), and Consolidated. The Pennsylvania Public Utilities Commission (PPUC) alone "urges that the stipulation and agreement not be adopted."

The procedural history of these proceedings is explained in Opinion No. 819 and the introduction to the agreement, and need not be reiterated here. The settlement agreement resolves all cost classification, cost allocation, rate design and zoning issues in six dockets. The agreement is in keeping with the FPC's Opinion No. 819, with the exception of the three-part rate design. The agreement further provides that neither the agreement nor any of its provisions shall become effective unless approved by the Commission without modification or condition, except if the parties agree to the modifications or conditions imposed by the Commission. In submitting the agreement, the parties note that they shall not be "deemed to have waived any claim or right which [they] may otherwise have with respect to any matters not expressly provided for herein."

A. Three Part Rate

The agreement follows the principles established in Opinion No. 819, issued in Docket Nos. RP73-107 and RP74-90[5] on August 12, 1977, with a few exceptions. First, the parties agree to the *United*[6] method of cost classification, allocation, and rate design which the Commission applied to the system on a prospective basis in Opinion No. 819. Because Opinion No. 819 has not become final and nonappealable, the two-part *United* rate design approved by the Commission has not yet taken effect. The parties agree that three-part rates based upon the *United* method should be applied in Docket No. 77-7, as of December 1, 1977, and thereafter.

The parties agree to the *Seaboard*[7] method of cost classification, allocation, and rate design in certain dockets in keeping with the mandate in Opinion No. 819 to apply the *United* method on a prospective basis only. No initial decision or Commission order with regard to the proper method of cost classification, allocation and rate design has been issued with respect to Docket No. RP75-91, which covers a locked-in period from November 1, 1975 to April 30, 1977. In that proceeding, Consolidated followed the *Seaboard* methodology. It is clearly the intent of the parties not to apply the *United* methodology until December 1, 1977. The Commission will approve this provision of the agreement, allowing the *Seaboard* method to remain in effect for the locked-in periods covered by Docket Nos. RP73-107, RP74-90, and RP75-91, and from May 1, 1977 until November 30, 1977 in Docket No. RP77-7. The *United* method of cost classification, allocation, and rate design is accordingly approved as set forth in the settlement agreement.

The Commission also finds the use of systemwide three part rates reasonable for purposes of settlement in these proceedings. This proposed rate design basically follows the traditional *United* method. The proposed demand charge reflects all of the demand purchased gas costs, and 25 percentof the fixed transmission and storage costs. The proposed commodity charge reflects 75 percent of the fixed transmission costs, 100 percent of the variable transmission costs and all remaining production costs. A third proposed charge, the winter requirement quantity charge, reflects 75 percent of the fixed costs and 100 percent of the variable costs associated with the storage function, based upon winter period (November 1 through March 31) deliveries. Storage costs are thus allocated to a separate component which is similar to the demand component in that it is included in the minimum monthly bill, along with the demand charge.[8]

In essence, the proposed method of cost allocation assures that most stor-

---

[2] The "Commission" when used in the context of an action taken prior to Octobor 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[3] The Stipulation and Agreement was signed by the following customers: Corning Natural Gas Corp., The East Ohio Gas Co., Fillmore Gas Co., Hanley and Bird, New York State Electric and Gas Corp., Niagara Mohawk Power Corp., The Pavilion Natural Gas Co., National Fuel Gas Supply Corp., Peoples Natural Gas Co., The River Gas Co., Rochester Gas and Electric Co., and Southern Tier Gas Corp.

[4] The Pennsylvania Public Utilities Commission (PPUC) and the Commission Staff filed untimely initial and reply comments, respectively. The untimely comments filed by the Algonquin Gas Transmission Co., which did not file a motion for leave to file untimely comments, are also accepted.

[5] By an Errata Notice issued on September 30, 1977, in Docket Nos. RP73-107 and RP74-90, references to the proceedings in Docket No. RP75-91 were deleted from Opinion No. 819.

[6] *United Gas Pipe Line Company*, 50 FPC 1348 (1973), *aff'd. sub nom. Consolidated Gas Supply Corporation*, 520 F.2d 1176 (D.C. Cir. 1975).

[7] *Atlantic Seaboard Corporation*, 11 FPC 43 (1952).

[8] *Consolidated Gas Supply Corporation*, 37 FPC 593 (1967).

age costs will be collected on a monthly basis, rather than being collected in indefinite amounts which vary with the volume of sales in the commodity component. The proposed three-part rate allows Consolidated to charge for storage costs in the manner in which those costs are incurred, that is, on a seasonal basis for winter deliveries. For this reason, the Commission finds that the proposed three-part rate is reasonable on Consolidated's system, for purposes of settlement, and accordingly approves this aspect of the agreement.

The three part rate structure was first used on the Consolidated System for affiliated customers in 1967.[9] The three-part rate structure was first proposed for Consolidated's non-affiliated customers in Docket No. RP74-90. Until this filing, Consolidated had straight (or blocked) commodity rates for its major non-affiliated customers. The imposition of the three-part rate structure on the non-affiliated customers was opposed by Rochester Gas and Electric Company. In Opinion No. 819 the FPC found that a two-part rate structure was appropriate for the Consolidated system. No party requested rehearing of this determination.[10] However, we view the settlement agreement before us as a package and shall approve the three-part rate structure for the Consolidated system as being reasonable in the context of the overall settlement presented to us.

In approving the three-part rate structure for the Consolidated system, we note that, while this rate structure is unique to Consolidated, it is similar in function to rate forms used by other pipeline companies having, as does Consolidated, substantial amounts of storage. These companies generally use a special storage rate schedule. The customers using storage facilities and services are assessed the costs associated with such facilities and services under the storage rate schedule. The three-part rate structure similarly attempts to assess storage costs on the basis of use. This similarity of function persuades us that its inclusion in the settlement agreement is reasonable.

B. ZONING

The settlement agreement provides for the gradual elimination of zones on the Consolidated system. Specifically, the agreement provides for the merger of Zones 2 and 3, as prescribed in Opinion No. 819, for the periods covered by Docket Nos. RP73-107, RP74-90, and RP75-91 and for Docket No. RP77-7 from May 1, 1977, through November 30, 1977, and for certain other differentials to take effect as of December 1, 1977, and April 1, 1978, the dates the rates become effective in Docket Nos. RP77-7 and RP77-140, respectively. The agreement further provides for the complete elimination of rate zones by July 1, 1979. PPUC objects to this portion of the settlement agreement. The Commission finds that this portion of the agreement is just and reasonable, for the reasons provided in Opinion No. 819 on this matter, and as further set out below.

None of the parties are deemed to have waived rights to which they are entitled as a matter of law by the filing of this settlement agreement. Included among those rights is a right to rehearing of Opinion No. 819 in Docket Nos. RP73-107 and RP74-90. PPUC fully stated its objections to the Commission's decision on the zoning issue in its Application for Rehearing on Opinion No. 819. The Commission will rule upon the merits of PPUC's contentions in this order and deny rehearing of this issue in Docket Nos. RP73-107 and RP74-90.

In its Application for Rehearing, PPUC contends that zones should not be gradually eliminated on the Consolidated system. PPUC argues that the record in Docket Nos. RP73-107 and RP74-90 does not support the Commission's conclusion that zones should gradually be eliminated. As noted by the Public Service Commission of New York (PSNY) and RG&E,[11] Opinion No. 819 contains a full analysis of record evidence in support of the Commission's determination of the zoning issue. The Commission took note of pertinent facts, for instance, that Consolidated operates as a fully integrated system which is able to serve the requirements of all of its customers, regardless of their location on the system, that the maximum distance of haul is little more than the distance of haul in one zone on a long-line pipeline system, that Consolidated purchases and/or produces gas in each state in which it operates, and that natural gas flows in different directions within the transmission system in the course of the year.[12]

PPUC next notes in its Application for Rehearing that the record in Docket Nos. RP73-107 and RP74-90 showes that the elimination of zones may result in an estimated annual increase of $7 million for Peoples. PPUC argues that this shift in costs "constitutes undue prejudice to Pennsylvania and undue preference of New York." No showing has been made that the elimination of zones creates an undue preference for New York. To the contrary, Opinion No. 819 ordered the elimination of zones to remove an existing undue preference toward Pennsylvania customers which results reom such rate design. Consolidated purchases and/or produces gas in each state in which it operates, and natural gas flows in different directions within the transmission system in the course of the year. Removal of zone rates recognizes these operational characteristics of the system and requires the elimination of zones in order to apportion costs in accordance with the incurrence of costs and to remove to the extent practicable preferences which zone rates afford customers such as those in Pennsylvania. Moreover, the FPC fully considered the impact of the shift in costs, and determined the gradual elimination of zones, beginning with the merger of Zones 2 and 3, would create a minimal burden on affected customes.

The settlement agreement additionally provides that the cost of natural gas to Peoples, for the periods covered by Docket Nos. RP77-7 and RP77-140, would be less than the cost prescribed for Peoples by Opinion No. 819. In urging the Commission to reject PPUC's objections to the settlement agreement, Peoples recomments that, "apart from the beneficial effect of decreasing the cost of gas to Peoples from that which would result under Opinion No. 819, approval of the Stipulation and Agreement would further benefit Peoples and the consumers it serves by removing the uncertainty that would result from continuing litigation."[13] RG&E concurs in the argument set forth by Peoples.

In addition to rejecting PPUC's arguments on the merits, the Commission finds that certain important considerations regarding the treatment of settlements are before us here. This Commission is reluctant to continue proceedings solely to relitigate issues just recently decided in which all parties but one have reached an agreement and submitted it to the Commission. The parties before us have engaged in protracted litigation over essentially the same issues in five docketed proceedings involving Consolidated Gas Supply Corporation. The earliest case here was filed on June 13, 1973. Settlement of highly controversial issues in these proceedings is thus a desirable action by parties who have painstakingly set forth their views on the record and will hopefully conclude what could otherwise be extended litigation of this issue. Moreover, the set-

[9] The demand, commodity, and winter requirement quantity charges comprise one rate schedule. The winter requirement quantity charge will vary with the amount of storage used by the particular customer billed.

[10] RG&E did ask for clarification to provide that the two-part rate structure would substitute for the existing three-part rate structure.

[11] PSNY's Response to Comments Opposing Settlement of Cost Allocation, Zoning and Rate Design Issue, at 1-3; RG&E's Reply Comments, at 3-4.

[12] Opinion No. 819, at 13-14, and 16.

[13] Peoples' Reply Comments, at 1.

tlement represents a good balance of the competing interests involved. The gradual elimination of zones is also desirable as it protects against possible abrupt changes in rates during the changeover. It is therefore in the public interest to accept this settlement agreement, which we find just, reasonable, and supported by record evidence filed in Docket Nos. RP73-107 and RP74-90. Additionally, the Commission hereby denies rehearing of Opinion No. 819 on the zoning issue in Docket Nos. RP73-107 and RP74-90.

The settlement agreement on zoning also covers Docket Nos. RP75-91, RP77-7 and RP77-140 as well as a docket yet to be filed by Consolidated.[14] No evidence on the zoning issue has been formally certified to the Commission in these dockets.[15] Nevertheless, the issue of zoning has been considered fully by the FPC and by this Commission on rehearing of Opinion No. 819 in this order. We believe we have responded sufficiently to PPUC's concern that the zoning issues be resolved in the underlying dockets on the basis of substantial evidence in the record and discussion in Opinion No. 819. Having reached that conclusion, we see no benefit in remanding the zoning issue for further litigation in the later dockets. PPUC's comments on the settlement do not specifically request such a procedure in the event they do not prevail on the merits of the zoning issue in the two underlying cases on rehearing and no circumstances are evident that would warrant relitigation of the zoning issue in the top three dockets. This Commission is not required, as a matter of law, to relitigate the zoning issue in each subsequent rate case which Consolidated may file.[16] A party desiring to raise this issue again, must, at a minimum, show that the current operations and cost determinants are substantially and materially different from those on which we based our determination in Opinion No. 819. No showing of changed circumstances has been made or alleged by PPUC.

The determination of the appropriate method of rate design for a pipeline system is based necessarily upon relatively stable characteristics of a pipeline system. For instance, in Opinion No. 819, the pipeline's sources of supply, pipeline flows over the course of a year, and the relative length of the transmission system, were all important factors considered in exercising the discretion based upon record evidence to decide the zoning issue. These characteristics do not ordinarily fluctuate significantly over short periods of time; particularly over the period of time involved in the three rate proceedings following Docket No. RP74-90, the top docket in Opinion No. 819. Consequently, the design of rates is not a matter that ought to be continually relitigated in the absence of demonstrated changed circumstances. The settlement, in effect, establishes a moratorium on relitigation of the rate design issue during the period required to freely implement the settlement rate design. Based on the foregoing considerations the Commission finds that the rate design moratorium provisions are reasonable and should be approved.

Finally, the Commission finds the consolidation of Docket No. RP75-91 (Rate of Return) with Docket Nos. RP77-7 and RP77-140 for purposes of holding further proceedings on the cost of service issues in those proceedings to be in the public interest. The Commission will also order a prehearing conference for the purpose of establishing procedural dates for filing testimony and proceeding with evidentiary hearings and for the purpose of encouraging further settlement negotiations of these issues.

The Commission further finds: (1) The Applicant, Consolidated Gas Supply Corporation, is a "natural gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas subject to the order which follows as a part of this decision are sales of natural gas in interstate commerce for resale subject to the jurisdiction of the Commission.

(2) It is necessary and proper in the administration of the Natural Gas Act to accept the proposed Stipulation and Agreement filed in these proceedings.

(3) Applicant should be required to make refunds to its jurisdictional customers for the periods covered by Docket Nos. RP73-107, RP74-90, RP75-91 and RP77-7. Such refunds should be computed in accordance with Article III of the Stipulation and Agreement and should be consistent with all outstanding prior orders of the Commission in these proceedings.

(4) Consolidated's tariff sheets filed on November 28, 1977, should be accepted for filing to become effective on December 1, 1977, subject to refund in Docket No. RP77-7.

(5) Applicant should be required to refund to its jurisdictional customers any amounts reflecting the difference between its proposed rates in Docket No. RP77-7 and the rates set forth on the tariff sheets described in (4) above for the period December 1, 1977, through March 31, 1978.

(6) Applicant should be required to file revised tariff sheets in docket No. RP77-140 to become effective, subject to refund, on April 1, 1978, to implement the terms of the Stipulation and Agreement.

(7) Applicant should be required to refund to its jurisdictional customers any amounts reflecting the difference between the rates actually billed and the rates set forth on the tariff sheet described in (6) above. Such refunds should cover the period beginning April 1, 1978, and ending on the effective date of billings under the tariff sheets described in (6) above.

(8) A prehearing conference should be held in Docket Nos. RP77-7 and RP77-140 to establish procedures for the determination of the cost of service issues arising in both docketed proceedings, and the issue of rate of return in Docket No. RP75-91.

The Commission orders: (A) The Stipulation and Agreement filed with the Commission in these proceedings is incorporated herein by reference and is hereby approved.

(B) This order, to the extent that it approves the settlement of issues herein, is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by, or against, any person or party.

(C) Within 75 days of the issuance of this order, Applicant shall report to the Commission refunds made to its customers for the period beginning on December 1, 1973, when these proposed rates became effective, and ending October 10, 1974, with interest at 7 percent per annum from the date of payment to October 10, 1974, and for the period beginning October 10, 1974, with interest at 9 percent per annum from the date of payment to date of refund, in accordance with the Commission's Rules and Regulations, in Docket Nos. RP73-107, RP74-90, RP75-91, RP77-7, and RP77-140. A copy of the refund report shall also be sent to the appropriate state commission.

(D) Docket Nos. RP75-91 (Rate of Return), RP77-7 and RP77-140 are

---

[14] In effect, the settlement imposes a moratorium on Consolidated and the parties upon litigation of the zoning issue in Docket Nos. RP77-7, RP77-140 and Consolidated's next rate filing. This moratorium is particularly desirable because the elimination of zoning will not be completed by the terms of the settlement until July 1, 1979.

[15] The Commission hereby *sua sponte* incorporates by reference the company's filings in Docket Nos. RP77-7 and RP77-140 into the record in these proceedings.

[16] "When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply *res judicata* to enforce repose." *U.S. v. Utah Construction Company,* 384 U.S. 394, 422 (1965). The appellate court recognized this point in *Michigan Wisconsin Pipe Line Company v. F.P.C.* when it stated that "[t]here is no question that the Commission may attach precedential, and even controlling weight to principles developed in one proceeding and then apply them under appropriate circumstances in a stare decisis manner." (520 F. 2d 84, 89 (D.C. Cir. 1975).)

hereby consolidated with each other for purposes of hearing and decision on the remaining unresolved issues arising in those proceedings.

(E) Pursuant to the authority of the Natural Gas Act, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a prehearing conference shall be held at a date to be established by an Administrative Law Judge to be designated by the Chief Administrative Law Judge to explore the possibility of further negotiations or to establish a hearing date for the rate of return issue in Docket No. RP75-91 and the cost of service issues in Docket Nos. RP77-7 and RP77-140. The Presiding Administrative Law Judge shall preside at the initial conference in these proceedings, with authority to establish and change all procedural dates, and to rule on all motions (with the exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss as provided for in the Rules of Practice and Procedure).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-10061 Filed 4-14-78; 8:45 am]

[6740-02]

[Docket No. CP75-182]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition to Amend

APRIL 7, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "saving provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on March 24, 1978, Michigan Wisconsin Pipe Line Co. (Petitioner), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP75-182 a petition to amend the order of July 7, 1977 (57 FPC —) issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to store during 1978 9,000,000 Mcf of gas for Northern Natural Gas Co., Natural Gas Pipeline Co. of America and The Peoples Gas Light & Coke Co. (The Storage Customers), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that in its original application filed in the instant docket, Petitioner requested authorization, among other things, to render long-term storage and related transportation services for The Storage Customers. As originally proposed, Petitioner would transport, store and redeliver an aggregate annual volume of 9,000,000 Mcf for The Storage Customers, it is said. Petitioner states that it noted in its original application that its ability to store the 9,000,000 Mcf was dependent on the development of additional storage, authority for which was then pending before the FPC in Docket No. CP74-316. Consequently, Petitioner as an interim measure arranged for the storage of the 9,000,000 Mcf by Michigan Consolidated Gas Co. (Consolidated) during the 1975 storage injection cycle and 5,000,000 Mcf during the 1976 storage injection cycle, with Petitioner storing the remaining 4,000,000 Mcf during the 1976 storage injection cycle and the full 9,000,000 Mcf in 1977 and thereafter.

It is stated that because of the delay experienced by Petitioner in acquiring and developing additional storage as proposed in Docket No. CP74-316, Petitioner and Consolidated proposed in Docket Nos. CP75-182 and CP75-200, respectively, to extend for one year the interim storage arrangement, with Consolidated storing the full 9,000,000 Mcf in 1976 and 5,000,000 Mcf in 1977 and Petitioner storing 4,000,000 Mcf in 1977 and 9,000,000 Mcf in 1978 and subsequently. It is indicated that pursuant to the FPC letter-order of April 15, 1977, a further extension of one year was granted.

It is further indicated that pursuant to the FPC order of July 7, 1977, Petitioner was authorized, among other things, (i) to acquire and operate the Muttonville, Capac and Leonard storage fields as requested in Docket No. CP76-316; (ii) to provide the storage and related trnasportation services for the storage customers as requested in Docket No. CP75-182. Further, it is stated, the order authorized Consolidated to store the 9,000,000 Mcf of gas for The Storage Customers in 1977 and 5,000,000 Mcf in 1978, with Petitioner storing 4,000,000 Mcf in 1978 and the full 9,000,000 Mcf in 1979 and subsequent years.

Petitioner states that the acquisition and development of the Capac storage fields have now progressed to the point where there is no further need for Consolidated to store any portion of such gas. Accordingly, Petitioner and Consolidated have further amended the agreement dated November 26, 1974, pursuant to which Consolidated has provided the interim storage service to delete the provision for the storage of 5,000,000 Mcf of gas for The Storage Customers during 1978, it is indicated.

Consequently, Petitioner requests modification of the FPC order of July 7, 1977, in the instant docket to authorize Petitioner to store during 1978 the full 9,000,000 Mcf of gas for The Storage Customers in lieu of the provision in such order authorizing the storage of 4,000,000 Mcf by petitioner and the storage of 5,000,000 Mcf by Consolidated in 1978.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 28, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-10062 Filed 4-14-78; 8:45 am]

[6740-02]

[Docket No. ER78-236]

NORTHERN INDIANA PUBLIC SERVICE CO.

Order Accepting for Filing, Suspending Proposed Rate Increase, Denying Motion To Reject, Granting Intervention, Providing for Hearing and Establishing Procedures

APRIL 6, 1978.

On March 7, 1978, the Northern Indiana Public Service Company

(NIPSCO) tendered for filing new tariff sheets[1] to incorporate Rate Schedule VA5[1] into NIPSCO's Federal Power Commission Electric Service Tariff, Second Revised Volume No. 1. Rate schedule VA5 provides for the construction of specific transmisstion facilities to serve those new municipal customers (Municipalities)[2] who request such service but are not presently being served on NIPSCO transmission line. In support of its filing, NIPSCO states that the rates included in Rate Schedule VA5 are the same as those rates included in NIPSCO's Federal Power Commission Electric Service Tariff, Second Revised Volume No. 1—Rate Schedule VA1—Wholesale Service Applicable to Municipalities (Rate Schedule VA1).[3] Unlike Rate Schedule VA1, the proposed Rate Schedule VA5 provides for an option of either a surcharge or a nonrefundable contribution in aid of construction to cover the cost of extending lines from NIPSCO to the Municipalities to provide the requested service.

Each customer choosing the surcharge form of payment shall pay, in addition to a demand and energy payment, a surcharge to amortize the investment and cost of money required by NIPSCO to build and connect transmission lines which are suitable and adequate to provide service to the Municipalities. This surcharge shall be applied to the number of Kwh as agreed to in the Service Agreement between the customer and NIPSCO and applied in each twelve (12) month period of the contract for the initial ten year period of the contract on an amount per Kwh determined in accordance with a specified formula.

Notice of tenders for filing was given on March 16, 1978, with comments due on or before March 27, 1978.

On March 27, 1978, the City of Rensselaer (Rensselaer) filed a document entitled "Protest, Petition to Intervene, Motion to Reject, Or In The Alternative Request for Five-Month Suspension and Hearing". In support of its request to be granted intervenor status, Rensselaer, inter alia, states that, as an isolated system, it faces a potential emergency situation this summer unless it can obtain an immediate interim interconnection to insure continued service in the event that its largest generating unit fails during peak demand periods. We shall grant Rensselaer intervenor status inasmuch as Rensselaer has demonstrated an interest of such natur that Rensselaer's participation may be in the public interest (See, § 1.8(b)(3) of the Commission's Rules of Practice and Procedure).

In support of its motion to reject (or, in the alternative, request for a five month suspension) Rensselaer objects to certain features of the proposed VA5 rate schedule. Specifically, Rensselaer criticizes the provision in the rate schedule which requires the customer to sign a contract agreeing to take its total requirements from NIPSCO. Rensselaer postulates that this provision would preclude it from using its own generating facilities or from purchasing bulk power from other sources. Furthermore, Rensselaer objects to the "surcharge" provision of the rate schedule that requires Rensselaer to pay the "entire cost of such additional facilities as NIPSCO determines are necessary to provide service to Rensselaer".[4] Rensselaer surmises that the practical effect of the "total requirements" provision and the "surcharge" provision is tantamount to a tying arrangement[5] and as such, violates the antitrust laws and the public interest standard of the Federal Power Act. Finally, Rensselaer contends that NIPSCO failed to file certain data (i.e., billing comparisons, ets.) required by Section 35.13(b) of our Commission Regulations.

Based on our review of the tendered filing and the pleading herein, we find that the proposed VA5 Rate Schedule has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful under the Federal Power Act. Moreover, our review indicates that (1) NIPSCO's filing should not be rejected inasmuch as NIPSCO's filing substantially complies with the Commission's Regulations (*Municipal Light Boards* v. *F.P.C.*, 450 F. 2d 1341 (D.C. Cir. 1971)), and (2) that it is in the public interest to suspend the filing for one day to become effective subject to refund on April 7, 1978.[6] In addition, the various factual issues raised in Rensselaer's pleading are proper inquiries for a hearing in this docket. Accordingly, a hearing shall be ordered to determine the lawfulness of NIPSCO's filing.

The Commission finds: (1) Good cause exists to deny Rensselaer's Motion to reject Northern Public Service Company's filing or, in the alernative, to suspend that filing for five months.

(2) It is necessary, proper, and in the public interest to aid in the enforcement of the provisions of the Federal Power Act that the Commission, enter upon a hearing concerning the lawfulness of Rate Schedule VA5 (tendered by Northern Indiana Public Service Company on March 7, 1978), establish procedures for that hearing, accept Rate Schedule VA5 for filing, and suspend the operation of Rate Schedule VA5 for one day to become effective April 7, 1978, subject to refund.

(3) Participation of the City of Rensselaer in this proceeding may be in the public interest.

The Commission orders: (A) The City of Rensselaer is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that participation of such intervenor shall be limited to the 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 by the Commission that it might be aggrieved by any orders entered in this proceeding.

(B) Rensselaer's motion to reject Northern Indiana Public Service Company's filing or in the alternative, suspend that filing for five months is hereby denied.

(C) Rensselaer's motion to reject or in the alternative, suspend for five months is hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402 of the DOE Act and the Federal Power Act, particularly Sections 205, 206, 301, 307, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the Rate Schedule VA5 filed herein on March 7, 1978.

(E) Pending such hearing and decision thereon, the proposed VA5 Rate Schedule filed on March 7, 1978 is hereby accepted for filing, suspended

[1] For designation see Appendix.

[2] The municipalities which are to be furnished service are located in the following counties: Benton, Carroll, De Kalb, Elkhart, Fulton, Jasper, Kosciusko, Lagrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, St. Joseph, Starke, Steuben, Warren, White, and Whitley.

[3] NIPSCO's present municipal customers are served under Rate Schedule VA1 consisting of a single demand charge and a two step block energy, which is subject to a fuel adjustment clause conforming to Order No. 517 (Section 35.14 of the Commission's Regulations).

[4] Rensselaer also states that NIPSCO's requirement that it bear the entire cost of the construction of facilities in order to receive service from NIPSCO is a violation of Commission precedent of using the "roll in" approach to assignment of transmission costs.

[5] Rensselaer describes the alleged "tying arrangements" as follows: NIPSCO is "tying in the sale of wholesale power with the requirement of an all-requirement contract which also requires Rensselaer to bear the full cost of an unspecified amount of new facilities."

[6] Although NIPSCO did not state when the operation of the VA5 Rate Schedule is to commence, we will assume, absent evidence to the contrary, that the operation of such documents is to commerce 30 days after filing (April 6, 1978). Section 205(d) of the Federal Power Act requires 30 days notice for changes in rate schedules.

for one day, and the use thereof deferred until April 7, 1978, when it shall become effective, subject to refund.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge (See, Delegation of Authority, 18 CFR 33.5(d)) for that purpose shall preside at an initial conference in this proceeding to be held on July 6, 1978, at 10 a.m. (ET) in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(G) Nothing contained herein shall be sonstrued as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.[1]

KENNETH F. PLUMB,
Secretary.

ATTACHMENT

NORTHERN INDIANA PUBLIC SERVICE CO., FPC ELECTRIC SERVICE TARIFF—SECOND REVISED VOLUME NO. 1

Dated: March 7, 1978

Filled: March 7, 1978

Designation	*Description*
First Revised Sheet No. 1 (Supersedes Substitute Original Sheet No. 1).	Table of Contents
Original Sheet Nos. 27 to 32....	Rate Schedule VA-5 Wholesale Service
Original Sheet Nos. 35 to 38....	Form of Service Agreement

[FR Doc. 78-10063 Filed 4-14-78; 8:45 am]

[6740-02]

[Docket No. CP78-255]

NORTHERN NATURAL GAS CO.

Application

APRIL 6, 1978.

Take notice that on March 25, 1978, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP78-255 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities of its Hooper, Nebr., compressor station from its transmission system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it presently has a total of 6,420 compressor horsepower installed at its Hooper Station consisting of one 1,320-horsepower unit and six 850 horsepower units, and that during the past two heating seasons it has been able to meet its peak day delivery obligation without using the horsepower installed at the Hooper compressor station. Applicant further states that be changing its system operation and more fully uitilizing the horsepower at the Palmyra compressor station, it was able to maintain the required volumes and pressures at the suction of the South Sioux City compressor station, thereby eliminating the need for the intervening Hooper compressor station. Applicant asserts that it does not anticipate any increase in its daily contractual obligation and, therefore, does not foresee any future need for the horsepower installed at the Hooper compressor station.

Applicant constantly has need for additional compressor horsepower on its systems and where possible utilizes compressor units which are available for relocation, it is said. It is indicated that Applicant has pending before the Commission in Docket No. CP78-187 an application which proposes, among other things, the abandonment and removal of the 1,320 horsepower unit from Hooper Station for installation at a new gathering compressor station to be located in Finney County, Kans.

By this applicant, Applicant requests authorization to abandon the balance of the compressor facilities at Hooper Station consisting of six 850-horsepower units which are old horizontal-type compressors. It is stated that these horizontal-type units, which are inefficient when compared to new vertical type units, have been in service for over thirty years. Applicant states that these units are not suitable for relocation and are proposed to be abandoned and that these units together with the remaining equipment and appurtenant facilities including the station structure and land would be sold. The estimated salvage value of the site, structure and equipment is $25,000, it is said. Applicant indicates that the proposed estimated cost of abandonment and removal of the Hooper Station facilities is $90,000 which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the publicd convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-10064 Filed 4-14-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Office of Energy Research

HIGH ENERGY PHYSICS ADVISORY PANEL

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the High Energy Physics Advisory Panel will meet Wednesday, May 3, 1978, and Thursday, May 4, 1978, at 9 a.m., in Room A-410 of the U.S. Department of Energy Building located in Germantown, Maryland.

The purpose of the Panel is to provide advice and guidance on a continuing basis with respect to the high energy physics research program.

The tentative agenda is as follows:

1. Status Report on Subpanel Studies of Full Cost Recovery in Computer Usage at the National Laboratories.
2. Long Range Planning and Projections.
3. Priorities and Impacts of the Fiscal Year 1979 Budgets for the Department of Energy and the National Science Foundation Programs in High Energy Physics.
4. Post-ZGS Future of High Energy Physics at Argonne National Laboratory.
5. The Fifth Meeting of the US-USSR Joint Committee on Cooperation in the Field of the Peaceful Uses of Atomic Energy.

[1]Commissioner Holden voted present.

6. Communicating the Results and Discoveries of High Energy Physics.
7. Public Comment (10 Minute Rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on April 12, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-10374 Filed 4-14-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 20084-20086; File Nos. 3322-C2-P-70 etc.; FCC 78-259]

RADIO DISPATCH CORP. ET AL.

Enlarging Issues, Memorandum Opinion and Order

Adopted: April 6, 1978.

Released: April 12, 1978.

By the Commission: Commissioner Fogarty absent.

In re Applications of Radio Dispatch Corporation, Pomona, Calif., Docket No. 20084, File No. 3322-C2-P-70; Mobilfone, Inc., Los Angeles, Calif., Docket No. 20085, File No. 3514-C2-P-(3)-70; Industrial Communications Systems, Inc., Los Angeles, Calif., Docket No. 20086, File No. 4611-C2-P-(4)-70; for construction permit for additional two-way channels in the Domestic Public Land Mobile Radio Service (DPLMRS).

1. In an Order, FCC 77—787, released November 16, 1977, we denied the application of Industrial Communications Systems, Inc. (Industrial) for review of a Review Board decision (63 FCC 2d 1061) which denied its application for Channels 23 and 25 in the Domestic Public Land Mobile Radio Service (DPLMRS), granted the application of Mobilfone, Inc. (Mobilfone) for Channel 23, and granted the application of Radio Dispatch Corp. (Radio Dispatch) for Channel 25. However, we held in abeyance the effectiveness of the grant to Radio Dispatch pending our ultimate resolution of a petition to enlarge issues against Radio Dispatch filed by Industrial.

2. We now have before us for consideration the petition to enlarge the issues, reopen the record and remand the proceedings, filed September 7, 1977, by Industrial, requesting an issue to determine whether Radio Dispatch possesses the requisite character qualifications to be a Commission licensee.[1]

3. In support of its petition to enlarge, Industrial alleges that the California Public Utilities Commission (PUC), which regulates DPLMRS common carriers in California, issued a decision on August 23, 1977 finding that Richard A. Howard (a 50 percent owner and principal of Radio Dispatch), while acting as manager of an unrelated radio-telephone company: (1) Knowingly installed and operated a transmitter without FCC authorization; (2) supervised the transformation of paging receivers which were licensed by the FCC so that they would receive signals on an unauthorized frequency; and (3) committed willful perjury in denying the above conduct during the course of the PUC hearing.[2] Petitioner claims that the commission of perjury by a principal of applicant reflects adversely on the basic character qualifications of Radio Dispatch and that the matter should be explored before the requested authorization can be granted.

4. In pertinent part § 1.229(b) requires that "Motions for modification of issues which are based on new facts or newly discovered facts shall be filed within 15 days after such facts are discovered by the moving party." Although Industrial filed its motion within 15 days after the issuance of the PUC decision, Radio Dispatch contends that the petition must be dismissed as untimely because, as a party to the PUC hearing, Industrial was aware of the possibility that Howard had committed perjury more than 15 days before it filed its petition to enlarge. This contention is without merit and must be rejected. The critical consideration is not the conflicting testimony at the hearing which suggested the possibility of perjury but the actual finding of perjury by the PUC. We, therefore, find that Industrial's petition was timely filed. Moreover, we would consider the merits of this petition even if it were not timely filed since the allegations therein raise a substantial public interest question involving the character qualifications of applicant. See *The Edgefield-Saluda Radio Company, et al.*, 5 FCC 2d 148, 149 (Rev. Bd. 1966).

5. Mobilfone and Radio Dispatch urge that Industrial's petition must be dismissed on its merits. They argue that Howard's perjury is not relevant to applicant's basic qualifications because the PUC determination pertains only to Howard, because Howard was not acting on applicant's behalf when the alleged misconduct occurred, and because Edward Konjoyan, the other stockholder, who had no knowledge of the alleged misconduct until the release of the PUC decision, has taken all steps necessary to remove Howard from active participation in Radio Dispatch. We disagree. The PUC determination is pertinent in evaluating applicant's basic qualifications to be a Commission licensee because Howard still owns 50 percent of applicant and, as prime incorporator of applicant, he was closely associated with Radio Dis-

---

[1] Also before the Commission are the following related pleadings: (a) Oppositions to Industrial's petition to enlarge, filed September 15, 1977, by Mobilfone and October 26, 1977, by Radio Dispatch; (b) reply to Mobilfone's opposition, filed September 27, 1977, by Industrial; (c) supplement to opposition to petition, tendered for filing October 31, 1977, by Radio Dispatch and petition for leave to file supplement; (d) reply to Radio Dispatch's opposition, tendered for filing October 31, 1977, by Mobilfone and petition for leave to file this reply; (e) comments on Industrial's petition to enlarge, filed November 9, 1977, by Chief, Common Carrier Bureau; and (f) consolidated reply, filed December 9, 1977, by Industrial. We will grant Radio Dispatch's petition for leave to file a supplement to its opposition to Industrial's petition to enlarge, filed October 31, 1977, inasmuch as it brings new relevant matters to the Commission's attention, and good cause was shown for acceptance of the supplement. Mobilfone's petition for leave to file a reply to Radio Dispatch's opposition to the petition to enlarge, filed October 31, 1977, will be denied. Under § 1.45(b) of the Commission rules only the party who filed the original pleading can reply. Mobilfone's argument that it should be authorized to file a reply because it was unaware of certain facts brought out in Radio Dispatch's opposition is not sufficient to justify the relief requested. Radio Disptach has discussed in its pleading the facts and their views as to why such facts should not affect the outcome of its application, and we are not persuaded that any useful purpose would be served by Mobilfone's tendered pleading in support of the opposition. Moreover, Mobilfone's application for Channel 23 has been granted and it has not shown how it will be adversely affected by a denial of its request to file another pleading.

[2] The testimony occurred in the course of litigation involving Hi-Desert Communications which is solely owned by Howard. *Martin E. Willson d.b.a. Victor Valley Radio-Telephone Co.* Application No. 55888.

patch throughout the pendency of this applicaton. Furthermore, the alleged misconduct, even though unrelated to the operation of DPLMRS Channel 25, did occur in connection with a matter pertaining to the operation of a common carrier. The Judge may conclude on remand that the considerations raised by Radio Dispatch are mitigating factors which justify granting the requested license despite Howard's perjury during the PUC proceeding. But, as we held in *Chapman Radio and Television*, 57 FCC 2d 76, 79 (1975), such a conclusion cannot be based solely on assertions in applicant's pleadings but can only be made after an evidentiary hearing where all pertinent information can be fully explored. See also *TV 9, Inc.* v. *FCC*, 495 F.2d 929, 939 (D.C. Cir. 1973).

6. Mobilfone, Radio Dispatch and the Common Carrier Bureau maintain that it is premature for the Commission to remand the proceedings at this point, inasmuch as Radio Dispatch intends to file a transfer of control application when Howard sells or transfers his stock and this will afford the Commission adequate opportunity to explore the character qualifications of all persons with a stock interest in Radio Dispatch. In our view no useful purpose would be served by delaying the commencement of an evidentiary hearing into these matters. In the circumstances of this case, Howard's alleged misconduct must be explored before final action is taken on the application of Radio Dispatch regardless of whether Howard actually sells his stock.

7. *Accordingly, it is ordered*, That the petition to enlarge issues filed September 7, 1977, by Industrial Communications Systems, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

8. *It is ordered*, That the hearing on the application of Radio Dispatch Corp. in Docket No. 20084 is severed from this consolidated proceeding and is reopened and remanded for further action as herein set forth; and that the issues in the Docket No. 20084 proceeding are enlarged to include the following:

(1) To determine all the facts and circumstances concerning the adjudication by the California Public Utilities Commission (PUC) that Richard A. Howard committed willful perjury before the PUC.

(2) To determine, in light of the evidence adduced under the foregoing issue, whether Radio Dispatch Corporation has the necessary character qualifications to obtain a grant of its application and whether the public interest would be served by granting applicant authority to operate DPLMRS Channel 25 located in the Los Angeles area.

9. *It is further ordered*, That the burden of proceeding with the introduction of evidence under Issue 1 shall be on Industrial Communications Systems, Inc.; and that the burden of proof under Issue 2 shall be on Radio Dispatch.

10. *It is further ordered*, That pursuant to the provisions of § 1.45(b) of the Commission's rules, petition for leave to file reply to Radio Dispatch Corporation's opposition, filed October 31, 1977, by Mobilfone, Inc. is denied, and the reply tendered for filing is rejected.

11. *It is further ordered*, That, pursuant to the provisions of § 1.45(c) of the Commission's rules, petition for leave to file supplement to opposition, filed October 31, 1977, by Radio Dispatch Corporation is granted, and the supplement is accepted for filing.

FEDERAL COMMUNICATIONS COMMISSION,

WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-10083 Filed 4-14-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE APPLICANTS

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916 (Stat. 422 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Shipper's Export Inc., 2320 Kings Highway, Brooklyn, N.Y. 11229. Officers: Donald Sandler, president, Sally Sandler, secretary.

Expert Forwarding, Inc., 739 Roosevelt Road, No. 304, Glen Ellyn, Ill. 60137. Officers: Thomas B. White, president, Theodore W. Tamul, secretary/treasurer.

A. J. Elliott, Inc., 4 Alger Street, Boston, Mass. 02127. Officers: Frederic A. Elliott, treasurer, Joseph D. Elliott, president, Rodney C. Schonland, vice president, Edward M. Pyne, vice president.

Dated: April 11, 1978.

By the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-10312 Filed 4-14-78; 8:45 am]

[6730-01]

VIRGINIA PORT AUTHORITY AND PORTSMOUTH TERMINALS

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 NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; 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 April 17, 1978. 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-3623.

Filing Party: Mr. J. Robert Bray, Acting Executive Director, Virginia Port Authority, 234 Monticello Avenue, 1600 Maritime Tower, Norfolk, Va. 23510.

Summary: Agreement No. T-3623, between Virginia Port Authority (Authority) and Portsmouth Terminals, Inc. (PTI), provides for the lease to PTI of approximately 2.2 acres of improved land located at Portsmouth, Va. The leased property will be used in connection with PTI's port operations, such as, for the storage of imported automobiles or other commodities which can be stored in the open. As compensation, PTI will pay Authority $9,240 per year as rent.

Agreement No.: T-3626.

Filing Party: Frank McRight, Esquire, McRight, Sims, Rowe & Bagwell, 508 Commerce Building, Mobile, Ala. 36601.

Summary: Agreement No. T-3626, between certain members of the Mobile Steamship Association (MSSA), is a funding agreement pro-

viding for the following assessments per long ton of cargo, exclusive of military cargo, loaded into or unloaded from any oceangoing vessel within the Port of Mobile by the participating MSSA members.

Classification A. Bulk cargo—not packaged and loaded without mark or count—$.001 L/T.
Classification B. Containers—$.300 L/T.
Classification C. Metals and metal products, exclusive of bulk cargo, of the type described in part 2 of the schedule 6 of schedule B of the "Statistical Classification of Domestic and Foreign Commodities Exported from the U.S." published by the U.S. Department of Commerce—$.060 L/T.
Classification D. General cargo not otherwise specifically provided for above—$.150 L/T.

The purpose of these assessments is to fund an obligation of the participating MSSA members resulting from a settlement with certain Locals of the International Longshoremen's Association, AFL-CIO (ILA), providing for a one-time payment of $283,618 to the Administrator of the MSSA ILA, AFL-CIO Vacation and Holiday Plan and Trust, for distribution to eligible employees in accordance with the terms of collective bargaining agreements made during negotiations with the ILA Locals. The agreement by its terms will terminate upon repayment of the principal and all interest on a loan obtained to pay this lump sum.

Agreement No.: 10118-4.

Filing Party: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Summary: Agreement No. 10118-4 extends the term of the Atlantic Steamship Energy Conservation Agreement (ASECA) from its present expiration date to June 4, 1981.

By Order of the Federal Maritime Commission.

Dated: April 12, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-10311 Filed 4-14-78; 8:45 am]

[6210-01

FEDERAL RESERVE SYSTEM

AMERICAN BANCOR, LTD.

Formation of Bank Holding Company

American Bancor, Ltd., Dickinson, N. Dak., 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 directors' qualifying shares) of American State Bank of New England, New England, N. Dak.; 97.75 percent of the voting shares (less directors' qualifying shares) of American State Bank of Dickinson, Dickinson, N. Dak.; and 100 percent of the voting shares (less directors' qualifying shares) of American State Bank of Killdeer, Killdeer, N. Dak. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than May 7, 1978.

Board of Governors of the Federal Reserve System, April 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-10285 Filed 4-14-78; 8:45 am]

[6210-01]

CHEMICAL FINANCIAL CORP.

Acquisition of Bank

Chemical Financial Corp., Midland, Mich., 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 of the voting shares of the successor by consolidation to National Bank of Marshall, Marshall, Mich. 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 5, 1978.

Board of Governors of the Federal Reserve System, April 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-10286 Filed 4-14-78; 8:45 am]

[6210-01]

FARMERS BANSHARES OF ABILENE, INC.

Formation of Bank Holding Company

Farmers Banshares of Abilene, Inc., Abilene, Kans., 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 Farmers National Bank of Abilene, Abilene, Kans. 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 May 9, 1978.

Board of Governors of the Federal Reserved System, April 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-10287 Filed 4-14-78; 8:45 am]

[6210-01]

THE KYOWA BANK LTD.

Formation of Bank Holding Company

The Kyowa Bank Ltd., Tokyo, Japan, 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 of Kyowa Bank of California, Los Angeles, Calif. 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 San Francisco. Any person wishing to comment on the applications 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 May 7, 1978.

Board of Governors of the Federal Reserve System, April 10, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-10288 Filed 4-14-78; 8:45 am]

[6210-01]

PAMPA BANCSHARES, INC.

Formation of Bank Holding Company

Pampa Bancshares, Inc., Pampa, Tex., 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 Citizens Bank and Trust Co., Pampa, Tex. 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 May 8, 1978.

Board of Governors of the Federal Reserve System, April 11, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-10289 Filed 4-14-78; 8:45 am]

[6210-01

REPUBLIC OF TEXAS CORP.

Proposed Retention of Exchange Security & Investment Co. and its subsidiary, Exchange National Life Insurance Co.

Republic of Texas Corp., Dallas, Tex., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2), for permission to retain voting shares of Exchange Security & Investment Co., Dallas, Tex. and its subsidiary, Exchange National Life Insurance Co., Scottsdale, Ariz. Notice of the application was published on March 3, 1978, in the Dallas Times Herald, a newspaper circulated in Dallas, Tex.; on March 7, 1978, in the Houston Post, a newspaper circulated in Houston, Tex.; and on March 5, 1978, in the Brownwood Bulletin, a newspaper circulated in Brown, Tex.

Applicant states that the subsidiaries would continue to engage in the activities of acting as reinsurer for credit life, credit accident and credit health insurance that is directly related to extensions of credit by its banking subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably by 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 interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 7, 1978.

Board of Governors of the Federal Reserve System, April 10, 1978.

GIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-10290 Filed 4-14-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt to Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on April 10, 1978 (EEOC, FCC, NRC), and April 11, 1978 (ICC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed EEOC, FCC, ICC, and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before May 5, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The EEOC requests clearance of a new Form 325, Lawyer Referral Service Application, in accordance with Section 81 of the EEOC Compliance Manual. Form 325 is an application to be completed by private attorneys who wish to participate in the EEOC referral program. The data enables the EEOC to identify the attorney to a charging party who requests legal assistance and informs the EEOC of the attorney's qualifications, experience, fee arrangement and other information pertinent to the attorney's law practice in order to make a successful referral. Use of the form is required of attorneys who wish to participate in the referral program. The EEOC estimates potential respondents to number approximately 1,000 and that reporting time will average 15 minutes per application.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests an extension without change clearance of Form 301, Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station. Form 301 is required by § 1.533 of the FCC's rules and regulations and is filed by applicants seeking authority to construct or make changes in an existing broadcast station. The FCC states that inasmuch as the form is used for a wide variety of applications, respondent burden varies considerably depending upon the nature of the application, ranging from 8 hours for minor changes in existing facilities to 2,080 hours for authority to construct a new facility. The FCC estimates it will receive approximately 1,107 applications annually.

The FCC requests an extension without change clearance of Form 303-A, Annual Programming Report. Form 303-A is required by § 1.526 of the FCC's Rules and Regulations. This form is used to compile statistical profiles of individual stations in order to ascertain how the programming of renewal applicants compare during the license period with programming of similar stations around the nation during an identical reporting period. The FCC estimates it will receive approximately 750 reports annually and that reporting time will average 8 hours per response.

The FCC requests an extension without change clearance of Form 323-E, Ownership Report for Noncommercial Educational TV, FM, or Standard Broadcast Station. Form 323-E is required by § 1.615(e) of the Commission's rules and regulations. This form is used to report all officers, members of governing boards and holders of one percent or more ownership interest. Form 323-E is also used to notify the FCC within 30 days of any changes in the data that was previously reported to the Commission. The FCC estimates respondents number approximately 1,380. However, since Form 323-E is filed at 3-year intervals, the FCC receives approximately 460 reports annually, plus approximately 100 changes, making a total of 560 ownership reports filed annually with a reporting time of approximately four hours per response.

NUCLEAR REGULATORY COMMISSION

The NRC requests an extension without change clearance of Form 483, Registration Certificate—In Vitro Testing With Byproduct Material Under General License. Form 483 is used to request a registration number for use of byproduct materials under a general license pursuant to 10 CFR 31.11. The byproduct materials covered are iodine-125, iodine-131, carbon-14, hydrogen-3, iron-59, selenium-75,

and mock iodine-125. Any hospital, clinical laboratory or physician may apply to use the byproduct material for the purpose of certain in vitro clinical or laboratory testing. The registration once obtained serves as evidence to suppliers of byproduct material that the physician, clinical laboratory or hospital receiving the material is authorized to receive it. The NRC estimates potential respondents to number approximately 425 and that reporting and recordkeeping time is the time to keep the registration on file or display to present to suppliers as proof of authority to receive byproduct materials.

INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Form OP-F-210, Special Application for Authority to Sell Securities Without Competitive Bidding. The data obtained by Form OP-F-210 is required by the ICC in order to pass on the merits of the applications filed by railroads for authority to sell securities without competitive bidding as required by Commission Regulations 49 CFR 1115.25. The ICC estimates that about 12-15 applications are filed annually and that it takes 12-15 hours to prepare such form. The forms are filed only once.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-10324 Filed 4-14-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[W-62970]

WYOMING

Application

APRIL 7, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 111 W.,
sec. 29, NE¼NE¼.

The proposed pipeline will transport natural gas from the Storm Shelter Unit No. 1A well to a point of connection with Northwest Pipeline Corp.'s proposed lateral A-1 pipeline all within the NE¼NE¼ of Section 29, T. 23 N., R. 111 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-10031 Filed 4-14-78; 8:45 am]

[4310-84]

[W-63227]

WYOMING

Application

APRIL 7, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo. has filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 95 W.,
sec. 2, SW¼SW¼.

The pipeline will transport natural gas from a point of connection with an existing line in Section 11, in a generally northwesterly direction crossing thru the SW¼SW¼ section 2 to a well in the SE¼ of section 3, T. 20 N., R. 95 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-10033 Filed 4-14-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant seeking to identify leading indicators and crime-related factors in the cycle of neighborhood decline and abandonment. The aim of this research is to further our understanding of the processes at work so that our abilities to predict and to remedy these problems will be enhanced.

The solicitation asks for the submission of proposals. These proposals will be reviewed on a competitive basis by a panel designated by the National Institute and will include LEAA representatives and outside consultants in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than June 5, 1978, with funding support not to exceed $300,000 or 24 months. Because this is a research grant, profit making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting: Director, Community Crime Prevention Division, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3994.

Dated: March 31, 1978.

Approved:

BLAIR G. EWING,
Deputy Director.

[FR Doc. 78-10030 Filed 4-14-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE FOR GEOGRAPHY AND REGIONAL SCIENCE

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Geography and Regional Science of the Advisory Committee for Social Sciences.

Date and time: May 4, 1978: 8:30 a.m. to 5 p.m.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Closed.

Contact Person: Ms. Patricial J. McWethy, Associate Program Director, Geography and Regional Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-634-6683.

Purpose of panel: To provide advice and recommendations concerning support for re-

search in Geography and Regional Science.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting. This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

[FR Doc. 78-10294 Filed 4-14-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON ECONOMICS

Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Public Law 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.
Date and time: May 5th and 6th, 1978: 9 a.m. to 5 p.m. each day.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. James H. Blackman, Program Director, Economics Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5968.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in Economics.
Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting. This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Public Law 92-463, The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Officer.

[FR Doc. 78-10292 Filed 4-14-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON ELECTRICAL SCIENCES AND ANALYSIS OF THE ADVISORY COMMITTEE FOR ENGINEERING

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Electrical Sciences and Analysis of the Advisory Committee for Engineering.
Dates and times: May 4 and 5, 1978: 9 a.m. to 5 p.m. each day.
Place: National Science Foundation, Room 543, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Part Open: Open May 4, 9 a.m. to noon; and May 5, 9 a.m. to noon. Closed May 4, 1 p.m. to 5 p.m.; and May 5, 1 p.m. to 5 p.m.
Contact person: Dr. Eugene R. Chenette, Section Head, Electrical Sciences and Analysis Section, Room 416, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5881.
Summary minutes: May be obtained from the Committee Management, Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of panel: To review the status and provide counsel for future directions of the Electrical Sciences and Analysis Section.
Agenda:

THURSDAY, MAY 4

Morning (Open Session)

9:00—Introduction and Welcome—Section Head, Status Report of Engineering Division.
10:20—Program Review—Automation, Bioengineering, and Sensing Systems Devices and Waves, Electrical and Optical Communications, and System Theory and Applications.
11:50—Recess.

Afternoon (Closed Session)

1:00—Subpanel review of programs; Review declinations containing names of applicant institution and principal investigators; Review peer evaluation documentation of both successful and declined proposals. The panel members will be divided into subpanels for this session.

FRIDAY, MAY 5

Morning (Open Session)

9:00—Oral reports of the subpanels.
10:15—Long range plans for the Electrical Sciences and Analysis Section—Goals and Priorities. Questions concerning the present status and new directions for research.
12:00—Recess.

Afternoon (Closed Session)

1:15—Further in-depth study of the Program in System Theory and Applications including proposal jackets and peer reviews.

Reason for closing. The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting. This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on Feb. 18, 1977.

MARIAN R. WINKLER,
Committee Management Coordinator.

[FR Doc. 78-10293 Filed 4-14-78; 8:45 am]

[7555-01]

SUBCOMMITTEE TO REVIEW THE SPACE RADIATION EFFECTS LABORATORY OF THE ADVISORY COMMITTEE FOR PHYSICS

Amendment to Notice of Meeting

The notice of meeting for the Subcommittee to Review the Space Radiation Effects Laboratory of the Advisory Committee for Physics meeting to be held on April 18, 1978, has been changed to April 19, 1978. The notice was published in the FEDERAL REGISTER on March 31, 1978.

M. REBECCA WINKLER,
Committee Management Coordinator.

APRIL 12, 1978.

[FR Doc. 78-10295 Filed 4-14-78; 8:45 am]

[7555-01]

WORKSHOP ON RESEARCH IN SCIENCE EDUCATION

A workshop devoted to discussion of future directions for research in Science Education will be held at the Sheraton Park Hotel, Washington, D.C., from April 30 through May 3, 1978. The Sunday opening session will begin at 7 p.m.; the remaining sessions will be from 9 a.m. to 5 p.m. The workshop will consist of several small working groups focussing on specific aspects of research.

While this meeting is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 92-463), the workshop is believed to be of sufficient im-

portance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and observation.

Because of space limitations those who wish to attend should make prior arrangements with the Chairman, Dr. Richard A. Lesh, 202-282-7745, or by letter to him at the Division of Science Education Development and Research, Science Education Directorate, National Science Foundation, Washington, D.C. 20550.

M. REBECCA WINKLER,
Committee Management Coordinator.

APRIL 12, 1978.

[FR Doc. 78-10291 Filed 4-14-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE MAINE YANKEE NUCLEAR PLANT

Meeting

The ACRS Subcommittee on the Maine Yankee Nuclear Plant will hold a meeting on May 2, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555, to review the request of the Maine Yankee Atomic Power Corp. to operate this plant beyond the FSAR power of 2560 MW(t) to 2630 MW(t).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

TUESDAY, MAY 2, 1978

8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Maine Yankee Atomic Power Corp., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne, telephone 202-634-1920, between 8:15 a.m. and 5:00 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

Dated: April 13, 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-10470 Filed 4-14-78; 9:33 am]

[7710-12]

POSTAL SERVICE

PRIVACY OF INFORMATION

Systems of Records Modification

AGENCY: U.S. Postal Service.

ACTION: Advance notice of a Proposed Routine Use Modification.

SUMMARY: This document proposes a change to a routine use for a published system of records and the addition of the same use to another published system. The routine use as presently reported refers to providing certain information to the American Insurance Association Index System. The purpose of the proposed change is to further clarify the nature of the information involved.

DATES: Comments regarding the proposed routine uses must be received on or before May 17, 1978.

ADDRESSES: Records Officer, U.S. Postal Service, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. John E. Finlay, 202-245-4142.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to modify a routine use of USPS 180.010, Tort Claims—Tort Claims Records, and also add the same use to USPS 080.010, Inspection Requirements—Investigative File System. One purpose of the change is to eliminate the word "statistical" from the text of the routine use of USPS 180.010. The Postal Service had traditionally provided certain detailed information to the American Insurance Association Index as part of a cooperative effort to develop both frequencies and patterns of accidents and injuries on a national scale. Although never intended, the work "statistical" was inadvertently included within USPS 180.010 as originally described in the FEDERAL REGISTER. The addition of the use into USPS 080.010 reflects the fact that information is disclosed from that system as well. These proposals do not reflect a change in disclosure practices, but rather more accurately describe the long standing practice of releasing information to the American Insurance Association Index System from both systems of records.

A complete statement of the existence and character of each system appeared in the FEDERAL REGISTER on September 30, 1977 (42 FR 53497). As required by 5 U.S.C. 552(e)(11), interested persons are invited to submit written data, views or arguments on the proposed routine use changes. Final notice will be published after the time for public comment has elapsed. The specific change proposed for the records system description for USPS 180.010 follows:

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Change second routine use to read: "2. To provide members of the American Insurance Association Index System with certain information relating to accidents and injuries."

The addition of the routine use to USPS 080.010 follows:

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Add a new routine use to read: "18. To provide members of the American Insurance Association Index System with certain information relating to accidents and injuries."

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-10088 Filed 4-14-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10198]

LESLIE FUND FOR INCOME, INC.

Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Company Has Ceased to Be an Investment Company

APRIL 10, 1978.

Notice is hereby given that The Leslie Fund For Income, Inc. ("Applicant"), a Maryland corporation registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end management investment company, filed an application on March 20, 1978, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on August 9, 1976, but never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind. Applicant further states that as of October 25, 1977, it was not in good standing with the state of Maryland and was up for forfeiture for failure to file personal property returns. Finally, Applicant states that at the time of filing of the application it had no assets and no shareholders.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 5, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10039 Filed 4-14-78; 8:45 am]

[8010-01]

[Release No. 20496]

MIDDLE SOUTH SERVICES, INC. AND MIDDLE SOUTH UTILITIES, INC.

Proposed Transactions Regarding Issuance and Sale of Notes By Subsidiary Service Co. to a Bank

APRIL 10, 1978.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and its subsidiary, Middle South Services, Inc. ("Services"), the Middle South system service company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

The declaration states that Services, in connection with the performance of its functions as a subsidiary service company under the Act for the Middle South system, has undertaken a project together with an outside consulting engineering firm leading to the development of a standard design, both conceptually and in detail, for future coal-fired electric generating stations for the system during the period 1985 through 1989. Services will also undertake a project designed to develop a computerized information system having a fully integrated data base which will be sufficient to provide both field sonstruction and executive management with the capability to supervise more closely all activities relating to the construction of any power plant for the system from inception to close out.

To provide funds primarily to carry out these projects and for other corporate purposes as a subsidiary service company, Services proposes to issue and sell its notes pursuant to an agreement ("Letter Agreement") with Manufacturers Hanover Trust Co., New York, N.Y. ("Bank"), under which Services will be entitled to borrow from said Bank for a period of two years from the date of the initial borrowing under the Letter Agreement up to an aggregate of $10,000,000 outstanding at any one time. Each note will be payable two years after the date of the initial borrowing under the Letter Agreement and will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at a rate per annum equal to 110 percent of the base rate (currently 8 percent per annum) as announced from time to time by the Bank for 90-day commercial loans in New York City to borrowers of the highest credit standing. Adjustments in the interest rate are to be made effective automatically on the effective date of any change in the Bank's base rate. Services will have the right to prepay the notes, in whole or in part, at any time without premium. There is no requirement that Services maintain compensating balances with, or pay any commitment fee to, the Bank in connection with borrowings under the Letter Agreement.

As sole stockholder of the outstanding common stock of Services and as an inducement to the Bank to make loans pursuant to said Letter Agreement, Middle South proposes to covenant and agree with the Bank that it will take any and all such action as, from time to time, may be necessary to keep Services in a sound financial condition and to place Services in a position to discharge, and to cause Services to discharge, its obligations to the Bank pursuant to the Letter Agreement or any of the notes. As a further inducement to the Bank to make the loans to Services, Middle South will covenant and agree with the Bank that any and all sums of money which it has heretofore loaned or may hereafter lend to Services shall represent obligations of Services which are subordinate in priority of payment to the loans made by the Bank to Services pursuant to the Letter Agreement, together with all extensions and renewals thereof. In furtherance of such subordination, Middle South will agree that until Services shall have repaid all of its obligations to the Bank, no payment shall be made by Services or received by Middle South on account of such indebtedness to Middle South without the written consent of the Bank; provided, however, that so long as Services is not in default in any of its obligations to the Bank under the Letter Agreement or any of the notes, Services may pay to Middle South interest on such indebtedness.

The fees and expenses to be incurred in connection with the proposed trans-

actions are to be filed by amendment. It is requested that Services be authorized to file certificates of notification pursuant to Rule 24 under the Act on a quarterly basis with respect to the proposed notes. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 5, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10040 Filed 4-14-78; 8:45 am]

[8010-01]

[Release No. 14648]

Public Hearings Into the Establishment of a National Clearance and Settlement System and Rescheduling of Those Hearings

APRIL 10, 1978.

On March 7, 8, 9, and 10, 1978, the Commission held public hearings into the establishment of a national clearance and settlement system.[1] On March 10, the hearings were adjourned and scheduled to reconvene on April 18, 1978, for at least two additional days.[2] The Commission today announced that the hearings will instead reconvene one day later, on April 19, 1978, at 9:30 a.m. and will continue for at least two days.

The Commission invites interested persons to respond to information, data and views presented at the March hearings and to submit any additional information, data and views that they believe are relevant to the hearings. In addition, the Commission requests that persons appearing at the April session of the hearings comment on certain issues, listed below, which were discussed at the March session. In particular, comment should focus on the effect of those issues on the development of a national clearance and settlement system, on competition among brokers and dealers and on competition among clearing agencies.

These issues have been chosen solely to give interested persons the opportunity to discuss with the Commission their effect on the development of a national clearance and settlement system. The Commission would welcome comments on other matters which witnesses believe should be considered by the Commission. The Commission's order granting NSCC registration as a clearing agency is on review before the United States Court of Appeals for the District of Columbia Circuit. The validity of that order is a matter within the jurisdiction of that court and, accordingly, not involved in these hearings which are part of the Commission's ongoing endeavors to facilitate the development of an efficient national clearance and settlement system and which relate to matters occurring subsequent to that order.

ISSUES

The following issues should be addressed by witnesses:

(1) NSCC's request to terminate Bradford National Clearing Corp. ("BNCC") as facilities manager of NSCC's National Clearing Corp. ("NCC") Division and to transfer the processing of over-the-counter ("OTC") transactions to the Securities Industry Automation Corp. ("SIAC"), the facilities manager for NSCC's other two divisions. OTC processing would be done in accounts separate from those currently used to process transactions executed on exchanges ("listed transactions"). NSCC indicates that this step will facilitate the establishment of interfaces for the clearing of OTC transactions between NSCC and the Midwest Clearing Corporation ("MCC") and between NSCC and Stock Clearing Corp. of Philadelphia ("SCCP") as required by the order granting NSCC registration.[3]

(2) NSCC's offer to delay processing listed transactions through its branch offices for some period of time after MCC and SCCP have the ability to clear both listed and OTC transactions;

(3) Whether, in view of issue two above, NSCC also should not offer to provide any new services to participants already using remote terminals operated by it or another person or provide to new participants services already offered through remote terminals;[4]

(4) Whether the exchanges and the National Association of Securities Dealers, Inc. ("NASD") should perform the comparison function for trades executed in their markets and provide a list of compared trades for free or at cost to any clearing agency that requests it and is designated by the clearing broker/dealer to receive the trade; and

(5) Whether each registered clearing agency, if requested by another registered clearing agency, should be required to establish an interface at least with respect to the book-entry processing of transactions handled through a continuous net settlement system and to offer to operate that interface for free.[5]

Interested persons are invited to submit written comments on these matters. Six copies of each comment letter should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File Number 600-15. All communications will be placed in that file and will be available for public inspection. The file will be held open until April 30, 1978 to receive written submissions.

In addition, persons appearing at the hearings are invited to address these matters during the hearings even if they do not submit written comments. Persons wishing to appear at the hearings should contact Robert J. Millstone, Senior Special Counsel, Securities and Exchange Commission, 500 North Capitol Street, Room 383, Washington, D.C., 202-755-8777 by April 14.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-10041 Filed 4-14-78; 8:45 am]

---

[1] Securities Exchange Act Release No. 14411 (January 25, 1978), 43 FR 4295 (February 1, 1978). Transcripts of the March hearings are available at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C., and, upon request, at the Commission's regional offices.

[2] Securities Exchange Act Release No. 14496 (February 23, 1978), 43 FR 8895 (March 3, 1978).

[3] Pacific Clearing Corp. ("PCC") already clears OTC and listed trades.

[4] For these purposes, "remote terminals" refers to terminals located outside New York City.

[5] This would include interfaces between two clearing corporations, two depositories, or a depository and a clearing corporation. In addition, consideration should be given to whether clearing agencies should establish interfaces for other services they offer.

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0333]

BBS EQUITIES LTD.

Filing of Application for Approval of a Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to § 107.1004 of the Regulations governing small business investment companies (13 C.F.R. 107.1004 (1977)), of a conflict of interest transaction between BBS Equities Ltd. (BBS), Gateway One, Suite 2400, Newark, N.J. 07102, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and one of its Associates.

BBS was licensed by SBA on September 23, 1977. Bevill, Bresler & Schulman Investment Co. owns approximately 95 percent of the outstanding stock of BBS. Bevill, Bresler & Schulman Investment Co. is owned equally by Robert L. Bevill and Andrew D. Ledbetter. Mr. Bevill is the President and Director of BBS.

Bevill, Bresler & Schulman Asset Management Corp., which is also owned equally by Messrs. Bevill and Ledbetter has loaned $50,000 to DIVA, Inc., 607 Industrial Way West, Eatontown, N.J. 07724. BBS has guaranteed $25,000 of these loan funds. Bevill, Bresler & Schulman Asset Management Corp. is considered to be an Associate of BBS as defined by § 107.3(d) of the SBA rules and regulations. As such, the transaction is governed by the provisions of § 107.1004(b)(1) of the regulations. SBA is considering a request for post approval of this transaction. Doan Resources Corp., a small business investment company (SBIC) located at 110 East Grove Street, Midland, Mich. 48640, guaranteed the remainder of this loan.

It is possible that the small concern in question may need additional financing. It is proposed that BBS guarantee $25,000 of these additional funds. Bevill, Bresler & Schulman Asset Management Corp. will provide these funds, if needed. As such, the proposed additional guarantee by BBS would constitute indirect financial assistance to an Associate and require an exemption to § 107.1004(b)(1) of the regulations. SBA is considering a request for prior approval of said transaction.

Notice is further given that any person may, not later than May 2, 1978, submit to SBA, in writing, comments on these transactions. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Licensee in a newspaper of general circulation in Eatontown and Newark, NJ.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 7, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-10058 Filed 4-14-78; 8:45 am]

[8025-01]

[License No. 06/10-0150]

CAPITAL MARKETING CORP.

Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given, pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1977)), by the Small Business Administration (SBA) of a conflict of interest transaction between Capital Marketing Corp. (CMC), 9001 Ambassador Row, Dallas, Tex. 75247, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.), and one of its Associates.

CMC was licensed by SBA on June 24, 1968. There are approximately 415 individual shareholders of CMC with each owning less than 5 percent. Most of these shareholders are members of Affiliated Food Stores, Inc. (Affiliated), a wholesale food cooperative having approximately 675 members.

CMC proposes to loan approximately $400,000, to Mr. Clyde Williams to build a retail grocery store in Granbury, Tex. Mr. Williams is a director of Affiliated and, therefore, an Associate of CMC as defined in § 107.3(c) of SBA's rules and regulations. As such, the proposed financing by CMC would contravene the provisions of § 107.1004(b)(1) of the regulations.

The proposed financing requires an exemption from SBA for its validity. SBA is considering granting such an exemption.

Notice is further given that any person may, not later than May 2, 1978, submit to SBA, in writing, comments on this transaction. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street NW., Washington, D.C. 20416.

A copy of this notice shall be published by the Licensee in a newspaper of general circulation in Dallas, Tex., and Granbury, Tex.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 7, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-10056 Filed 4-14-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1413; Amdt. No. 4]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (See 43 FR 2966), Amendment No. 1 (See 43 FR 4892), and Amendment No. 2 (See 43 FR 8603), and Amendment No. 3 (See 43 FR 12140), are amended by adding the following counties:

County	Natural disaster(s)	Date
Cheyenne	Hailstorms	May 20, 1977.
Morton	...do	May 18, 1977, June 1, 1977 and July 1, 1977.
	Severe hailstorms	July 31, 1977 and Aug. 9, 1977.
	Hailstorms	Mid-September 1977.
Stevens	Hail	May 1, 3, 16, 17, 25, June 15, July 28, Aug. 1, 2, 9, 10, 19, Sept. 1, and 12, 1977.
	Tornado	May 1, and 16, 1977.
	Drought	Jan. 1, to Dec. 31, 1977.
	Severe winds	Feb. 23, and June 13, 1977.
Hamilton	Drought and high winds.	Jan. 1, 1977 to Feb. 28, 1978.
Grant	Hail Storms	May 1, 16, 18, and 20, 1977.
	Tornado	May 18, 1977.
	Wind and drought during entire growing year. Severe hot winds.	July and August 1977.
Greeley	Hail	Aug. 5, 1977.
	Drought and winds.	Fall of 1976 through summer 1977.
Stanton	Hail	May 1, 16, 20 and 27, 1977.
	Drought	(Condition existed on Jan. 1, 1977 and in some areas of the county affected crops all year.)
Wichita	Hailstorms	May 14 and Aug. 5, 1977.

and adjacent counties within the State of Kansas due to natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on August 31, 1978, and for economic injury until close of business on November 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 10, 1978.

RICHARD HERNANDEZ.
Acting Administrator.

[FR Doc. 78-10053 Filed 4-14-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1449]

MICHIGAN

Declaration of Disaster Loan Area

Kalamazoo County and adjacent counties within the State of Michigan constitute a disaster area as a result of damage caused by severe snowstorms and winds of blizzard proportion which occurred on January 26, 1978 through February 1, 1978. Eligible persons, firms and organizations may file applications for physical damage until the close of business on June 5, 1978, and for economic injury until the close of business on January 8, 1979, at:

Small Business Administration,
District Office,
477 Michigan Avenue—McNamara Building
Detroit, Mich. 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 6, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-10054 Filed 4-14-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1407; Amd't No. 3]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (See 41 FR 61347), Amendment No. 1 (See 42 FR 634510), and Amendment No. 2 (See 43 FR 8605) are amended by adding the following counties:

County	Natural Disaster(s)	Date
Allegan	Sub-freezing temperature.	Mar. 26, to Mar. 30, 1977, May 8, to May 11, 1977.
Berrien	Excessive rainfall.	Aug. 1, to Oct. 31, 1977.
Cheboygan	....do	Do.
Chippewa	....do	July 1, to Oct. 15, 1977.
	Drought	Sept. 1, 1976 to July 31, 1977.
Isabella	....do	Apr. 1, to July 31, 1977.
	Excessive rainfall.	Aug. 1, to Sept. 30, 1977.
Presque Isle	....do	Aug. 1, to Oct. 15, 1977.
	Early frost	Aug. 20, 1977, Aug. 25, 1977, Sept. 11, 1977 and Oct. 6 to Oct. 7, 1977..

and adjacent counties within the State of Michigan as a result of natural disaster as indicated and extends the time for filing applications for physical damage until close of business on September 29, 1978, for economic injury until the close of business on December 29, 1978 for these and adjacent counties only.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 10, 1978.

RICHARD HERNANDEZ.
Acting Administrator.

[FR Doc. 78-10055 Filed 4-14-78; 8:45 am]

[8025-01]

[License No. 05/05-5121]

SAGERA VENTURE CORPORATION, INC.

Issuance of a License to Operate as a Small Business Investment Company

On July 21, 1977, a notice was published in the FEDERAL REGISTER (42 FR 37466) stating that Sagera Venture Corporation, Inc., located at 7710 Computer Avenue, Edina, Minn. 55435 had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1977) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small business Investment Act of 1958, as amended.

Interested parties were given until the close of business August 5, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 05/05-5121 to Sagera Venture Corporation, Inc. on April 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: April 10, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-10057 Filed 4-14-78; 8:45 am]

[8025-01]

[Application No. 03/03-5131]

TRI-STATE MESBIC, INC.

Application for License to Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Tri-State MESBIC, Inc. (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.702 (1977).

The officers, directors, and stockholders of the applicant are as follows:

Howard P. Monsour, 1020 Dearborn Road, Greensburg, Pa. 15601, President, Director, 25 percent Stockholder.
Robert G. Monsour, 1500 Broad Street, Greensburg, Pa. 15601, Vice President, Director, 25 percent Stockholder.
Roy C. Monsour, 919 Country Club Place, Greensburg, Pa. 15601, Secretary, Director, 25 percent Stockholder.
William J. Monsour, 1 Linden Drive, Jeanette, Pa. 15601, Treasurer, Director, 25 percent Stockholder.

The applicant, a Pennsylvania corporation, with its principal place of business located at 470 Donner Avenue, Monessen, Pa. 15062, will begin operations with $500,000 of paid-in capital and paid-in surplus, derived from the sale of 500 shares of common stock.

The applicant will conduct its activities principally in the States of Pennsylvania, Ohio and West Virginia, and in other areas within the United States of America.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than May 2, 1978, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Monessen, Pa.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 10, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-10059 Filed 4-14-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The ad hoc working group on nuclear ships of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting on Wednesday, May 31, 1978, at 9:30 a.m. in Room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of this meeting is to further discuss chapters 7 and 9 of the proposed IMCO Code of Safety for Nuclear Merchant Ships in final preparation for the next IMCO working group meeting.

Requests for further information should be directed to Commander John Deck III, U.S. Coast Guard (G-MMT-4/82), Washington, D.C. 20590, telephone 202-426-2197.

The Chairman will entertain comments from the public as time permits.

Dated: April 4, 1978.

CARL TAYLOR, Jr.,
Acting Chairman, Shipping Coordinating Committee.

[FR Doc.78-9925 Filed 4-14-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-049]

SHIP STRUCTURE SUBCOMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Subcommittee to be held Monday, May 15, 1978 at 9 a.m. in room 6043, Maritime Administration, Department of Commerce, 14th and Constitution Avenue, Washington, D.C. The agenda for this meeting is as follows: Discussion of the research program, project status and operations of the Ship Structure Committee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590, 202-426-2205. Any member of the public may present a written statement to the Committee at any time.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 78-10296 Filed 4-14-78; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP78-1; Notice 1]

GOODYEAR TIRE & RUBBER CO.

Receipt of Petition for Determination of Inconsequential Noncompliance

The Goodyear Tire & Rubber Co. of Akron, Ohio, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq) for a noncompliance with 49 CFR 571.109 Motor Vehicle Safety Standard No. 109, New Pneumatic Tires—Passenger Cars. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt to a petition for a determination of inconsequentiality is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraphs S4.3 (d) and (e) require that the sidewalls of each passenger car tire be labeled with the generic name of each cord material used in the plies and the actual number of plies used. Goodyear manufactured approximately 2,600 tires with the label "Tread 5 plies—2 polyester cord + 2 steel cord + 1 nylon cord"; however the nylon cord overlay was omitted due to error of the tire builder. Thus the correct labeling should have been "Tread 4 plies—2 polyester + 2 steel cord". Goodyear conducted laboratory and road tests of the tire without the nylon overlay and submitted the results to NHTSA as part of the petition. Goodyear is satisfied that the 2,600 tires involved otherwise fully comply with Standard No. 109 and do not contain a safety-related defect.

Interested persons are invited to submit written data, views and arguments on the petition of The Goodyear Tire & Rubber Co. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: June, 1, 1978.

(Sec. 102, Pub. L. 93-492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on April 10, 1978.

MICHAEL M. FINKELSTEIN,
Acting Associate Administrator for Rulemaking.

[FR Doc. 78-9945 Filed 4-14-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-111; Customs Delegation Order No. 1 (Rev. 1) amended]

ASSISTANT COMMISSIONER (REGULATIONS AND RULINGS)

Performance of Functions in the United States Customs Service

APRIL 10, 1978.

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This document amends a Customs delegation order by delegating to the Assistant Commissioner (Regulations and Rulings) the authority to make certain determinations concerning the application of certain court decisions adverse to the Government. The Commissioner of Customs is delegating this authority to expedite the preparation and publication of official notices describing the manner in which the Customs Service will apply those decisions.

EFFECTIVE DATE: April 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Suellen Ferguson, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under § 152.16(e) of the Customs Regulations (19 CFR 152.16(e)), the

Commissioner of Customs is authorized to limit the application of the principles of any decision of the United States Customs Court or the United States Court of Customs and Patent Appeals which is adverse to the Government (except a decision upholding a petition of an American manufacturer, producer, or wholesaler under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516)) to the specific entries of merchandise which were the subject of the decision. The Commissioner also may provide for the application of the decision, in a manner which he considers appropriate, to unliquidated entries and protested entries that have not been denied, in whole or in part, which involve the same issue as that decided by the court.

To expedite the administrative decisionmaking process and the preparation and publication of official notices describing the manner in which the Customs Service will apply certain court decisions adverse to the Government, the Commissioner has decided that the authority to determine the application of these court decisions, as provided for in § 152.16(e) of the Customs Regulations, should be delegated to the Assistant Commissioner, Office of Regulations and Rulings.

Conforming amendments to the regulations that are affected by this delegation will be prepared.

NOTICE AND PUBLIC PROCEDURE UNNECESSARY

Because this rule relates soley to agency organization, notice and public procedure are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

AUTHORITY

This delegation is made under the authority given to the Commissioner of Customs by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended.

DRAFTING INFORMATION

The principal author of this document was Suellen Ferguson, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENT TO DELEGATION ORDER

Customs Delegation Order No. 1 (Revision 1) (T.D. 69-126, 34 FR 8208), as amended, is amended as set forth below:

Paragraph A is amended to read as follows:

A. *Assistant Commissioner of Customs, Office of Regulations and Rulings.* Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended, (supra), decisions with respect to appeals from denials of requests for information under 5 U.S.C. 552, decisions with respect to appeals from denials of requests for amendment of records under 5 U.S.C. 552a, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, decisions with respect to the application of decisions of the United States Customs Court and the United States Court of Customs and Patent Appeals adverse to the Government, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

* * * * *

R. E. CHASEN,
Commissioner of Customs.

[FR Doc. 78-10299 Filed 4-14-78; 8:45 am]

[4830-01]

Internal Revenue Service

[Delegation Order No. 156, Amdt. 4]

ASSISTANT COMMISSIONER (ACCOUNTS, COLLECTION, AND TAXPAYER SERVICE) ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This Amendment permits the Assistant Commissioner (Accounts, Collection, and Taxpayer Service), Deputy Assistant Commissioner (Accounts, Collection, and Taxpayer Service), and Service Center Directors to disclose return information, as described in IRC 6103(1)(6)(a)(ii), to State and local child support enforcement agencies, subject to the conditions prescribed in IRC 6103(1)(6). The text of the Amendment appears below.

EFFECTIVE DATE: April 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Avenue NW., Room 1603, Washington, D.C. 20224. Telephone No. 202-566-3370 (not toll-free).

HOWARD T. MARTIN,
Director, Disclosure Operations Division.

SUBJECT: AUTHORITY TO PERMIT DISCLOSURE OF CERTAIN RETURN INFORMATION TO STATE AND LOCAL CHILD SUPPORT AGENCIES

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

The Assistant Commissioner (Accounts, Collection, and Taxpayer Service), Deputy Assistant Commissioner (Accounts, Collection, and Taxpayer Service), and Service Center Directors are authorized to disclose return information, as described in IRC 6103(1)(6)(A)(ii), to the head of a State or local child support enforcement agency or an authorized supervisory official of such agency pursuant to a contractual arrangement between the Internal Revenue Service and such State or local child support enforcement agency, subject to the conditions prescribed in IRC 6103(1)(6). This authority may not be redelegated.

This Amendment supplements paragraph 9(c) of Delegation Order No. 156. Delegation Order No. 156, issued May 19, 1976, is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, No. 100, p. 20898.

Date of issue, April 13, 1978.

JEROME KURTZ,
Commissioner.

APRIL 4, 1978.

[FR Doc. 78-10323 Filed 4-14-78; 8:45 am]

[4830-01]

[Delegation Order No. 97 (Rev. 14)]

ASSISTANT COMMISSIONER (TECHNICAL) ET AL.

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: The authority of the Commissioner's delegates to enter into closing agreements in cases under their jurisdiction docketed in the Tax Court of the United States is revised to include the authority for entering into closing agreements in other Tax Court cases upon request of the Chief Counsel or his/her delegate. The text of the Delegation Order appears below.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Steve Miller, 1111 Constitution Avenue NW., Room 4052, CC:TC, Washington, D.C. 20224, 202-566-3303 (not toll-free) or

Mr. Roland Ford, 1111 Constitution Avenue NW., Room 2314,

CP:AP:CM, Washington, D.C. 20224, 202-566-3780 (not toll-free).

JACK G. PETRIE,
Director, Internal Management, Documents Division.

SUBJECT: CLOSING AGREEMENTS CONCERNING INTERNAL REVENUE TAX LIABILITY

Pursuant to authority granted to the Commissioner of Internal Revenue by 26 CFR 301.7121-1(a); Treasury Department Order No. 150-32, dated November 18, 1953; Treasury Department Order No. 150-36, dated August 17, 1954 (C.B. 1954-2, 733); and Treasury Department Order No. 150-83, dated August 21, 1973, subject to the transfer of authority covered in Treasury Department Order No. 221, dated June 6, 1972, as modified by Treasury Department Order No. 221-3 (Rev. 2), dated January 14, 1977.

1. The Assistant Commissioner (Technical) is hereby authorized in cases under his/her jurisdiction to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in respect to any prospective transactions or completed transactions affecting returns to be filed.

2. The Assistant Commissioner (Compliance) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods. The Assistant Commissioner (Compliance) is also authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for who he/she acts) with respect to the performance of his/her functions as the competent authority in the administration of the operating provision of the tax conventions of the United States.

3. The Assistant Commissioner (Employee Plans and Exempt Organizations) is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) in cases under his/her jurisdiction, that is, in respect of any transaction concerning employee plans or exempt organizations.

4. Regional Commissioners; Assistant Regional Commissioners (Appellate); Assistant Regional Commissioners (Audit); District Directors; Director of International Operations; Chiefs and Associate Chiefs of Appellate Branch Offices, are hereby authorized in cases under their jurisdiction (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal revenue tax liability of such person (or of the person or estate for whom he/she acts) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods.

5. Regional Commissioners; Assistant Regional Commissioners (Employee Plans and Exempt Organizations); and District Directors are hereby authorized in cases under their jurisdiction, that is, in respect of any transaction concerning employee plans or exempt organizations (but excluding cases docketed before the United States Tax Court) to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts).

6. Regional Commissioners; Assistant Regional Commissioners (Appellate) and (Employee Plans and Exempt Organizations); Chiefs and Associate Chiefs of Appellate Branch Offices are hereby authorized in cases under their jurisdiction docketed in the United States Tax Court and in other Tax Court cases upon the request of Chief Counsel or his/her delegate to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) but only in respect to related specific items affecting other taxable periods.

7. The Director of International Operations is hereby authorized to enter into and approve a written agreement with any person relating to the Internal Revenue tax liability of such person (or of the person or estate for whom he/she acts) to provide for the mitigation of economic double taxation under section 3 of Revenue Procedure 64-54, C.B. 1964-2, 1008, under Revenue Procedure 72-22, C.B. 1972-1, 747, and under Revenue Procedure 69-13, C.B. 1969-1, 402, and to enter into and approve a written agreement providing the treatment available under Revenue Procedure 65-17, C.B. 1965-1, 833.

8. The authority delegated herein does not include the authority to set aside any closing agreement.

9. Authority delegated in this Order may not be redelegated, except that the Assistant Commissioner (Technical) may redelegate the authority contained in paragraph 1 to the Deputy Assistant Commissioner (Technical) and to the Technical Advisors on the Staff of the Assistant Commissioner (Technical) for cases that do not involve precedent issues, the Assistant Commissioner (Compliance) may redelegate the authority contained in paragraph 2 of this Order to the Deputy Assistant Commissioner (Compliance), and the Assistant Commissioner (Employee Plans and Exempt Organizations) may redelegate the authority contained in paragraph 3 of this Order to the Deputy Assistant Commissioner (Employee Plans and Exempt Organizations) and to the Technical Advisors on the Staff of the Assistant Commissioner (Employee Plans and Exempt Organizations) for cases that do not involve precedent issues.

10. Delegation Order No. 97 (Rev. 13) issued January 25, 1978, is hereby superseded.

Date of issue: April 12, 1978.

JEROME KURTZ,
Commissioner.

APRIL 5, 1978.

[FR Doc. 78-10321 Filed 4-14-78; 8:45 am]

[4830-01]

[Delegation Order No. 60 (Rev. 2); Chief Counsel Order No. 1030.19]

INTERNAL REVENUE SERVICE AND CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The text of the Delegation Order which appears below revises the delineation of responsibility between the Internal Revenue Service and the Chief Counsel for the Internal Revenue Service in cases docketed in the U.S. Tax Court.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Steve Miller, 1111 Constitution Avenue NW., Room 4052, CC:TC, Washington, D.C. 20224, 202-566-3303 (not toll-free), or Mr. Roland Ford, 111 Constitution Avenue NW., Room 2314, CP:AP:CM, Washington, D.C. 20224, 202-566-3780 (not toll-free).

26 CFR 601.106: APPELLATE FUNCTIONS. SETTLEMENT OF CASES DOCKETED IN THE UNITED STATES TAX COURT

With respect to cases docketed in the United States Tax Court, the authority vested in the Commissioner of Internal Revenue by 26 CFR 301.6020-1, 26 CFR 301.6201-1, 26 CFR 301.7701-9 and Treasury Department Order No. 150-37 is hereby delegated and pursuant to the authority vested in Chief Counsel for the Internal Revenue Service by General Counsel Legal Division Order No. 4, it is hereby delegated:

1. Chief Counsel's delegate (hereinafter Counsel) will have exclusive jurisdiction over any case docketed in the Tax Court if the notice of deficiency, liability or other determination was issued by the Appellate Division; if the notice of deficiency liability or other determination was issued after an appellate consideration by the Employee Plans/Exempt Organizations function; or, except as provided in paragraph 3, if the case was docketed under Code §§ 6110 or 7477. Jurisdiction will vest with Counsel at the time the case is docketed with the Court.

2. Regional Commissioners will have exclusive settlement jurisdiction in whole or in part for a period of four months over cases docketed in the Tax Court (other than a case docketed under Code §§ 6110 or 7477) in which the notice of deficiency, liability or other determination was not issued by the Regional Appellate Division or was not the subject of an appellate consideration by Employee Plans/Exempt Organizations function. The four-month period will commence at the time Appellate (or the Assistant Regional Commissioner (EP/EO) for a case within their authority under Delegation Order 66) receives the case from Counsel, which will be after the case is at issue. Counsel may extend the four-month period for an additional 60-day period. Any further extension will be granted only by the Regional Counsel personally. At the conclusion of the four-month period or the period as extended, or at such earlier time as Regional Commissioner concludes that the case is not susceptible of settlement, Counsel will have jurisdiction over the case.

3. Assistant Commissioner (Technical) and Deputy Chief Counsel (Litigation) will have joint settlement jurisdiction over any case docketed in the Tax Court under Code §§ 6110 or 7477 until the first day of the calendar on which the case is called for trial or, if earlier, the day on which the Court serves on Counsel an order setting brief due dates; thereafter, Counsel will have settlement jurisdiction.

4. Effective date.

A. This Order will be applicable to all cases docketed with the Tax Court after June 30, 1978.

B. This Order will also be applicable to cases pending in the Tax Court on June 30, 1978, in which the notice of deficiency or liability was issued by the office of the district director, Director of International Operations, director of a service center, and in which a settlement conference has not been held by Regional Appellate or EP/EO prior to July 1, 1978.

C. For other cases pending in the Tax Court on June 30, 1978, the procedures of Rev. Proc. 60-18 will continue to be applicable, except that sole authority to dispose of the case will vest in Counsel at the earlier of the following:

1. The date of receipt of a trial calendar on which the case appears;

2. The date when Appellate and Counsel conclude settlement negotiations without disposition of the case and Appellate transfers the case to Counsel; or

3. July 1, 1979.

5. The authority delegated herein to Regional Commissioners may be redelegated only by specific Commissioner's Delegation Orders. The authority of Chief Counsel's Delegate to redelegate is contained in Chief Counsel's Order No. 1030.1A issued August 20, 1974.

6. This Order supersedes Commissioner's Delegation Order No. 60 (Rev. 1), Chief Counsel's Order No. 1031.1, issued September 14, 1977.

Date of issue: April 12, 1978.

JEROME KURTZ,
Commissioner.

STUART E. SEIGEL,
Chief Counsel.

MARCH 30, 1978.

[FR Doc. 78-10092 Filed 4-14-78; 8:45 am]

[4830-01]

[Delegation Order No. 156, Amdt. 65]

REGIONAL COMMISSIONERS ET AL

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of Authority.

SUMMARY: This Amendment permits Regional Commissioners, Assistant Commissioners, Assistant to the Commissioner (Public Affairs), Deputy Assistant Commissioners, Executive Assistant to the Assistant Commissioner (Data Services), Division Directors, Regional Inspectors, Chief Counsel, Deputy Chief Counsels, Regional Counsels, District and Service Center Directors, Director of International Operations, Director, National Computer Center and Director, Data Center, to disclose returns and return information for use in or preparation for administrative actions or proceedings relating to personnel and claimant representative matters subject to the conditions prescribed in IRC 6103(1)(4). The text of the Amendment appears below.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Avenue NW., Room 1603, Washington D.C. 20224, telephone number 202-566-3370 (not toll-free).

ARNOLD B. GORDON,
Acting Director,
Disclosure Operations Division.

SUBJECT: AUTHORITY TO PERMIT DISCLOSURE OF RETURNS AND RETURN INFORMATION UNDER INTERNAL REVENUE CODE 6103(1)(4)

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-37, dated March 17, 1955, authority is hereby delegated as follows:

Regional Commissioners: Assistant Commissioners; Assistant to the Commissioner (Public Affairs); Deputy Assistant Commissioners; Executive Assistant to the Assistant Commissioner (Data Services); Division Directors; Regional Inspectors; Chief Counsel; Deputy Chief Counsels; Regional Counsels; District and Service Center Directors; Director of International Operations; Director, National Computer Center; and Director, Data Center, are authorized to disclose returns and return information for use in personnel or claimant representative matters subject to the conditions prescribed in IRC 6103(1)(4). The authority delegated in this paragraph may be redelegated only to Assistant Division Directors; Assistant Regional Commissioners; Assistant Regional Inspectors; Chief, Personnel Branch, all regions; Assistant District and Service Center Directors; Assistants to the District and Service Center Directors; Assistant Director of International Operations; Division Chiefs; Assistant Regional Counsels; Disclosure Officers; Branch Chiefs of Disclosure Operations Division; Branch Chiefs of Internal Security Division, Staff Assistants to Regional Counsels; and to attorneys of the Office of Chief Counsel directly involved in such matters.

To the extent that any action heretofore taken may require ratification, such action is hereby affirmed and ratified.

This Amendment amends and supplements paragraph 9(c) of Delegation Order No. 156. Delegation Order No. 156, issued May 19, 1976, is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, Number 100, Page 20898.

Date of issue: April 13, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner.

APRIL 4, 1978.

[FR Doc. 78-10322 Filed 4-14-78; 8:45 am]

[4810-25]

Office of the Secretary

[Treasury Department Order No. 219 (Revision 1)]

DEPUTY ASSISTANT SECRETARY (OPERATIONS)

Delegation of Authority

By Virtue of the authority vested in me by Treasury Department Order No. 190 (Revision 15), it is hereby ordered that the Deputy Assistant Secretary (Operations) is authorized to take final action with respect to any petition for remission, mitigation, or cancellation of any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) incurred or arising under the Tariff Act of 1930, as amended, or any other law to the extent that it is administered by the United States Customs Service.

Treasury Department Order No. 165, revised, shall not be affected by this Order.

Dated: April 11, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury,

(Enforcement and Operations).

[FR Doc. 78-10025 Filed 4-14-78; 8:45 am]

[4810-40]

[Public Debt Series—No. 9-78]

TREASURY NOTES OF APRIL 30, 1980

Series N-1980

APRIL 13, 1978.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $2,171,000,000 of United States securities, designated Treasury Notes of April 30, 1980, Series N-1980 (CUSIP No. 912827 HR 6). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated May 1, 1978, and will bear interest from that date, payable on a semiannual basis on October 31, 1978, and each subsequent 6 months on April 30 and October 31, until the principal becomes payable. They will mature April 30, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to

estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, April 19, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, April 18, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, any submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields through successively higher yields to the extend required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allocated securities must be made or completed on or before Monday, May 1, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Wednesday, April 26, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Tuesday, April 25, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to

5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates, these certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,
Acting Fiscal Assistant Secretary.

[FR Doc. 78-10335 Filed 4-14-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 638]

Assignment of Hearings

APRIL 12, 1978.

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.

Correction

No. F.D. 28697, Southern Railway Co. Discontinuance of Trains Nos. 1 and 2 Between Washington, DC and Atlanta, GA, now being assigned May 12, 1978 (3 days), at the Offices of the Interstate Commerce Commission, Washington, DC and continued to May 19, 1978 (1 day), at Charlottesville, VA, May 20, 1978 (1 day), at Lynchburg, VA, May 22, 1978 (1 day), at Danville, VA, May 23, 1978 (1 day), at Greensboro, NC, May 24, 1978 (1 day), at Salisbury, NC, May 25, 1978 (1 day), at Charlotte, NC, May 26, 1978 (1 day), at Spartanburg, SC, May 27, 1978 (1 day), at Greenville, SC, May 30, 1978 (1 day), at Clemson, SC, May 31, 1978 (1 day), at Toccoa, GA, June 1, 1978 (1 day), at Gainesville, GA, June 2, 1978 (1 day), at Atlanta, GA, June 5, 1978 (1 day), at Anniston, AL, June 6, 1978 (1 day) at Birmingham, AL, June 7, 1978 (1 day), at Livingston, AL, June 8, 1978 (1 day), at Meridian, MS, June 9, 1978 (1 day), at Laurel, MS, June 12, 1978 (1 day), at Hattiesburg, MS, June 13, 1978 (1 day), at Poplarville, MS, and June 14, 1978 (1 day), at New Orleans, LA in hearing rooms to be later designated.

This notice corrects the place of hearing for June 5, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10302 Filed 4-14-78; 8:45 am]

[7035-01]

[Notice No. 637]

Assignment of Hearings

APRIL 12, 1978.

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 18121, Sub-No. 19, Advance Transportation Co. and MC 18121 Sub-No. 20, Advance Transportation Co., is assigned for hearing May 8, 1978 at Madison, WI and will be held at C I Conference Room 125 U.S. Forest Products Laboratory.

MCF 13194, Pacific Intermountain Express—Purchase (portion)—Best-Way Transportation and MCF 13204, System 99—Purchase (portion)—Best-Way Transportation is assigned for hearing June 6, 1978 at Phoenix, AZ and will be held at Adams Hotel, Central Ave. and Adams.

MC 108375, Sub-No. 41, Leroy L. Wade & Son, Inc., is assigned for hearing May 2, 1978, at Omaha, NE and will be held at Holiday Inn, The Executive Room, 655 North 100 and 8th Ave.

MC 127303, Sub-No. 24, Zellmer Truck Lines, Inc., is assigned for hearing May 4, 1978 at Omaha, NE and will be held at Holiday Inn, The Executive Room, 655 North 100 and 8th Ave.

MC 85465, Sub-No. 62, O. N. C. Freight Systems, is assigned for hearing May 10, 1978 at Denver, CO and will be held at Room 158 U.S. Customs House, 721 19th St.

MC 116915, Sub-No. 42, Eck Miller Transportation Corp., is assigned for hearing May 9, 1978 at Omaha, NE and will be held at Royal Inn, Nebraska Room, 4706 South 100 and 8th Ave.

MC 48958, Sub 138, Illinois-California Express, Inc., is assigned for hearing May 10, 1978 at Omaha, NE and will be held at Royal Inn, Nebraska Room, 4706 South 100 and 8th Ave.

MC 143916, McQuade Heavy Hauling, Inc., is assigned for hearing May 15, 1978 at Omaha, NE and will be held at Holiday Inn, The Senate Room, 3321 South 72nd and 108th Ave.

MC 83539, Sub 476F, C & H Transportation Co., Inc., is now assigned April 26, 1978 (1 day) in Courtroom 323, Federal Building and Courthouse, 312 North Spring Street, Los Angeles, CA.

MC 73165, Sub 421, Eagle Motor Lines, Inc., now being assigned July 12, 1978 (3 days) at Atlanta, GA in a hearing room to be later designated.

No. MC 120981 (Sub-No. 24), Bestway Express, Inc., now being assigned June 5, 1978 (2 weeks), at Frankfort, KY in a hearing room to be later designated.

MC 57298 Sub 11, Union Bus Lines, Inc., is now assigned for continued hearing on May 22, 1978 (1 week) at the Broadway Plaza Hotel, 1111 Northeast Loop 410, San Antonio, TX; and on May 30, 1978 (4 days) at the Ramada Inn, U.S. 90 at 277 North, Del Rio, TX.

FD 28611, Southern Pacific Transportation Co. to discontinue the operation of passenger trains between San Francisco and San Jose and intermediate points now assigned April 25, 1978 at San Francisco, CA

and will be held in Courtroom No. 1, 6th Floor, 211 Main Street, from 9:30 a.m. to 5 p.m., May 1, 1978 in the City Council Chambers, City Hall, 330 West 20th Avenue in San Mateo, CA from 9:30 a.m. to 3:30 p.m. and from 7 p.m. to 12 midnight at the San Mateo Performing Arts Center, San Mateo Union High School, 650 North Delaware Street, May 2, 1978 in Redwood City, CA from 9:30 a.m. to 5 p.m. and from 7 p.m. to 11 p.m. in Room B-1, Hall of Justice and Records, 401 Marshal Street, May 3, 1978 at Palo Alto, CA from 9:30 a.m. to 3:30 p.m. in the Council Chambers of City Hall, 250 Hamilton Avenue and from 7 p.m. to 11 p.m. in the Auditorium of the Palo Alto High School, 50 Embarcadero, May 4, 1978 from 9:30 a.m. to 5 p.m. and from 7 p.m. to 11 p.m. at Mountain View, CA and will be held in the Council Chambers, City of Mountain View, 540 Castro Street, May 5, 1978 in San Jose, CA from 9:30 a.m. to 5 p.m. and from 7 p.m. to 11 p.m. in the Council Chambers, City Hall, 801 North First Street, and May 8, 1978 in San Francisco, CA from 9:30 a.m. to 5 p.m. in Moot Courtroom, 4th Floor, Hastings College of Law, 198 McAllister Street.

MC 143169, Sub 1, Harry Brotton & Henry Lucero, d.b.a. Lucero Film Service, is now assigned for hearing June 5, 1978 (1 week) at Phoenix, AZ, at a location to be later designated.

MC 124511, Sub 41, John F. Oliver, is now assigned for hearing July 18, 1978 at the offices of the Interstate Commerce Commission, Washington, DC.

MC 26396, Sub 160, Popelka Trucking Co., d.b.a. The Waggoners, now assigned April 24, 1978 at Chicago, IL, will be held in Room 3619, 230 South Dearborn Street.

MC 120427, Sub 8, Williams Transfer, Inc., now assigned April 25, 1978 at Chicago, IL, will be held in Room 3619, 230 South Dearborn Street.

MC 143436, Sub 4, Controlled Temperature Transit, Inc., now assigned April 26, 1978 at Chicago, IL, will be held in Room 3619, 230 South Dearborn Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10303 Filed 4-14-78; 8:45 am]

[7035-01]

[Ex Parte 241; 40th Rev. Exemption No. 90]

EXEMPTION UNDER MANDATORY CAR SERVICE RULES

To all railroads:

It appearing, that certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; 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 these cars, resulting in unnecessary loss of utilization of such cars; and

It further appearing, that there are substantial shortages of 50-ft. plain boxcars throughout the country; that the carriers identified in this exemption by the symbol ( ) have 150% or more of their ownership of these cars on their lines; and that such a disproportionate use of the total supply of such cars causes shippers served by other lines to be deprived of their proper share of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Apalachicola Northern Railroad Co., Reporting Marks: AN.
Atlanta & Saint Andrews Bay Railway Co., Reporting Marks: ASAB.
The Baltimore and Ohio Railroad Co., Reporting Marks: BO.
Bessemaer and Lake Erie Railroad Co., Reporting Marks: BLE.
Camino, Placerville & Lake Tahoe Railroad Co., Reporting Marks: CPLT.
The Chesapeake and Ohio Railway Co., Reporting Marks: CO-PM.
Chicago & Illinois Midland Railway Co., Reporting Marks: CIM.
Chicago, Rock Island and Pacific Railroad Co., Reporting Marks: RI-Rock.
City of Prineville, Reporting Marks: COP.
The Clarendon and Pittsford Railroad Co., Reporting Marks: CLP.
Consolidated Rail Corp., Reporting Marks: CR-DLW-EL-ERIE-LV-NH-NYC P&E-PAE-PC-PCA-PRR-RDG.
Delaware and Hudson Railway Co., Reporting Marks: DH.
Duluth Missabe and Iron Range Railway Co., Reporting Marks: DMIR.
Florida East Coast Railway Co., Reporting Marks: FEC.
Grand Trunk Western Railroad Co., Reporting Marks: GTW.
Greenville and Northern Railway Co., Reporting Marks: GRN.
Greenwich & Johnsonville Railway Co., Reporting Marks: GJ.
Lake Erie, Franklin & Clarion Railroad Co., Reporting Marks: LEF.
Louisville and Wadley Railway Co., Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Co., Reporting Marks: LNAC.
McCloud River Railroad Co., Reporting Marks: MR.
Middletown and New Jersey Railway Co., Inc., Reporting Marks: MNJ.
* * *
Municipality of East Troy, Wisconsin, Reporting Marks: METW.
New Orleans Public Belt Railroad, Reporting Marks: NOPB.
Norfolk and Western Railway Co., Reporting Marks: ACY-N&W-NKP-WAB.
Pearl River Valley Railroad Co., Reporting Marks: PRV.
Providence and Worcester Co., Reporting Marks: PW.
Raritan River Rail Road Co., Reporting Marks: RR.
Sacramento Northern Railway, Reporting Marks: SN.
St. Johnsbury & Lamoille County Railroad, Reporting Marks: SJL.
St. Lawrence Railroad, Reporting Marks: NSL.
Sierra Railroad Co., Reporting Marks: SERA.
Terminal Railway, Alabama State Docks, Reporting Marks: TASD.
Tidewater Southern Railway Co., Reporting Marks: TS.
Toledo, Peoria & Western Railroad Co., Reporting Marks: TPW.
WCTU Railway Co., Reporting Marks: WCTR.
Western Maryland Railway Co., Reporting Marks: WM.
Western Railway of Alabama, Reporting Marks: WA.
Youngstown & Southern Railway Co., Reporting Marks: YS.
Yreka Western Railroad Co., Reporting Marks: YW.

Carriers having 150% or more of ownership on line.

Effective April 1, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-10317 Filed 4-14-78; 8:45 am]

[7035-01]

FORMAT CHANGES FOR COMMISSION DECISIONS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of format changes.

SUMMARY: All Commission decisions formerly entitled "order," "decision and order," "report and order," "initial decision," etc. will be entitled "decision." Parties' representatives will no longer be listed in the decisions. Ordering paragraphs will be integrated into the body of the decision. Separate orders will not be used.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, Phone: 202-275-7581.

SUPPLEMENTARY INFORMATION: To simplify and standardize the style of the written work, the Commission has decided to adopt a uniform format for all its decisions. Currently, the Commission uses several formats for decisions by the Commission, its divisions, administrative law judges, employee boards, and joint boards. These formats include orders, decisions and orders, reports and orders, and initial decisions. In the future all these will be entitled "decision" whether or not they are printed in one of the permanent series of Commission volumes.

---

[1] Minneapolis, Northfield and Southern Railway deleted.

Printed decisions will no longer contain lists of parties' representatives as these lists are contained in the docket and are part of the formal record. In the past, some decisions of the Commission were accompanied by separate orders. Where appropriate, ordering paragraphs will now be included in the body of the decision.

Where possible, these internal style changes will be used in all Commission decisions after April 14, 1978. Comments are, however, welcome.

Decided April 4, 1978.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10305 Filed 4-14-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

APRIL 12, 1978.

This application for long-and-short-haul relief has been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43530, Traffic Executive Association—Eastern Railroads, Agent's E.R. No. 3068, rate on newsprint paper, from Beaupre, PQ, Canada to Pompano Beach, FL, in sup. 86 to Canadian Freight Association tariff 760, ICC 325, to become effective May 7, 1978. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10304 Filed 4-10-78; 8:45 am]

[7035-01]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

[Notice No. 25]

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 2f1, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before May 17, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77411, filed November 14, 1977. Transferee: WOOSTER MOTOR WAYS, INC., P.O. Box 436, Wooster, OH 44691. Transferor: Fischbach Trucking Co., an Ohio corporation, 921 Sherman Street, Akron, OH 44311. Applicant's representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Authority sought for purchase by transferee of a portion of the operating rights set forth in Certificates No. MC 111398 (Sub-Nos. 1, 9, 11, and 15) issued January 25, 1968, October 14, 1966, December 3, 1965, and April 8, 1977 as follows: *Machinery* used in the manufacture of rubber products between Kent, OH on the one hand and, on the other, points in MA, CT, NJ, RI, and specified points or portions of IL, NY, and PA; *merchandise* dealt in by those dealing with rubber products from Lawrence, MA to points in OH, between Akron, OH on the one hand and, on the other, points noted in the description above originating at Kent, OH; *battery boxes* from a plantsite at West Springfield, MA to Zanesville, OH; *commodities* dealt in by rubber manufacturers from Akron, OH to points in CT, MA, RI, and specified points in NJ and NY; *tire fabric* from Fall River and New Bedford, MA to Akron, OH; *chemicals* from Naugatuck, CT to Akron, OH; *scrap tire* from specified points to Akron, OH; *bicycle tires, tubes, and accessories* from New Bedford, MA to various points in OH; and *commodities* manufactured, processed, etc. by rubber manufacturers between points in OH on the one hand and, on the other, points in the territory noted above having Kent, OH as the origin. Transferee holds no Commission authority, but does seek section 210a(b) temporary authority.

No. MC-FC-77477, filed January 4, 1978. Transferee: P.D.F. TRUCKING CO., an Ohio corporation, 949 North Munroe Rd., Talmadge, OH 44278. Transferor: Fischbach Trucking Co., 921 Sherman St., Akron, OH 44311. Applicant's representative: John P. McMahon, 100 East Broad St., Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights set forth in Certificate No. MC 111398 (Sub-Nos. 12 and 14) issued August 14, 1969 and January 19, 1973, as corrected February 13, 1973, as follows: *Roofing and building materials* from the facilities of Certain-teed Products Corp. at Avery, OH to points in IN, KY, MI, WV, NJ, DE, MD, VA, DC, and specified portions of NY and PA and *materials, equipment, and supplies* used in the manufacture, installation, etc. of roofing and building materials from points in the above-cited destination States to the facility at Avery, OH. Transferee holds no Commission authority, but it does seek temporary authority under section 210a(b).

No. MC-FC-77504, filed January 12, 1978. Transferee: COLE FREIGHT CO., an Ohio corporation, 5445 West 137th Place, Crestwood, IL 60445. Transferor: Fischbach Trucking Co., 921 Sherman St., Akron, OH 44311. Applicant's representative: John P. McMahon, 100 East Broad St., Suite 1800, Columbus, OH 43215. Authority sought for purchase by transferee of a portion of the operating rights set forth in No. MC 111398 (Sub-Nos. 1 and 11) issued January 25, 1968 and December 3, 1965, respectively, as follows: *Books* from Cambridge, MA to Chicago, IL and Columbus, OH, *prepared food products* from Baltimore, MD, Philadelphia, PA, and points in New York to Canton, OH, *agricultural commodities* and prepared foods from points in New York to points in Ohio, *canned and preserved foodstuffs* from points in new York to Charleston and Huntington, WV, *linoleum and flooring equipment* from Lancaster, PA to Mansfield, OH and from Lancaster, and Marcus Hook, PA and Kearney, NJ to Canton, OH, *floor covering* between Paulsboro, NJ and East Walpole, MA on the one hand and, on the other, St. Louis, MO, points in OH, IL, IN, and a specified part of PA; and such materials as are dealt in by brush manufacturers and materials used in such an enterprise from Albany, Port Chester, and Troy, NY to Hamilton and Steubenville, OH and from, to, and between points in CT and points in OH. Transferee holds no Commission authority and does not seek section 210a(b) temporary authority.

No. MC-FC-77548, filed February 16, 1978. Transferee: EDWARD D. ECKSTROM d.b.a. EDWARD D. ECKSTROM TRUCKING, R.D. No. 3, Jamestown, NY 14701. Transferor: Jeanette Vincent Northrop, Administratrix of the Estate of Norman H. Northrop d.b.a. Norman H. Northrop

Trucking, R.D. No. 3, Town of Busti, Jamestown, NY 14701. Applicants' representative: Thaddeus W. Clark, Attorney for Edward D. Eckstrom, 214 West Fifth Street, Jamestown, NY 14701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 24058, issued by the Commission May 23, 1941, as follows: *Feed, flour and flour-mill products,* over a specfied regular route, from Buffalo, NY, to Lottsville, PA, and return, with no transportation for compensation over the same route to Buffalo; *milk,* over irregular routes, from points in that part of PA west of U.S. Hwy 62, north of U.S. Hwy 6, and east of PA Hwy 189, including points on the indicated portions of the highways specified, to Frewsburg, NY; and *empty milk containers,* over irregular routes, from Frewsburg, NY, to points in the above-specified PA territory. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under section 210a(b).

No. MC-FC-77590, filed March 24, 1978. Transferee: VINCENT L. ORIET AND LORETTA E. ORIET d.b.a. LUCKY SEVEN TRANSFER & STORAGE, 730 5th Street, P.O. Box 2056, Prescott, AZ, 86302. Transferor: Loretta E. Oriet, d.b.a. Lucky Seven Transfer & Storage (same address as transferee). Applicants' representative: Vincent L. Oriet and Loretta E. Oriet (same address as transferee). Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration No. MC 120830 (Sub-No. 1), issued October 12, 1972, as follows: *Freight, baggage, and express* over the public highways known as those in Prescott, AZ and vicinity; and household goods as defined by the Commission in ex-parte MC 19 between all points and places in AZ. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-10306 Filed 4-14-78; 8:45 am]

[7035-01]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 58]

April 6, 1978.

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 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.

Motor Carriers of Property

No. MC 41347 (Sub-No. 8TA), filed March 14, 1978. Applicant: DeBACK CARTAGE CO., INC., 4841 West Burnham Street, Milwaukee, WI 53219. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Welding equipment,* from the plantsite of Sellstrom Corp., at Palatine, IL, to the facility of Applied Power, Inc., at Wauwatosa, WI; (2) *Battery chargers,* from the plantsite of Schumacher Electric Corp., at Chicago, IL, to the plantsite of Applied Power, Inc., at Wauwatosa, WI, under a continuing contract, or contracts, with Applied Power, Inc., for 180 days. Supporting shipper(s): Applied Power, Inc., 12121 West Feerick Street, Wauwatosa, WI (C. A. Pitzo). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 55896 (Sub-No. 64TA), filed March 17, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Roofing and building materials, and materials* used in the installation and application of such commodities, (except commodities in bulk), from Franklin, OH to points in IL, IN, IA, MI, MO, PA and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 1062 Lancaster Avenue, Rosemont, PA 19010. Robert A. Cronk, Transportation Supervisor. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 61231 (Sub-No. 121TA), filed March 14, 1978. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic articles and plastic pipe,* from the facilities of Robintech Inc. at Grinnell, IA, to points in AZ, AR, CO, IL, IN, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX, WI and WY, for 180 days. Supporting shipper(s): Robintech Inc., P.O. Box 649, Grinnell, IA 50112. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 68860 (Sub-No. 33TA), filed February 28, 1978. Applicant: RUSSELL TRANSFER, INC., 5259 Aviation Drive NW., Roanoke, VA 24012. Applicant's representative: Liniel G. Gregory, Jr., 5259 Aviation Drive NW., Roanoke, VA 24012. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Glass containers,* from the facilities of Midland Glass at or near Warner Robins, GA, to Eden, NC, and points within a fifty (50) mile radius of Eden, NC, for 180 days. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721. Send protests to: Irene W. Yost, Secretary, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, VA 24011.

No. MC 69833 (Sub-No. 126TA), filed March 13, 1978. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th Floor Vandenberg Center, Grand Rapids, MI 49503. Applicant's representative: Harry Pohlad (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular 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), serving the facilities of Dow Chemical Co. at or near Midland, MI, as an off-route point in connection with carrier's regular route authority, for 180 days. Supporting shipper(s): Dow Chemical Co., 690 Building, Midland, MI 48640. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933.

No. MC 82492 (Sub-No. 184TA), filed March 14, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foods and frozen bakery goods*, from the facilities of Stouffer Foods, Division of the Stouffer Corp. at or near Cleveland and Solon, OH, to points in KY, MN, WI, Chicago, IL, and points in its commercial zone and Bloomington and South Bend, IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stouffer Foods, Division of the Stouffer Corp., 5750 Harper Road, Solon, OH 44139. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 225 Federal Building, Lansing, MI 48933.

No. MC 82492 (Sub-No. 184TA), filed March 14, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Applicant's representative: William C. Harris, 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and chain grocery stores, from the facilities of Fostoria Distribution Service Co., at or near Fostoria, OH, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fostoria Distribution Service Co., P.O. Box D, Fostoria OH 44830. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 94201 (Sub-No. 160TA), filed March 13, 1978. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, 1500 Cedar Grove Road, Atlanta, GA 30316. Applicant's representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, AL 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular 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 commodities requiring special equipment), between Meridian, MS, and the facilities of The Richardson Co. at or near Philadelphia, MS, over the following route and service no intermediate points: From Meridian over MS Hwy 19, and return over the same route, restricted to traffic originating at or destined to the facilities of The Richardson Co. at or near Philadelphia, MS, for 180 days. Applicant proposes to tack its present authority with that here sought at Meridian, MS. Supporting shipper: The Richardson Co., 2701 West Lake Street, Melrose Park, IL 60160. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 106674 (Sub-No. 295TA), filed March 8, 1978. Applicant: SCHILLI MOTOR LINES, INC., U.S. Highway 24 West, P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material*, from Largo, IN, to all points located in the States of WI, IA, IL, MO, OH, KY, TN, and MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, FL 33607. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 107295 (Sub-No. 874TA), filed March 17, 1978. Applicant: PREFAB TRANSIT CO., P.O. Box 146, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Coldwater, MI, to points in CT, IL, IN, KY, MD, MA, MN, NJ, NY, OH, PA, TN, and WI, for 180 days. Supporting shipper: R. M. Granum, President Panel Processing, Inc., 120 Industrial Avenue, Alpena, MI 49707. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 107403 (Sub-No. 1070TA), filed March 16, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid* (in bulk, in tank vehicles), from Josephtown, Langeloth, and Newell, PA, to Front Royal, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Chemical Corp., P.O. Box 1139-R, Morristown, NJ 07960. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

No. MC 113106 (Sub-No. 52TA), filed March 14, 1978. Applicant: THE BLUE DIAMOND CO., 4401 East Fairmount Avenue, Baltimore, MD 21224. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefor, plastic containers and closures therefor, fibreboard boxes, and materials, supplies and equipment* used in the manufacture and distribution of the aforesaid commodities, from Brockway, PA, to Washington, DC, and points in its Commercial zone, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mr. Blaine E. Carlson, Senior TA, Brockway Glass Co., Inc., McCullough Avenue, Brockway, PA 15824. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 114457 (Sub-No. 364TA), filed March 15, 1978. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, MN 55114. Applicant's representative: James H. Wills, 2102 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies*, from Troy, OH, to points in TX, LA, OK, AR, NM, CO, KS, MO, IL, IA, NE, WY, MT, SD, ND, MN, and WI, for 180 days. Supporting shipper: Hobart Brothers Co., 600 West Main Street, Troy, OH 45373. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 114569 (Sub-No. 213TA), filed March 9, 1978. Applicant:

SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17082. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum plate or sheet and/or aluminum blanks*, from the facilities of Mill Product Division of Howmet Aluminum Corp., Manheim Township, Lancaster, PA, to points in the States of AR, CA, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, OK, TX, WA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mill Products Division of Howmet Aluminum Corp., P.O. Box 3167, Lancaster, PA 17604. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

No. MC 114569 (Sub-No. 214TA), filed March 9, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products* as described in section A 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), from Memphis, TN, to RI, NY, CN, NH, ME, MA, and NJ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armour Food Co., 111 West Clarendon Greyhound Tower, Phoenix, AZ 85077. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

No. MC 114569 (Sub-No. 215TA), filed March 9, 1978. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, PA 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by retail wholesale, chain, and grocery business houses, from the facilities of Fostoria Distribution Services, Co., at or near Fostoria, OH, to points in PA, NY, IN, KY, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Fostoria Distribution Services, Co., P.O. Box 685, Camp Hill, PA 17011. Send protests to: Charles F. Myers, district Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, 228 Walnut Street, Harrisburg, PA 17108.

No. MC 115233 (Sub-No. 3TA), filed March 13, 1978. Applicant: MARSHALL STORAGE CO., P.O. Box 145, Highway 19 East, Marshall, MN 56258. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from the facilities of Big Stone Inc., located at or near Arlington and Ortonville, MN, and Bloomer, WI, to points in OK and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Gig Stone Inc., P.O. Box 86, Chaska, MN 55318. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 117820 (Sub-No. 18TA), filed March 13, 1978. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Avenue, Port Huron, MI 48060. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of The Kitchens of Sara Lee, at Deerfield, IL, to points in CN, MA, NJ, and NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: The Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. (Richard W. Szynal Traffic Manager). Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 118159 (Sub-No. 253TA), filed March 13, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Applicant's representative: Warren Taylor, P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Air conditioning and heating equipment and materials, equipment, and supplies*, used in the manufacture and distribution, from Nashville, TN, to CA, WA, NV, AZ, UT, CO, TX, IA, NE, SD, MT, ND, OR, and OK, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Heil Quaker Corp., 1714 Heil Quaker Boulevard, LaVergne, TN 37086. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 North West Third, Oklahoma City, OK 73102.

No. MC 119493 (Sub-No. 187TA), filed March 16, 1978. Applicant: MONKEM CO., INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Applicant's representative: Lawrence F. Kloeppel, P.O. Box 1196, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags, plastic bags, and bags constructed of paper and plastics combined*, from Jacksonville, AR, to points in the United States in and east of MT, WY, CO, and NM; (2) *Materials, equipment, and supplies* used in or in connection with the manufacture, distribution, printing, processing or use of paper bags, plastic bags and bags constructed of paper and plastic combined, from destinations named in part (1) to Jacksonville, AR, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Plains Bag Corp., 1031 Redmond Road, Jacksonville, AR 72076. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 119670 (Sub-No. 30TA), filed March 10, 1978. Applicant: THE VICTOR TRANSIT CORP., 5250 Este Avenue, Cincinnati, OH 45232. Applicant's representative: Robert H. Kinker, 314 W. Main Street, P.O. Box 464, Frankfort Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *scrap paper and/or waste paper and rags*, (except in tank vehicles), between points in AL, DE, GA, IL, IN, KY, MD, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI, and the DC, for 180 days. Supporting shipper(s): There are approximately (32) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 123225 (Sub-No. 150TA), filed March 17, 1978. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers*,

fibreboard, or pulpboard, with or without ends of the same or other materials, from the facilities of Sonoco Products Co. at or near Alpha, OH, to Elk Grove Village, Northbrook, and West Chicago, IL, and Battle Creek, MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sonoco Products Co., 1 North Second Street, Hartsville, SC 29550. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 124174 (Sub-No. 117TA), filed March 17, 1978. Applicant: MOMSEN TRUCKING CO., 13811 "L" Street, Box 37490, Omaha, NE 68137. Applicant's representative: Karl M. Momsen (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores, (except foodstuffs, commodities of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities which because of their size and weight require the use of special equipment), from Columbus, OH, to Hays, KS; Scottsbluff, Columbus, Beatrice, and Fremont, NE; Worthington, MN; Sioux Falls, Watertown, Pierre, and Aberdeen, SD, for 180 days. Supporting shipper(s): Duane R. Johnson, General Traffic Manager, Gambles Skogmo, Inc., 5100 Gamble Drive, Minneapolis, MN 55416. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 124997 (Sub-No. 50TA), filed March 14, 1978. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Crude, calcined and dead burned magnesite, and magnesium based products, on flatbed equipment,* from Port St. Joe, FL, to Natchez, MS, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Basic Incorporated, 845 Hanna Building, Cleveland, OH 44115. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 125023 (Sub-No. 57TA), filed March 17, 1978. Applicant: SIGMA-4 EXPRESS, INC., 3825 Beech Avenue, P.O. Box 9117, Erie, PA 16504. Applicant's representative: Richard G. McCurdy (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs,* from the facilities of Heinz U.S.A., a division of H. J. Heinz Co., at or near Fremont, OH to points in CT, ME, MA, NH, NJ on and North of Hwy 33, NY on and East of Hwy 81, PA on and East of 81 and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. J. Heinz Co., P.O. Box 57, Pittsburgh, PA 15230. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 125466 (Sub-No. 6TA), filed March 8, 1978. Applicant: V & P CARRIERS, INC., 665 Barriman Street, Brooklyn, NY 11208. Applicant's representative: Edward M. Alfano, Alfano & Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glassware,* from Brooklyn, NY, and Cambridge, OH, to points in the United States in and east of LA, AR, MO, IA, and MN, under a continuing contract, or contracts, with Super Glass Corp., for 180 days. Supporting shipper(s): Super Glass Corp., 1020 East 48th Street, Brooklyn, NY 11203. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 125777 (Sub-No. 213TA), filed March 16, 1978. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Applicant's representative: Duane O'Donnell, 4600 East 15th Avenue, Gary, IN 46403. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pig iron,* in dump vehicles, from Minneapolis, MN, to points in IL, IN, IA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jim Walter Resources, Inc., John A. Adcock, Jr., senior sales representative, Seven Salt Creek Lane, Hinsdale, IL 60521. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 129 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 126844 (Sub-No. 47TA), filed March 14, 1978. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Applicant's representative: Terrence D. Jones, 2033 K Street, NW, Washington, DC 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *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), (1) from the plantsites and storage facilities utilized by Geo. A. Hormel & Co., at Scottsbluff, NE, to Hartford and New Haven, CT; Elizabeth, NJ; Binghamton, NY; and Wilkes-Barre, PA; (2) from the plantsites and storage facilities utilized by Geo. A. Hormel & Co., at Fremont, NE, to New Haven, CT; and Binghamton, NY, and (3) from the plantsites and storage facilities utilized by Geo. A. Hormel & Co., at Austin, MN, to Wilkes-Barre, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 127099 (Sub-No. 22TA), filed March 13, 1978. Applicant: ROBERT NEFF & SONS, INC., P.O. Box 2015, 132 Shawnee Avenue, South Zanesville, OH 43701. Applicant's representative: John L. Alden, P.O. Box 5241, Columbus, OH 43212. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Nitrocarbonitrate and ammonium nitrate fertilizer,* in bulk, and packages, and related items (except in bulk), from New Lexington, OH, to points in IN, KY, MI, VA, and WV, under a continuing contract, or contracts, with the Monsanto Co., for 180 days. Supporting shipper(s): Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 128940 (Sub-No. 34TA), filed March 13, 1978. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 722, 9327 Riggs Road, Adelphi, MD 20783. Applicant's representative: Edward N. Button, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Synthetic fiber and synthetic fiber yarn, and materials, supplies and equipment* used in the manufacturing thereof, between Odenton, MD, and its commercial zone, on the one hand, and, on the other, points in NY, NJ, PA, WV, NC, SC, GA, FL, DE, AL, TN, LA, KS, WI, IA, MI, OH, and IN, under a continuing contract, or con-

tracts, with Ametek, Inc., Special Filaments Division, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ametek, Inc., Special Filaments Division, Odenton, MD 21113. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, DC 20423.

No. MC 135874 (Sub-No. 103TA), filed March 14, 1978. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Applicant's representative: K. O. Petrick, 550 East Fifth Street South, South St. Paul, MN 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Potato products* (except commodities in bulk), from Grand Forks, ND, to IA, IL, IN, KS, MO, Lower Peninsula of MI, OH, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Inter-National Co-op, Hwy 2, Grand Forks, ND 58201. Sent protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135953 (Sub-No. 3TA), filed March 15, 1978. Applicant: CHEROKEE LINES, INC., P.O. Box 152, Cushing, OK 74023. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery*, from the facilities of M & M/Mars, Division of Mars, Inc., (a) at Hackettstown, NJ, and Elizabethtown, PA, to Chicago, IL; Phoenix, AZ; Salt Lake City, UT; Portland and Milwaukie, OR; Dallas, Fort Worth, and Houston, TX, and their commercial zones, and to points in CA and OH; (b) at Chicago, IL; to Hackettstown, NJ; New York, NY; Philadelphia and Pittsburgh, PA; Baltimore, MD; Providence, RI; and Columbus, Cleveland, and Cincinnati, OH, and their commercial zones, for 180 days. Supporting shipper(s): M & M/Mars, Division of Mars, Inc., High Street, Hackettstown, NJ 07840. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136315 (Sub-No. 27TA), filed March 17, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Rt. 9, Box 22-A, Philadelphia, PA 39350. Applicant's representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Detroit, MI, to points in AL, AR, GA, LA, MS, and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) McParland Lumber Ltd., 701 Evans Avenue, Suite 807, Etobicoke, ON; (2) Empire Wholesale Lumber Co., Miami and Gault Street, Akron, OH 44311. Send protests to Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, MS 39201.

No. MC 136343 (Sub-No. 129TA), filed March 17, 1978. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, R.D. No. 1, Milton, PA 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, fibreboard or pulpboard, with or without ends made of same or other material* (except commodities in bulk), from the plantsite of Sonoco Products, at or near Alpha, OH to Bronx, NY; East Stroudsburg and Quakertown, PA; Dover, DE; Atlanta, GA; Elkhart, IN; Battle Creek, MI; West Chicago, North Brook, Elgin, and points in the Chicago, IL, commercial zone, for 180 days. Applicant has also filed an underlying ETA, seeking up to 90 days of operating authority. Supporting shipper(s): Sonoco Products Co., 1 North Second Street, Hartsville, SC 29550. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, PA 17108.

No. MC 139495 (Sub-No. 328TA), filed March 17, 1978. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th Street, Liberal, KS 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, 1320 Fenwick Lane, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doughnut mix, flour, sugar, shortening, yeast, fruit filling, juices, and materials and supplies* used in the operation of a doughnut shop, from the facilities of Winchell Donut House at La Mirada, CA, to Arlington, TX; Bloomington, MN; Itaska, IL; Denver, CO; and Kansas City, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Winchell Donut House, 16424 Valley View Avenue, La Mirada, CA 906378. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, KS 67202.

No. MC 142607 (Sub-No. 2TA), (correction), filed December 15, 1977, and published in the FR issue of February 21, 1978, and republished as corrected this issue. Applicant: A. FUSCO SERVICE, INC., 3138 Webster Avenue, Bronx, NY 20467. Applicant's representative: Bruce J. Robbins, Esq., Robbins & Newman, 118-21 Queens Boulevard, Forest Hills, NY 11375. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric kitchen appliances, and materials, parts, equipment and supplies* used in the manufacture, packaging, sale and distribution of electric kitchen appliances. Between points in the commercial zones of Baldwin, Castile, East Rochester, Mineola, Perry, and New York, NY, Secaucus and South Kearny, NJ, and Manchester, KY, on the other, points in the commercial zones of Pittsburgh, PA, and Winona and Rochester, MN. (2) *Electric kitchen appliances.* From points in the commercial zones of Baldwin, Castile, East Rochester, Mineola, and Perry, NY; Secaucus and South Kearny, NJ; Manchester, KY; Pittsburgh, PA; and Winona and Rochester, MN to points in the commercial zones of Chicago, IL; Fort Wayne, IN; Forest Park, GA; Baltimore, and Halethorpe, MD; East Hampton, MA; Grand Rapids, MI; Kansas City and St. Louis, MO; Sparks, NV; Manchester and Nashua, NH; Syracuse, NY; Raleigh, NC; Fairless Hills, Johnstown and Wilkes-Barre, PA; and Richmond, VA. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Van Wyck International Corp. of Mineola, NY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Van Wyck International Corp., 49 Windsor Avenue, Mineola, NY 11501. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007. The purpose of this republication is to correct the territorial description.

No. MC 143436 (Sub-No. 9TA), filed March 13, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such general merchandise* as is dealt in by wholesale and retail grocery houses, retail chain department stores and drug stores, and materials and supplies used in the manufacture and assembly of such merchandise, between the plantsite and storage facilities of Colgate-Palmolive, Co., located at or near Jeffersonville, IN, on the one hand, and,

on the other, points in IL, MN, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Colgate-Palmolive Co., P.O. Box 1445, Louisville, KY 40201. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, room 429, Indianapolis, IN 46204.

No. MC 144138 (Sub-No. 1TA), filed March 16, 1978. Applicant: ARNOLD TRANSFER & STORAGE CO., INC., 820 North Garden, P.O. Box 391, Roswell, NM 88201. Applicant's representative: Mae Bledsoe, 401 North Arthur Street, Amarillo, TX 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, from, to or between points in Lea, Eddy, and Chaves Counties in the State of NM, for 180 days. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Department of Defense, Office of the Judge Advocate General, Dellon E. Coker, Washington, DC 20310. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue, SW, Albuquerque, NM 87101.

No. MC 144363 (Sub-No. 1TA), filed March 13, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in or used by retail stores (except foodstuffs and commodities in bulk), from points in AL, KY, MS, NC, and TN and Miami, FL; Columbus, Ga.; and Columbia, SC, to Des Moines, IA; (2) *Such merchandise* as is dealt in or used by retail stores (except foodstuffs and commodities in bulk), between the facilities of Ardan Wholesale, Inc., at Des Moines, IA, on the one hand, and, on the other, points in CA, NV and TX; (3) *Catalogs*, from Minneapolis, MN, to points in CA, NV, and TX, restricted to traffic transported under a continuing contract, or contracts, with Ardan Wholesale, Inc., for 180 days Supporting shipper(s): Donald C. Vial, Ardan Wholesale, Inc., 2320 Euclid, Des Moines, IA 50310. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 144449TA, filed March 10, 1978. Applicant: A & A MOVING AND STORAGE CO., d.b.a. A & A CONTRACT CARRIERS, 414 Blue Smoke Court West, Fort Worth, TX 76101. Applicant's representative: Richard N. Smith, 414 Blue Smoke Court West, Fort Worth, TX 76101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as manufactured and marketed by and used in the manufacturing process by Pitney-Bowes and its subsidiaries, from Pitney-Bowes distribution center Newtown, CT, via Pitney-Bowes plantsites Danbury and Stamford, CT, to Pitney-Bowes plantsite in South Plainfield, NJ, with intermediate stop at Pitney-Bowes plantsite in Linden, NJ, and return to Pitney-Bowes distribution center in Newtown, CT, from Pitney-Bowes distribution center in Newtown, CT, to Pitney-Bowes distribution center in Cincinnati, OH and Monarch Marking Systems plantsite in Miamisburg, OH, and return to Pitney-Bowes distribution center in Newtown, CT. From Pitney-Bowes distribution center in Newtown, CT, to Pitney-Bowes distribution center Chicago, IL, and return to Pitney-Bowes distribution center Newtown, CT, with intermediate stops at Stamford and Danbury, CT, under a continuing contract, or contracts, with Pitney-Bowes, Inc., for 180 days. Supporting shipper(s): Pitney-Bowes, Inc., Walnut and Pacific Streets, Stamford, CT. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, TX 76102

No. MC 144474TA, filed March 17, 1978. Applicant: MORGAN MOVING & STORAGE, INC., 301 North Street, Booneville, MS 38829. Applicant's representative: Harold D. Miller, Jr., 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture*, (a) from Fulton, MS, to points in IL and MD; (b) from Dumas, MS, to points in NJ and TX; and (c) from Blue Mountain, MS, to points in MO, NJ and TX; and (2) *Upholstered furniture*, from Blue Mountain, MS, to all points in the continental United States (except AK, AZ, DE, HI, ID, ME, MS, NV, OR, UT, VT, and WA), for 180 days. Supporting shipper(s): (1) Benchcraft, Inc., P.O. Box 86, Blue Mountain, MS 38610. (2) Frank & Son, Inc., 470 Park Avenue South, New York, NY 10016. (3) Yates Manufacturing Co., Blue Mountain, MS 38610. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, TN 38103.

PASSENGER CARRIER

No. MC 144374 (Sub-No. 1TA), filed March 16, 1978. Applicant: MASON TRAVEL SERVICE, INC., 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. Applicant's representative: Donald K. Smith, 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter and special operations, beginning and Indianapolis, IN, and extending to Cincinnati, and Columbus, OH; Chicago, IL; Louisville and Lexington, KY; Detroit and Lansing, MI, for 180 days. Supporting shipper(s): There are approximately (11) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and United States Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-10307 Filed 4-14-78; 8:45 am]

[7035-01]

[AB 187 (SDM)]

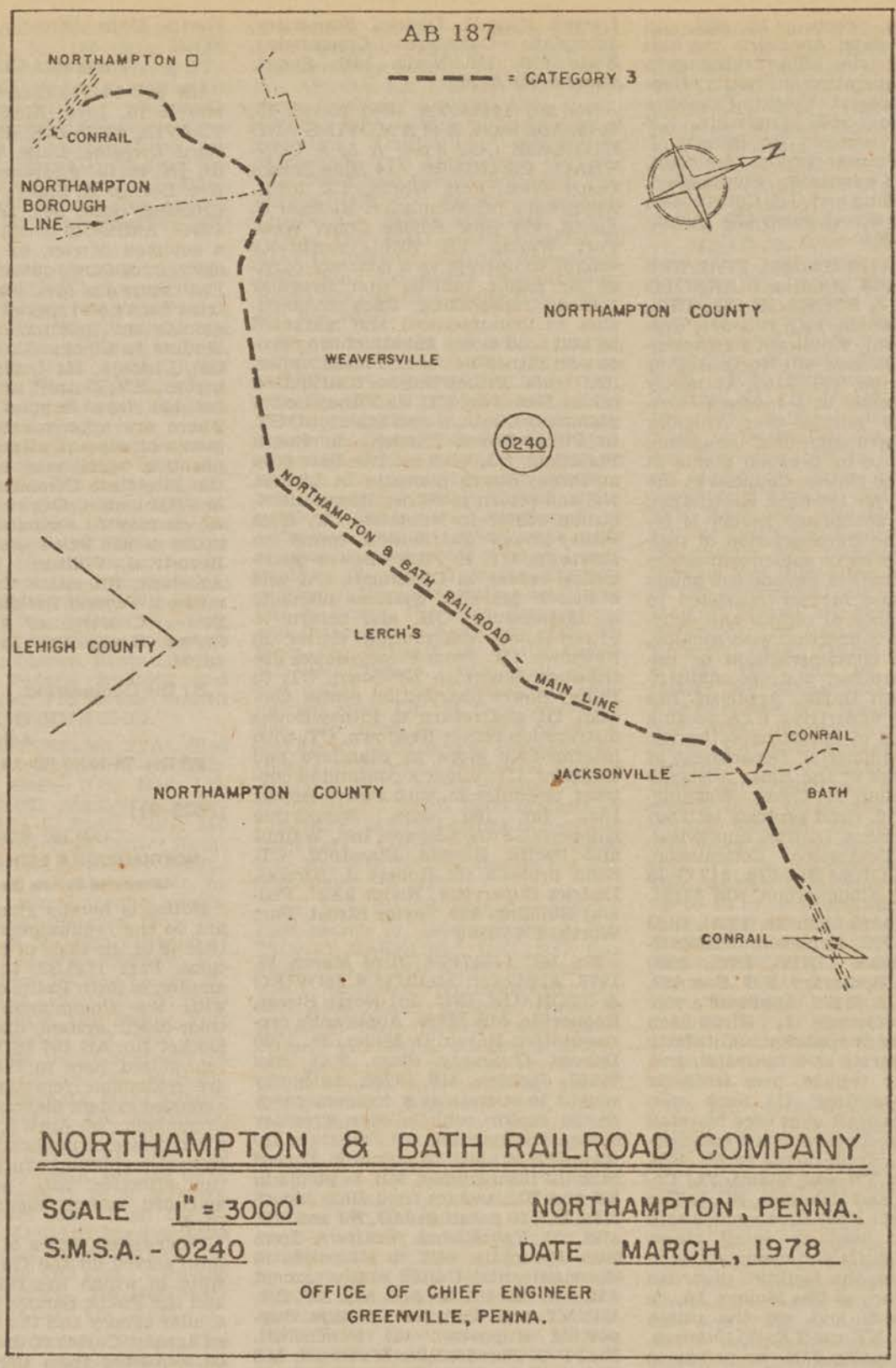
NORTHAMPTON & BATH RAILROAD CO.

Amended System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in title 49 of the Code of Federal Regulations, Part 1121.23, that the Northampton & Bath Railroad Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 187 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on April 3, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting Docket No. AB 187 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.


AB 187
NORTHAMPTON
= CATEGORY 3
CONRAIL
NORTHAMPTON BOROUGH LINE
N
NORTHAMPTON COUNTY
WEAVERSVILLE
0240
NORTHAMPTON & BATH RAILROAD
LERCH'S
LEHIGH COUNTY
MAIN LINE
CONRAIL
JACKSONVILLE
BATH
NORTHAMPTON COUNTY
CONRAIL
NORTHAMPTON & BATH RAILROAD COMPANY
SCALE 1" = 3000'
NORTHAMPTON, PENNA.
S.M.S.A. - 0240
DATE MARCH, 1978
OFFICE OF CHIEF ENGINEER
GREENVILLE, PENNA.

NORTHAMPTON AND BATH RAILROAD CO.

DESCRIPTION OF LINES TO ACCOMPANY THE SYSTEM DIAGRAM MAP

Category 1—All lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the three-year period following the date upon which the diagram, or any amended diagram, is filed with the Commission.

None.

Category 2—All lines or portions of lines potentially subject to abandonment which the carrier has under study and believes may be the subject of a future abandonment application because of either anticipated operating losses or excessive rehabilitation costs, as compared to potential revenue.

None.

Category 3—All lines or portions of lines for which an abandonment or discontinuance application is pending before the Commission on the date upon which the diagram, or any amended diagram, is filed with the Commission.

(a) Carrier's designation for each line: Entire line of Northampton and Bath Railroad Co.

(b) State or states in which each line is located: Pennsylvania.

(c) County or counties in which each line is located: Northampton County.

(d) Mileposts delineating each line or portion of line. MP 0.00 to MP 7.28.

(e) Agency or terminal stations located on each line or portion of line with milepost designations.

Stations	*Milepost Designations*
Northampton	0.00
Navarro	0.66
Weaversville	2.68
Lerch's	4.57
Jacksonville	5.20
Bath	6.56
Bath Jct.	7.28

Any interested person may obtain a copy of Northampton and Bath's color-coded or black and white system diagram map by sending a request, including a self-addressed stamped envelope, to:

Michael T. Reilly, Esq., Attorney, Northampton and Bath Railroad Co., P.O. Box 536, Pittsburgh, Pa. 15230.

[FR Doc. 78-10310 Filed 4-14-78; 8:45 am]

[7035-01]

[AB 39 (SDM)]

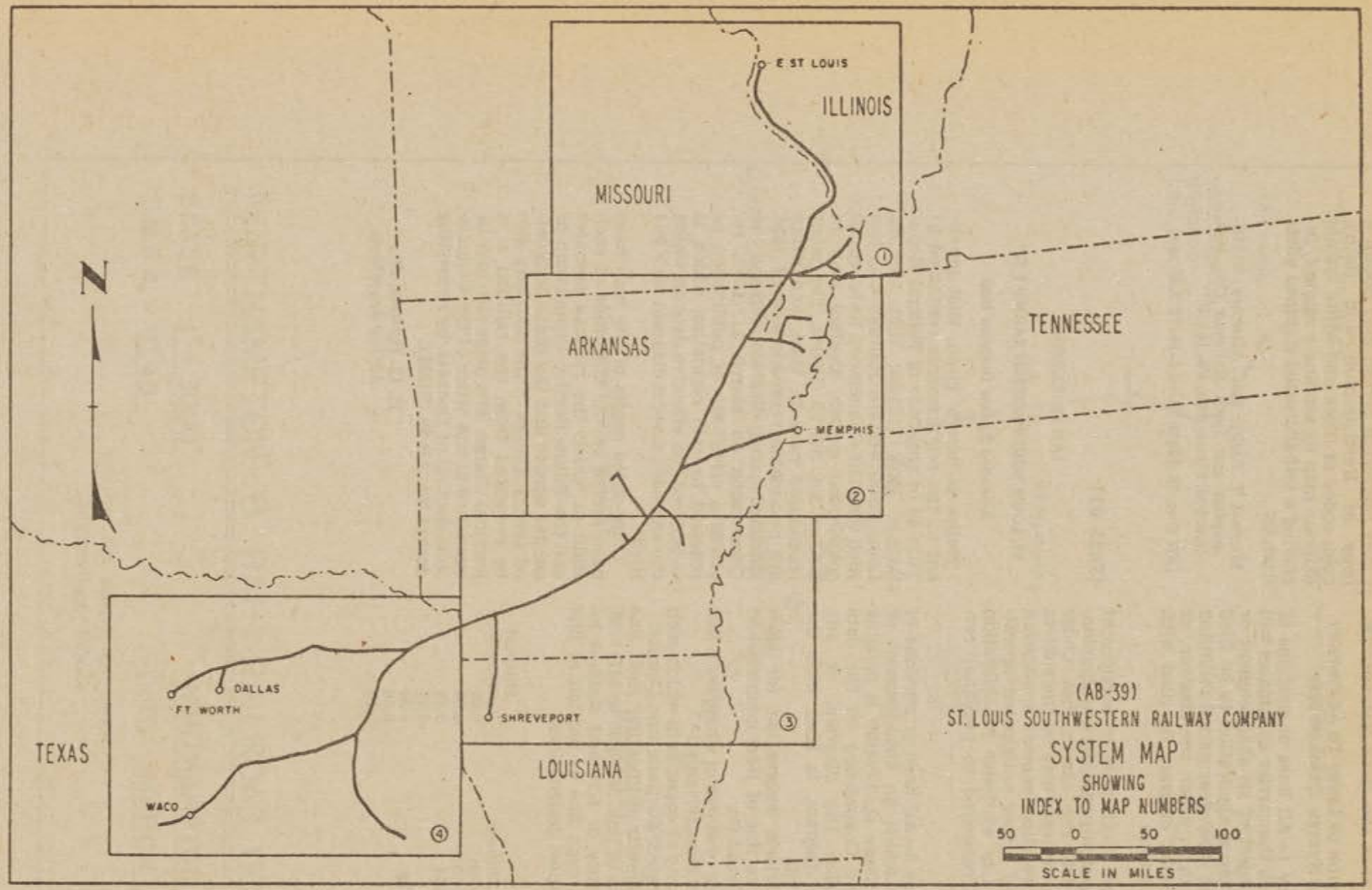
ST. LOUIS SOUTHWESTERN RAILWAY CO.

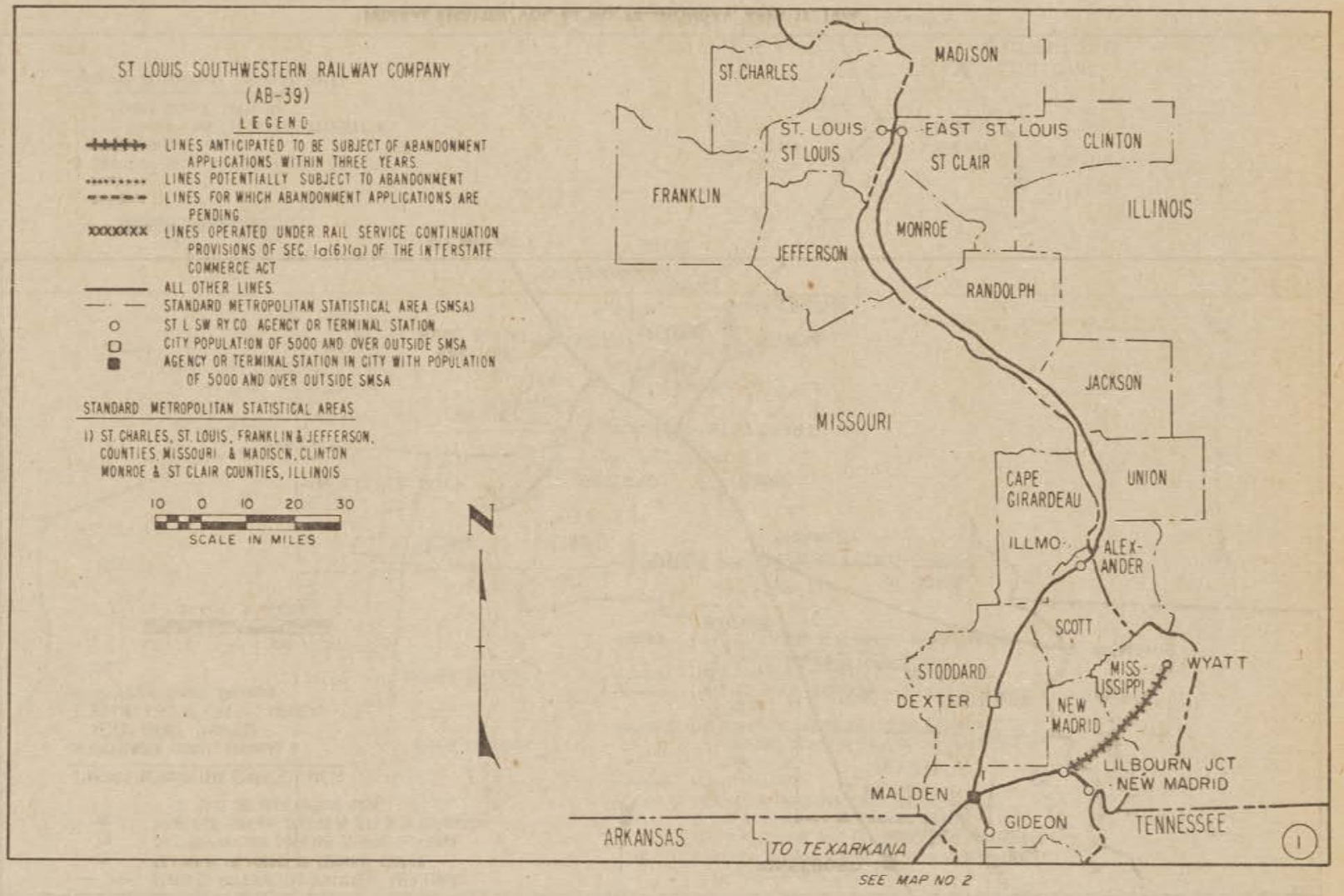
Amended System Diagram Map

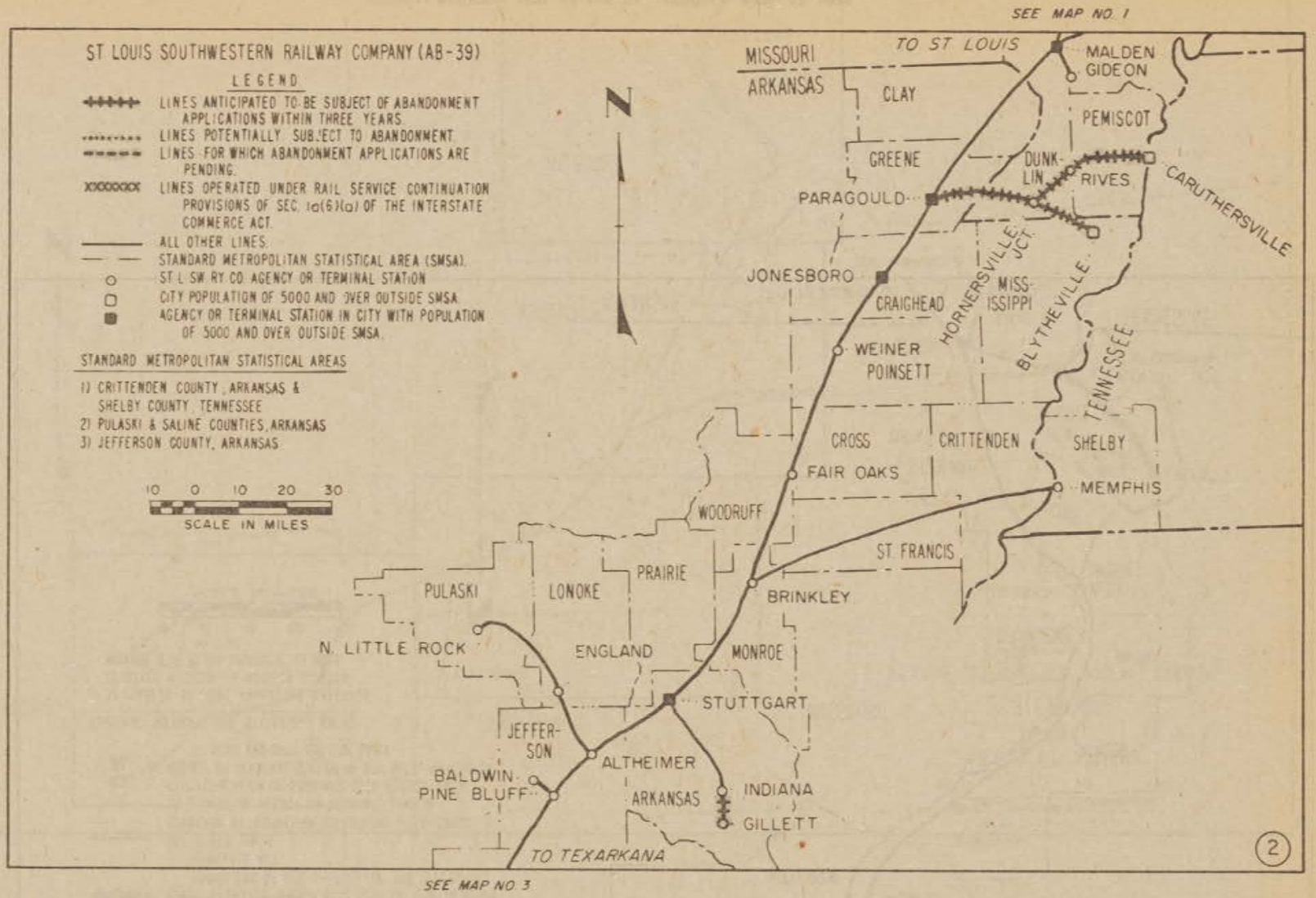
Notice is hereby given, that pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the St. Louis Southwestern Railway Co., has filed with the Commission its amended color-coded system diagram map in Docket No. AB 39 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on March 31, 1978, received a certificate of publication as required by said regulation which is considered the effective date on which the amended system diagram map was filed.

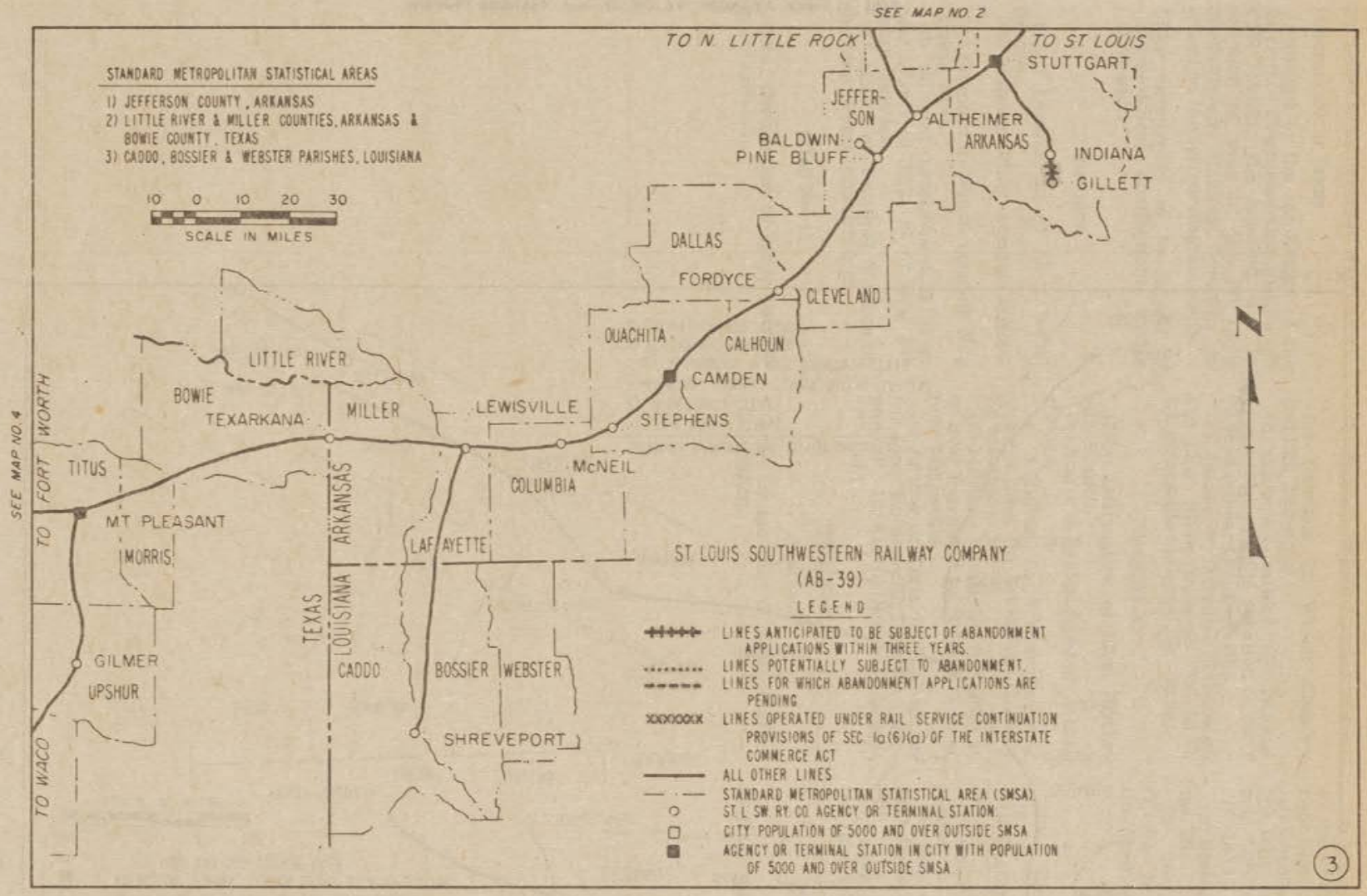
Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 39 (SDM).

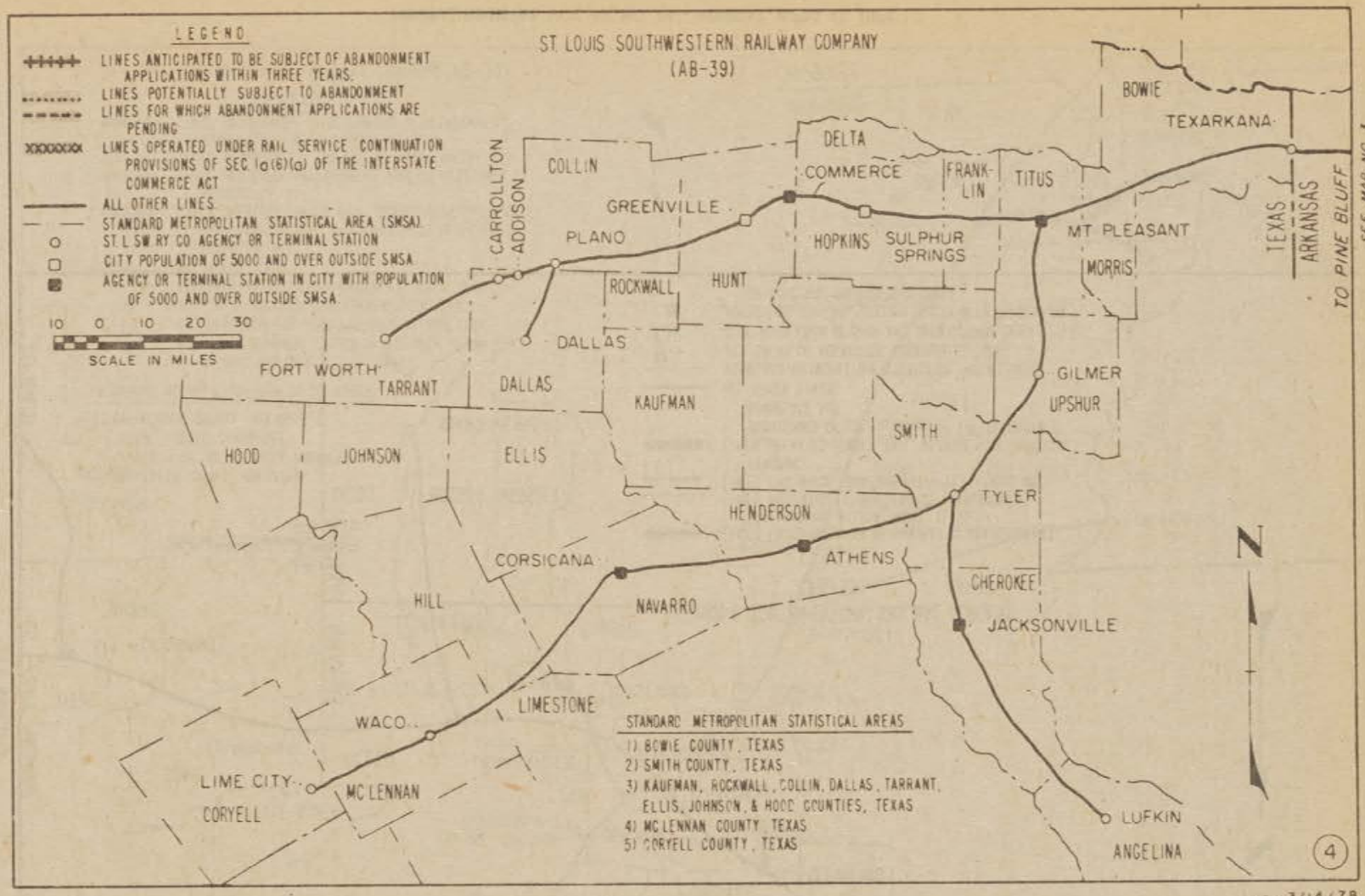
H. G. HOMME, Jr.,
Acting Secretary.


E. ST LOUIS
ILLINOIS
MISSOURI
ARKANSAS
TENNESSEE
MEMPHIS
SHREVEPORT
LOUISIANA
DALLAS
FT WORTH
TEXAS
WACO
N
(AB-39)
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
SYSTEM MAP
SHOWING
INDEX TO MAP NUMBERS
50 0 50 100
SCALE IN MILES


ST LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS
LINES POTENTIALLY SUBJECT TO ABANDONMENT
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA)
ST L SW RY CO AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA
STANDARD METROPOLITAN STATISTICAL AREAS
1) ST. CHARLES, ST. LOUIS, FRANKLIN & JEFFERSON COUNTIES, MISSOURI & MADISON, CLINTON MONROE & ST CLAIR COUNTIES, ILLINOIS
10 0 10 20 30
SCALE IN MILES
N
ST. CHARLES
MADISON
ST. LOUIS
ST LOUIS
EAST ST LOUIS
CLINTON
ST CLAIR
FRANKLIN
ILLINOIS
MONROE
JEFFERSON
RANDOLPH
JACKSON
MISSOURI
CAPE GIRARDEAU
UNION
ILLMO
ALEX-ANDER
SCOTT
STODDARD
DEXTER
MISS-ISSIPPI
WYATT
NEW MADRID
LILBOURN JCT
NEW MADRID
MALDEN
GIDEON
TENNESSEE
ARKANSAS
TO TEXARKANA
1
SEE MAP NO 2


ST LOUIS SOUTHWESTERN RAILWAY COMPANY (AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING.
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT.
ALL OTHER LINES.
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST L SW RY CO AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA.
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
STANDARD METROPOLITAN STATISTICAL AREAS
1) CRITTENDEN COUNTY, ARKANSAS & SHELBY COUNTY, TENNESSEE
2) PULASKI & SALINE COUNTIES, ARKANSAS
3) JEFFERSON COUNTY, ARKANSAS
10 0 10 20 30
SCALE IN MILES
SEE MAP NO. 1
TO ST. LOUIS
MISSOURI
ARKANSAS
CLAY
GREENE
PARAGOULD
MALDEN
GIDEON
PEMISCOT
DUNK-LIN
RIVES
CARUTHERSVILLE
JONESBORO
CRAIGHEAD
HORNERSVILLE JCT.
MISSISSIPPI
BLYTHEVILLE
TENNESSEE
WEINER
POINSETT
CROSS
CRITTENDEN
SHELBY
FAIR OAKS
MEMPHIS
WOODRUFF
ST. FRANCIS
PRAIRIE
PULASKI
LONOKE
BRINKLEY
N. LITTLE ROCK
ENGLAND
MONROE
STUTTGART
JEFFER-SON
ALTHEIMER
BALDWIN-PINE BLUFF
ARKANSAS
INDIANA
GILLETT
TO TEXARKANA
SEE MAP NO. 3
2


SEE MAP NO. 2
TO N. LITTLE ROCK
TO ST. LOUIS
STUTTGART
JEFFERSON
ALTHEIMER
ARKANSAS
BALDWIN
PINE BLUFF
INDIANA
GILLETT
STANDARD METROPOLITAN STATISTICAL AREAS
1) JEFFERSON COUNTY, ARKANSAS
2) LITTLE RIVER & MILLER COUNTIES, ARKANSAS & BOWIE COUNTY, TEXAS
3) CADDO, BOSSIER & WEBSTER PARISHES, LOUISIANA
10 0 10 20 30
SCALE IN MILES
DALLAS
FORDYCE
CLEVELAND
OUACHITA
CALHOUN
CAMDEN
STEPHENS
LITTLE RIVER
BOWIE
TEXARKANA
MILLER
LEWISVILLE
McNEIL
COLUMBIA
SEE MAP NO. 4
TO FORT WORTH
TITUS
MT PLEASANT
MORRIS
ARKANSAS
LAFAYETTE
TEXAS
LOUISIANA
GILMER
UPSHUR
CADDO
BOSSIER
WEBSTER
SHREVEPORT
TO WACO
N
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT.
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST. L. SW. RY. CO. AGENCY OR TERMINAL STATION.
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA
3


ST. LOUIS SOUTHWESTERN RAILWAY COMPANY
(AB-39)
LEGEND
LINES ANTICIPATED TO BE SUBJECT OF ABANDONMENT APPLICATIONS WITHIN THREE YEARS.
LINES POTENTIALLY SUBJECT TO ABANDONMENT
LINES FOR WHICH ABANDONMENT APPLICATIONS ARE PENDING
LINES OPERATED UNDER RAIL SERVICE CONTINUATION PROVISIONS OF SEC. 1a(6)(a) OF THE INTERSTATE COMMERCE ACT
ALL OTHER LINES
STANDARD METROPOLITAN STATISTICAL AREA (SMSA).
ST. L SW RY CO AGENCY OR TERMINAL STATION
CITY POPULATION OF 5000 AND OVER OUTSIDE SMSA
AGENCY OR TERMINAL STATION IN CITY WITH POPULATION OF 5000 AND OVER OUTSIDE SMSA.
10 0 10 20 30
SCALE IN MILES
BOWIE
TEXARKANA
DELTA
COLLIN
COMMERCE
FRANK-LIN
TITUS
CARROLLTON
ADDISON
GREENVILLE
PLANO
HOPKINS
SULPHUR SPRINGS
MT PLEASANT
MORRIS
TEXAS
ARKANSAS
TO PINE BLUFF
SEE MAP NO 3
ROCKWALL
HUNT
DALLAS
FORT WORTH
TARRANT
DALLAS
KAUFMAN
GILMER
UPSHUR
SMITH
HOOD
JOHNSON
ELLIS
HENDERSON
TYLER
CORSICANA
ATHENS
CHEROKEE
HILL
NAVARRO
JACKSONVILLE
WACO
LIMESTONE
LIME CITY
MC LENNAN
CORYELL
LUFKIN
ANGELINA
N
STANDARD METROPOLITAN STATISTICAL AREAS
1) BOWIE COUNTY, TEXAS
2) SMITH COUNTY, TEXAS
3) KAUFMAN, ROCKWALL, COLLIN, DALLAS, TARRANT, ELLIS, JOHNSON, & HOOD COUNTIES, TEXAS
4) MC LENNAN COUNTY, TEXAS
5) CORYELL COUNTY, TEXAS
4
rev. 3/14/78

ST. LOUIS SOUTHWESTERN RAILWAY CO.

DESCRIPTION OF LINES

Pursuant to the regulations of the Interstate Commerce Commission (49 CFR 1121.21), the following is a description of lines of the St. Louis Southwestern Railway Company as shown on the system diagram map:

Lines anticipated to be subject of abandonment applications within three years

Missouri

(1)(a) Designation of Line: Wyatt Branch.
(b) States in Which Located: Missouri.
(c) Counties in Which Located: New Madrid, Miss.
(d) Milepost Locations: 5.52 at or near Wyatt to 37.21 at or near Lilbourn Junction.
(e) Agency or Terminal Stations on the Line: Wyatt (milepost 5.9).

(Map No. 1)

(2)(a) Designation of Line: Caruthersville Branch.
(b) States in Which Located: Missouri.
(c) Counties in Which Located: Dunklin, Pemiscot.
(d) Milepost Locations: "W"-99.04 at or near Hornersville Junction to "R"-98.95 at or near Caruthersville.
(e) Agency or Terminal Stations on the Line: Rives (milepost "W"-93.4), Caruthersville (milepost "R"-98.95).

(Map No. 2)

(3)(a) Designation of Line: Blytheville Branch.
(b) States in Which Located: Arkansas, Mo.
(c) Counties in Which Located: Greene, Miss. (in Arkansas): Dunklin (in Missouri).
(d) Milepost Locations: "P"-103.0 at or near Paragould to "P"-140.33 at or near Blytheville.
(e) Agency or Terminal Stations on the Line: Hornersville Junction (milepost "P"-125.8), Blytheville (milepost "P"-140.1).

(Map No. 2)

Arkansas

(1)(a) Designation of Line: Blytheville Branch.
(b) States in Which Located: Missouri.
(c) Counties in Which Located: Dunklin, Pemiscot.
(d) Milepost Locations: "P"-103.0 at or near Paragould to "P"-140.33 at or near Blytheville.
(e) Agency or Terminal Stations on the Line: Hornersville Junction (milepost "P"-125.8), Blytheville (milepost "P"-140.1).
(b) States in Which Located: Arkansas, Mo.
(c) Counties in Which Located: Greene, Miss. (in Arkansas) Dunklin (in Missouri).

(Map No. 2)

(2)(a) Designation of Line: Gillett Branch.
(b) States in Which Located: Arkansas.
(c) Counties in Which Located: Arkansas.
(d) Milepost Locations: 262.0 at or near Indiana to 268.10 at or near Gillett.
(e) Agency or Terminal Stations on the Line: Gillett (milepost 267.8).

(Map Nos. 2 and 3)

[FR Doc. 78-10309 Filed 4-14-78; 8:45 am]

sunshine act meetings

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).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Deposit Insurance Corporation	2, 3
Federal Election Commission	4
Federal Energy Regulatory Commission	5, 6
Nuclear Regulatory Commission	7, 8, 9
Occupational Safety and Health Review Commission	10
Railway Association	11
Nuclear Regulatory Commission	12

[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2:00 p.m., April 24, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Part 8 Disciplinary Rules.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-789-78 Filed 4-13-78; 8:59 am]

[6714-01]

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 4:00 p.m., April 19, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Request for an extension of time for Federal deposit insurance to become effective:

First State Bank in Temple, Temple, Okla., for a second extension of time for Federal deposit insurance to become effective simultaneously with withdrawal from membership in the Federal Reserve System.

Applications for consent to establish branches:

Unity Bank & Trust Co., Boston (Roxbury), Mass., for consent to establish branches at 592 Washington Street, Boston (Dorchester), Mass., and at 1630 Blue Hill Avenue, Boston (Mattapan), Mass.

Commerce Bank of New Jersey, Evesham Township (P.O. Marlton), N.J. for consent to establish a branch on Stokes Road at Skeet Road, Medford, N.J.

Application for consent to change a main office location:

Unity Bank & Trust Co., Boston (Roxbury), Mass., for consent to change the location of its main office from 416 Warren Street to 2343 Washington Street, both locations within Boston (Roxbury), Mass.

Request for consent to the issuance of subordinated convertible capital debentures as an addition to capital structure and for advance consent to their conversion at or prior to maturity:

First Bank & Trust Co., Sand Springs, Okla.

Requests pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:

Names of persons and of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,461-NR—United States National Bank, San Diego, Calif.

Case No. 43,466-NR—United States National Bank, San Diego, Calif.

Case No. 43,467-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,469-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,470-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,471-L—International City Bank & Trust Co., New Orleans, La.

Case No. 43,473-L—Franklin National Bank, New York, N.Y.

Case No. 43,474-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Case No. 43,475-L—The Drovers' National Bank of Chicago, Chicago, Ill.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-787-78 Filed 4-13-78; 8:59 am]

[6714-01]

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3 p.m., April 19, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Kings River State Bank, a proposed new bank to be located at the intersection of 10th and I Streets, Reedley, Calif., for Federal deposit insurance.

Brickyard Bank, a proposed new bank to be located in the Brickyard Shopping Mall at the southwest corner of Diversy and Narragansett Avenues, Chicago, Ill., for Federal deposit insurance.

Family Bank of Commerce, a proposed new bank to be located at 100 Northeast Midland Avenue, Grants Pass, Oreg., for Federal deposit insurance.

Jefferson State Bank, a proposed new bank to be located in Bear Creek Shopping Plaza in the vicinity of the intersection of Biddle and McAndrews Roads, Medford, Oreg., for Federal deposit insurance.

Requests for reports on the competitive factors involved in proposed mergers, purchase and assumption transactions, or consolidations:

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of Concord National Bank, Concord, N.H., with the Pittsfield National Bank, Pittsfield, N.H.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed purchase of assets and assumption of liabilities of the Rices Landing National Bank, Rices Landing, Pa., by Gallatin National Bank, Uniontown, Pa.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Schall, Boudreau & Gore, Inc., San Diego, Calif., in connection with the receivership of United States National Bank, San Diego, Calif.

Reynolds, Ridings & Hargis, Oklahoma City, Okla., in connection with the liquidation of International City Bank & Trust Co., New Orleans, La.

Cooley, Shrair, Alpert & Labovitz, P. C., Springfield, Mass., in connection with the liquidation of Chicoppe Bank & Trust Co., Chicopee, Mass.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Kaye, Scholer, Fierman, Hays & Handler, New York, N.Y., in connection with the liquidation of Franklin National Bank, New York, N.Y.

Chapman & Cutler, Chicago, Ill., in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Squire, Sanders & Dempsey, Cleveland, Ohio, in connection with the liquidation of Northern Ohio Bank, Cleveland, Ohio.

Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Tampa, Fla., in connection with the liquidation of American City Bank & Trust Co., National Association, Milwaukee, Wis.

Memorandum and resolution proposing the final adoption of amendments to Part 309 of the Corporation's rules and regulations, entitled "Disclosure of Information."

Memorandum and resolution proposing the final adoption of a "Statement of Policy Concerning Income Tax Remittance by Banks to Holding Company Affiliates."

Resolution creating an Office of Congressional Relations and establishing the office's organization and Manning Table.

Resolutions amending the Budget Year 1978 Manning Table for the Office of Personnel Management to establish pools of temporary positions for use during the 1978 summer season.

Memorandum and resolution ratifying the assignment to Bank of New Orleans and Trust Co. New Orleans, La., of certain leases forming the Carrollton Branch and the Prytania Branch of International City Bank & Trust Co., in liquidation, New Orleans, La.

Reports of committee and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Chairman.

Receipt of comments and views regarding the applications of Unity Bank & Trust Company, Boston (Roxbury), Mass., (1) for consent to establish branches at 592 Washington Street, Boston (Dorchester), Mass., and at 1630 Blue Hill Avenue, Boston (Mattapan), Mass., and (2) for consent to change the location of its main office from 416 Warren Street to 2343 Washington Street, both locations within Boston (Roxbury), Mass.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

[S-788-78 Filed 4-13-78; 8:59 am]

[6715-01]

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, April 19, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Reports, Compliance, Personnel, Litigation, and FOIA Appeal.

* * *

DATE AND TIME: Thursday, April 20, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.
II. Correction and approval of minutes.
III. Advisory opinions; AO 1978-16, AO 1978-19.
IV. FOIA regulations.
V. Proposal for expediting compliance matters.
VI. Appropriations and budget.
VII. Pending legislation.
VIII. Pending litigation.
IX. Liaison with other Federal agencies.
X. Classification actions.
XI. Routine administrative matters.

Portions closed to the public:

Any matters not concluded at the executive session of April 19, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202-523-4065.

MAJORIE W. EMMONS,
Secretary to the Commission.

[S-786-78 Filed 4-13-78; 8:59 am]

[6740-02]

5

APRIL 12, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., April 19, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of the Public Information.

GAS AGENDA—86TH MEETING, APRIL 19, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP-1.—Docket Nos. RP76-136 and RP77-26, Transcontinental Gas Pipe Line Corp.
RP-2.—Docket No. RP76-99, Tennesse Natural Gas Lines, Inc.
RP-3.—Docket Nos. CP77-40 and RP77-97, El Paso Natural Gas Co.

II. PRODUCER MATTERS

A. Producer certificate

CI-1.—Docket No. CP77-368, Lone Star Gas Co., a division of Ensearch Corp., Docket No. CS72-1181, Gordon Oil Co., Inc.
CI-2.—Docket No. CS77-726, James T. Cliburn.
CI-3.—Docket Nos. CI76-633, CI76-644, Tenneco Exploration, Ltd. Docket No. CI76-678, Tenneco Oil Co. Docket No. CI76-722, CI76-784, Texaco Inc.
CI-4.—Reserved.
CI-5.—Reserved.

B. Special relief

RP-6.—Docket No. RI77-102, Suerte Oil Co. (Operator), et al. Docket No. CI65-421, PERC Gas Rate Schedule No. 551.
CI-7.—Docket No. RI77-26, J. & J. Enterprises, Inc.
CI-8.—Reserved.
CI-9.—Reserved.

C. Producer rates

CI-10.—Docket No. CS71-987,et al., Jones-O'Brien, Inc., et al.
CI-11.—Docket No. RI72-250, Rate Schedule Nos. 318 and 415, Mobil Oil Corp.

III. PIPELINE CERTIFICATE MATTERS

CP-1.—Docket No. CP78-42, United Gas Pipe Line Co. Docket No. CP78-44, Columbia Gulf Transmission Co., Tennessee Gas Pipeline Co.
CP-2.—Docket No. CP77-612, Texas Gas Transmission Corp.

GAS AGENDA—86TH MEETING, APRIL 19, 1978, REGULAR MEETING

CAG-1.—Docket No. RP73-43 (PGA 77-3), Mid Louisiana Gas Co.
CAG-2.—Docket No. CP78-181, Natural Gas Pipeline Co. of America.
CAG-3.—Docket No. CP74-204, Columbia Gulf Transmission Co. and Natural Gas Pipeline Co. of America.
CAG-4.—Docket No. CP77-24, United Gas Pipe Line Co. and Arkansas-Louisiana Gas Co.
CAG-5.—Docket No. CP78-70, McCulloch Interstate Gas Corp.
CAG-6.—Docket No. CI76-232, et al., Transco Exploration Co., et al.
CAG-7.—Docket No. CI77-462, Phillips Petroleum Co.
CAG-8.—Docket No. CI77-110, Cities Service Oil Co.

CAG-9.—Docket No. CP76-500, Cities Service Gas Co.

MISCELLANEOUS AGENDA—86TH MEETING, APRIL 19, 1978, REGULAR MEETING

M-1.—Docket No. RM78- , procedures for review by the Federal Energy Regulatory Commission of remedial orders issued by the Secretary of Energy.
M-2.—Docket No. RM78- , short-form license and associated standardized conditions (L-Form).
M-3.—Tidal Transmission Co.

POWER AGENDA—86TH MEETING, APRIL 19, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER78-166, Georgia Power Co.
ER-2.—Docket No. E-9611, *Columbus Water & Light Department* v. *Wisconsin Power & Light Co.*
ER-3.—Docket No. EL78-4, *Florida Cities* v. *Florida Power & light Co.*
ER-4.—Docket No. ES78-6, Illinois Power Co.
ER-5.—Docket No. ES76-42, Pacific Power & Light Co.

POWER AGENDA—86TH MEETING, APRIL 19, 1978, REGULAR MEETING

CAP-1.—Docket No. ES78-22, Iowa Public Service Co.
CAP-2.—Docket Nos. 2758, 2766, 2770, 2771, 2772 and 2775, Brown Co.
CAP-3.—Docket No. 2558, Vermont Marble Co.
CAP-4.—Docket No. 2774, Modesto and Turlock Irrigation Districts, City and County of San Francisco.

KENNETH F. PLUMB,
Secretary.

[S-791-78 Filed 4-13-78; 10:52 am]

[6740-02]

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published April 17, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., April 19, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

RP-4.—RP 75-30, United Gas Pipe Line Co.
P-1.—Project No. 349, Alabama Power Co.

KENNETH F. PLUMB,
Secretary.

[S-792-78 Filed 4-13-78; 3:35 pm]

[7590-01]

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, April 12, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

2:30 P.M.

Approval of memorandum and order on UCS petition (approximately 5 minutes—public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 12, 1978.

[S-793-78 Filed 4-13-78; 3:35 pm]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 17, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

TUESDAY, APRIL 18, 1:30 P.M.

Discussion of proposed licensing legislation (approximately 2 hours). (Closed—Exemption 9.)

NOTE.—Rescheduled from Monday.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 11, 1978.

[S-794-78 Filed 4-13-78; 3:35 pm]

[7590-01]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 17, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, APRIL 19, 10 A.M.

1. Briefing on reactor licensing schedules (approximately 1 hour—public meeting).
2. Discussion of draft legislation in regulatory control over uranium mill tailings (approximately 1 hour—public meeting).

WEDNESDAY, APRIL 19, 1:30 P.M.

1. Discussion of NRC civil penalty authority (approximately 1 hour—public meeting).
2. Affirmation Items (approximately 10 minutes—public meeting).
   a. Physical protection of category II and III material;
   b. Amendments to 10 CFR 50 and 70 to provide for onsite office space for resident inspectors and prompt facility access to NRC inspection personnel.
3. Discussion of proposed settlement in Midland special proceeding (approximately one-half hour). (Closed—Exemption 10).
4. Discussion of Prarie Island and Vermont Yankee, and Marble Hill ALAB's (approximately 1 hour). (Closed—Exemption 10).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 12, 1978.

[S-795-78 Filed 4-13-78; 3:35 pm]

[7600-01]

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., April 20, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: April 13, 1978.

[S—796-78 Filed 4-13-78; 3:51 pm]

[8240-01]

11

RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., April 20, 1978.

PLACE: Board Room, Room 2200, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20595.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.)

1. Review of Delaware and Hudson Railway Co. Proprietary and financial information for monitoring and investment purposes.

Portions open to the public (9:30 a.m.):

2. Approval of minutes of the March 30 Board of directors meeting.
3. Consideration of advances to the Delaware & Hudson Railway Co.
4. Report on ConRail monitoring.
5. Consideration of ConRail drawdown request for May 1978.
6. Status report on amounts outstanding on 211(h) loan program.
7. Contract actions (extensions and approvals).
8. Financial status of USRA.

Portions closed to the public (10 a.m.):

9. Consideration of internal personnel matters.
10. Review of ConRail proprietary and financial information for monitoring and investment purposes.
11. Review of Missouri-Kansas-Texas Railroad Co. Proprietary and finacial information for monitoring and investment purposes.
12. Litigation report.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-790-78 Filed 4-13-78; 9:53 am]

[7590-01]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of April 17, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

POSTPONEMENT

Monday, April 17

10:00 a.m.—Discussion of NRDC Request for Hearing in Tarapur Export License (XSNM-1060) (Approximately 2 hours) (Public Meeting) (Postponed to April 20, 1978).

ADDITIONAL MEETINGS

Thursday, April 20

9:30 a.m.—1. Discussion of and Vote on Revised Draft Order re Petitions in Bailly CP (Approximately ½ hour) (Public Meeting).
2. Discussion of Safeguards Upgrade Rule and Responsibility for Nuclear Security (Approximately 2 hours) (Open; Portions may be Closed).

1:00 p.m.—1. Discussion of NRDC Request for Hearing in Tarapur Export License (XSNM-1060) (Approximately 2 hours) (Rescheduled from April 17, 1978) (Public Meeting).

Friday, April 21

3:00 p.m.—1. Discussion of Proposed Licensing Legislation (Approximately 1½ hours) (Closed—Exemption 9).

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

APRIL 13, 1978.

[S-798-78 Filed 4-14-78; 9:31 am]

federal register

MONDAY, APRIL 17, 1978
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

STATE OPERATED PROGRAMS FOR HANDICAPPED CHILDREN

[4110-02]

Title 45—Public Welfare

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

PART 116b—STATE OPERATED PROGRAMS FOR HANDICAPPED CHILDREN

AGENCY: U.S. Office of Education, DHEW.

ACTION: Final regulation.

SUMMARY: This final regulation governs grants under section 121 of the Elementary and Secondary Education Act to State agencies which are directly responsible for providing free public education to handicapped children. Section 503 of The Education Amendments of 1972 requires the Commissioner to study and publish, among other things, all rules governing this program. This regulation provides guidance to State educational agencies, State agencies and local educational agencies relating to allocation, distribution and use of funds, and the transfer of funds to local educational agencies for handicapped children formerly counted in average daily attendance in State agency schools and who subsequently participate in appropriately designed educational programs operated or supported by local educational agencies.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Joyce R. Broome, U.S. Office of Education, Bureau of Education for the Handicapped, 400 Sixth Street SW., Room 4918, Donohoe Building, Washington, D.C. 20202, 202-245-9405.

SUPPLEMENTARY INFORMATION:

A. BACKGROUND; MAJOR ISSUES

1. *Introduction.* Notice of proposed rulemaking was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15532-15535) setting forth a proposed amendment to Title 45 of the Code of Federal Regulations, which would add a new part 116b to govern the Administration of State Operated Programs for Handicapped Children (under section 121 of Title I, Elementary and Secondary Education Act, as amended by Pub. L. 93-380; 20 U.S.C. 241c-1). These regulations set forth rules and criteria governing grants to State agencies which are directly responsible for providing free public education for handicapped children.

2. *Program Purpose.* Under section 121 of Title I of the Elementary and Secondary Education Act, as amended (originally added to Title I as section 103(a)(5) by Pub. L. 89-313), financial assistance is provided to State agencies for programs to meet the special educational needs of handicapped children in State-operated or State-supported schools. In addition, under subsection (d) of section 121, funds may now be made available by those State agencies to local educational agencies, under certain conditions, for handicapped children who have left a State agency program and are now enrolled in a local educational agency program.

3. *Section 503 Procedures and Effect.* Section 503 of the Education Amendments of 1972 (Pub. L. 92-318) requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with or affecting the administration of Office of Education programs, to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor or the House of Representatives concerning the study, and to publish in the FEDERAL REGISTER these rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearings on the matters published. The regulations below reflect the results of this study as it pertains to the programs under section 121. Upon the effective date of part 116b, all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting the program, except the Office of Education General Provisions Regulations and the general Title I regulations in part 116 of Title 45 of the Code of Federal Regulations, will be superseded. For example, all Information Bulletins issued by the Office of Education with respect to this program prior to that date, to the extent they contain this material, will be superseded.

4. *Effect of Office of Education General Provisions Regulations.* General fiscal and administrative rules for the program are provided under the Office of Education General Provisions Regulations (45 CFR parts 100, 100b, and 100c) which were adopted in connection with the same study under section 503 of the Education Amendments of 1972, of which this publication is a part. (Reference is made in particular to the provisions of parts 100b and 100c of Title 45 CFR, containing general provisions for State administered programs, which are applicable to the programs under Title I of the Elementary and Secondary Education Act, as amended.

5. *Reorganization of part 116.* In the past, this program has not had regulations separate from those in part 116. Under a recent reorganization, part 116 (as published in final form on September 28, 1976 (41 FR 42894-42923)) is limited to those provisions that are applicable to all recipients, including State educational agencies under section 121 of the Act. Part 116a, published concurrently with part 116, provides the regulations which are applicable solely to the local educational agency program for educationally deprived children. Part 116b will provide the regulations which are applicable solely to the program for handicapped children under section 121. Part 116d (published as interim final regulations on July 13, 1977; 42 FR 36076-36085) governs the migrant program under section 122, and part 116c (published as interim final regulations on April 12, 1977; 42 FR 19286-19289) governs the program for neglected or delinquent children under section 123.

6. *Amendments to Title I.* The regulations set forth below implement amendments made to section 121 of Title I of the Elementary and Secondary Education Act by Pub. L. 93-380 (the Education Amendments of 1974), and amendments affecting the implementation of the program made by Pub. L. 94-482 (the Education Amendments of 1976).

(a) The following reflects the modification to the program required by Pub. L. 94-482: "*Hold Harmless*". Section 501(o) of Pub. L. 94-482 amended section 125 of Title I of the Elementary and Secondary Education Act to provide that no State shall receive in any fiscal year prior to October 1, 1978, an amount of funds under section 121 which is less than 100 percent of the amount which that State received in the prior fiscal year under section 121. Prior to this amendment, this "hold harmless" provision applied to each State agency rather than to the State as a whole. This amendment is reflected in § 116b.40(b) of this final regulation.

(b) The following reflect the modifications to the program required by Pub. L. 93-380: (1) *The Rate of Payment.* Except as provided in sections 124 and 125 of Title I (Reservation of Funds for Territories and Minimum Payments, respectively), the grant which an agency (other than the agency for Puerto Rico) is eligible to receive under this program is an amount equal to 40 per centum of the average per pupil expenditure in the State, or (1) in the case where the average per pupil expenditure in the

State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States, multiplied by the number of children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency. The grant which Puerto Rico is eligible to receive under this program is the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) if the average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. (2) *Adequacy of Program.* The State agency must now insure that each child counted in average daily attendance for purposes of determining the amount of a grant under this program, will be provided a program, commensurate with his or her special educational needs, during the fiscal year the federal funds are made available. (3) *Transfer.* Handicapped children who have left an educational program for handicapped children operated or supported by the State agency and are now participating in a program operated or supported by a local educational agency shall be counted in average daily attendance in determining the amount of a State agency's grant under this program if: (a) Each child counted continues to receive an appropriately designed special education program, and (b) the funds attributable to those children are transferred by the State agency to the local educational agency.

(c) The following reflect policy modifications of the program by the Bureau of Education for the Handicapped: (1) *Average Daily Attendance.* The Commissioner has determined, in accordance with the discretion granted him under section 121(b) of Title I, that average daily attendance for pupils counted under section 121 shall be 100 percent of eligible enrolled children. The Notice of Proposed Rulemaking for part 116b stated that average daily attendance would be 94 percent of the total membership enrollment of eligible handicapped children in a school or program. The change was made to reflect a determination by the Bureau of Education for the Handicapped that the average daily attendance of eligible handicapped children is more closely reflected by the use of total membership enrollment. (2) *Service Costs.* As a result of a policy to assure a "free public education," costs for room and board may not be charged to the parents of a child placed in an institutional residential care facility for educational purposes. The proposed regulation stated that costs for medical care must be provided at no cost to parents if the child was placed in an institutional residential care facility by a State agency. That provision has been changed by dropping that requirement, and the new § 116b.62(b) requires that parents not be charged for non-medical care. This change was made to coordinate this regulation with the regulatory requirements under part B of the Education of the Handicapped Act and section 504 of the Rehabilitation Act of 1973. The requirements of those regulations are further discussed below. (3) *Use of Funds for Services which the Applicant is Required to Provide.* Under the general Title I regulations (§ 116.40(b)), Title I funds, including funds under this part, may not be used for services which an applicant agency is required to provide by State law or pursuant to a formal determination under various Federal civil rights statutes (including section 504 of the Rehabilitation Act of 1973 relating to nondiscrimination respecting handicapped persons), or pursuant to a final order of a court. The Commissioner has determined that this restriction should not apply to the program under this part. Section 116b.2 has been amended to achieve this result. The change is more consistent with Congressional intent in creating this program, and should avoid disruption as States move toward full service for all handicapped children. The effect of the change will be that use of funds under this program for State-mandated education will not automatically constitute supplanting if no State or local funds are in fact displaced.

7. *Relationship to part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142 (The Education of All Handicapped Children Act).* The program for handicapped children under section 121 of the ESEA is primarily for children whose education is provided by the State, including children in State residential facilities. Part B of the Education of the Handicapped Act, before October 1, 1977, provided funds for children in local school districts. Pub. L. 94-142, enacted on November 29, 1975, contains extensive amendments to part B, including provisions which are designed to assure that all handicapped children have available to them (within mandated timelines and age ranges) a free appropriate public education, to assure that the rights of handicapped children and their parents are protected, to assist States and localities in providing education to handicapped children, and to assess and assure the effectiveness of efforts to educate those children. Most of the Pub. L. 94-142 amendments to part B became effective on October 1, 1977. The regulations published on August 23, 1977 (45 CFR Part 121a) were effective on that date. One issue clarified in this final regulation is whether funds available to a State under part B can be used in part to support educational programs for children in State operated or State supported schools. The former section 613(a)(9) of EHA (effective until October 1, 1977) required that a States' Annual Program Plan provide an assurance that part B funds would not be used for handicapped children eligible for assistance under section 121. The Office of Education had interpreted this provision to preclude use of part B funds for children who either were eligible to be counted, or who were actually counted under section 121. The new section 611(a)(5)(A)(iii), effective October 1, 1977, prohibits the Commissioner from counting handicapped children under part B who are counted under section 121 of ESEA, but does not preclude (assuming all other requirements of part B have been met) the use of part B funds for handicapped children either counted or eligible to be counted under section 121. That prohibition in section 611 of part B relates to the counting of, not the provision of services to, handicapped children. The prohibition is reflected in § 116b.46 of this final regulation.

The new part 121a imposes requirements on a State educational agency regarding the treatment of handicapped children in a State receiving part B funds. These requirements benefit all handicapped children in the State, and are not limited to those children who have been counted or served under part B. The State educational agency is responsible for implementing those requirements regarding handicapped children eligible for section 121 benefits. These requirements include those activities relating to location, identification, and evaluation of handicapped children, development of an individualized education program, confidentiality of data, timelines relating to the provision of a free appropriate public education (and what services must be provided at no cost to parents under a free appropriate public education) development of a full education opportunity goal, placement, least restrictive environment, procedural safeguards, priorities in educating handicapped children, and parental participation. Due to the importance of the part 121a requirements for those involved in section 121 programs, the Office of Education

urges that close attention be paid to that regulation. Subpart H of the new part 116b cross-references those statutory requirements in part B of the Education of the Handicapped Act which affect the operation of programs under section 121.

8. *Relationship to section 504 of the Rehabilitation Act of 1973.* Final regulations governing section 504 of the Rehabilitation Act of 1973 were published on May 4, 1977 as part 84 of Title 45 of the Code of Federal Regulations (42 FR 22676-22702). Subpart D of part 84 relates to non-discrimination in the provision of education to handicapped children. The above-mentioned new part 121a (governing part B of the Education of the Handicapped Act, as amended), although more extensive than subpart D of part 84, closely parallels the latter regulation of section 504. To the extent a program or activity receives any Federal assistance (e.g. section 121 funds for State operated programs for handicapped children), the requirements of part 84 will apply to the operation of that program or activity.

9. *Citations of Legal Authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), as amended by section 405 of Pub. L. 94-482 and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulation has been placed in parentheses on the line following the text of the section.

10. *Comments and Responses.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner provided interested parties an opportunity for a public hearing on the proposed regulation, published April 13, 1976. The purpose of the hearing was to receive comments and suggestions on the published material. Additionally, an opportunity was provided to submit written comments and suggestions. Written comments were received from officials in State educational agencies, other State agencies, local school districts, private organizations, professional organizations, public interest groups, and individuals. The following is a summary of comments received and the responses setting forth either the changes which have been made in the regulation as a result of the comments, or the reason why no change is deemed necessary. Comments are arranged in order of the section of the regulation to which they pertain. Since the publication of the Notice of Proposed Rulemaking, this regulation has been extensively reorganized and, in many instances, the sections have been renumbered. References to section numbers in the following *Comments and Responses* are to the sections as numbered in this final regulation.

SUMMARY OF COMMENTS AND RESPONSES

1. SECTION 116b.3 DEFINITIONS

Comment. One commenter suggested that "eligible child" should be redefined to include uncounted children in agencies and various facilities where other children are counted. The commenter felt that those children, uncounted because, among other reasons, they may not have been enrolled in an educational program at the time of the average daily attendance count, were those who were most in need of section 121 funds.

Response. The definition of "eligible child" has been deleted. In using the term "eligible" to define only counted children, the definition was potentially misleading, causing some misunderstanding as to whether "eligible" referred to counted children only or also to those children "eligible to be counted." As to the commenter's concern that uncounted children were the children most in need, section 121 programs are intended to provide supplementary services for those children who are on the membership roll of a special education program. The statute comtemplates services to children who have been counted. However, § 116b.55 provides that children who did not generate funds are eligible to participate on a space-available basis if their participation does not adversely affect the program established for counted children. In addition, section 612(3) of Pub. L. 94-142 (effective October 1, 1977) requires a State to establish priorities for serving handicapped children in the following manner: As a first priority, to serve unserved handicapped children and, as a second priority, the most severely handicapped children within each disability category who are receiving inadequate services. The Office of Education notes that children in institutions eligible for funds under section 121 who have not been counted because they are not on the membership roll and are not in an educational program may be covered under the first priority, and the most severely handicapped receiving inadequate services may be covered under the second priority. Assuming all other requirements of part B of the Education of the Handicapped Act have been met, part B funds may be used to provide services to either counted or uncounted handicapped children for whom the State agency is directly responsible for providing a free public education.

Comment. A commenter suggested that the term "State-supported school" be defined to include a minimum percentage rate of State financial support to establish the qualifications of specific schools. The commenter felt that the absence of these criteria made it difficult to determine the eligibility of alleged State supported schools

Response. The comment has not been adopted. The percentage of State financial support is irrelevant, as long as the State agency which is directly responsible for providing free public education has entered into a contract or other arrangement with the State-supported school. A comment has been added following the definition, which discusses the qualifications of an eligible State-supported school, and which emphasizes the requirement that the State agency be legally responsible for the education of the child.

Comment. One commenter suggested that "orthopedically impaired" replace "crippled" and that "specific learning disabilities" be added as a category to the definition of "handicapped children," in order that the definition parallel the definition of "handicapped children" contained in part B of the Education of the Handicapped Act.

Response. No change has been made in the definition. The definition is required by statute. The new definitions of "handicapped children" and of the individual handicapping conditions have been published as part of the final regulation (the new part 121a) governing part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142. The Commissioner will consider adopting those definitions (to include orthopedically impaired and learning disabled as separate categories) at a future date for this section 121 program. The Commissioner has adopted the definitions of "special education" and "related services" from the new part 121a and has referenced those definitions in § 116b.3 of this part.

2. SECTION 116b.10 ANNUAL PROGRAM PLAN

Comment. One commenter felt that the State educational agency should submit only one plan, which would be submitted as part of the Education of the Handicapped Act plan. The commenter felt that this would lessen the paperwork burden of the State.

Response. No change has been made in the regulation. Section 142 of Title I of the Elementary and Secondary Education Act and § 116.3 of the general Title I provisions (45 CFR Part 116) require that section 121 plans be submitted with the general Title I plan.

3. SECTION 116b.12 STATE EDUCATIONAL AGENCY AS FISCAL AGENT

Comment. One commenter suggested that a State educational agency (in lieu of a State agency) be able to administer funds directly to an eligible local educational agency under this part. The commenter felt that this would relieve State agencies, particularly in sparsely populated States, of additional bookeeping and paperwork.

Response. The comment has been adopted. Section 116b.12 states that

the State educational agency may act as the fiscal agent of the State agency in disbursing funds under this part, including transfers of funds to local educational agencies.

4. SECTION 116b.13 OTHER STATE EDUCATIONAL AGENCY RESPONSIBILITIES

Comment. A commenter felt that the regulation should allow the State educational agency to develop services for children in other State agencies if a State agency's application does not account for all handicapped children in the State agency who are eligible under this part.

Response. No change has been made in the regulation. Nothing in the regulation prohibits a State educational agency from developing services for a handicapped child. In a situation where the State educational agency is legally responsible for the education of handicapped children, that agency would be treated as any other eligible State agency in applying for funds under this part. In a State receiving funds under part B of the Education of the Handicapped Act, the State educational agency is responsible for insuring that all education programs in the State are under the supervision of the State educational agency, and that a free appropriate public education will be provided to all handicapped children in the State (within mandated ages and timelines). (The requirements of part B are referenced in subpart H of this part.) In addition, if an application by a State agency under this part does not account for all handicapped children in the agency, uncounted children in the State agency at the time the funds are available may be served as stated in § 116b.55 of this part.

5. SECTION 116b.21 PROJECT APPLICATION REQUIREMENTS

Comment. A commenter suggested that the project application include a statement concerning the State agency's responsibility to assist the State educational agency in meeting the requirements of the annual program plan. The commenter felt that this would expedite the delivery of the annual program plan to the Commissioner and would make it less difficult for the State educational agency to obtain required information from the State agency.

Response. A change has been made in the regulation by adding the new § 116b.23 which requires the State agency to provide reports to the State educational agency necessary to enable the State educational agency to fulfill its administrative and fiscal responsibilities under this part and part 116, and which requires the State agency to coordinate and consult with its State educational agency in, among other things, the supervision and evaluation of programs and projects assisted under this part. In addition, the new § 116b.30 requires that the project application of the local educational agency include any information the State educational agency requires to perform its duties under this part.

Comment. One commenter emphasized the need for comprehensive in-service education of all individuals involved with a handicapped child. The commenter felt that § 116b.21(b)(8), requiring a description in the project application of any proposed training for the school staff and parents of handicapped children, was inadequate, as it did not require any proposed training.

Response. The comment has not been adopted. The Office of Education considers the training of personnel essential to the success of programs and projects assisted under this part and encourages the use of funds for that training. However, payment of Title I funds for in-service training is dealt with in §§ 116.34 and 116.36 of the General Provisions governing Title I (part 116).

Comment. One commenter suggested that the project application reflect the responsibility of the applicant to provide an appropriately designed individualized education program for each child receiving services under this part. Another commenter suggested that the project application should contain assurances that the child being served under this part would be educated in the least restrictive alternative. Both commenters felt that the suggested changes should be made to comply with the requirements of part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142.

Response. A change has been made in the regulation by adding § 116b.21(b)(12) requiring that the application contain a description of the procedures to be used in developing and implementing the individualized education program which must be provided for each handicapped child under part B of the Education of the Handicapped Act. A new subpart H has been added which references the additional requirements of the Education of the Handicapped Act, which would include the requirement that a child be educated in the least restrictive setting.

6. SECTION 116b.22 PARENTAL PARTICIPATION IN THE DEVELOPMENT OF THE PROJECT APPLICATION

Comment. One commenter suggested that parents should have sufficient notice of the opportunity to participate in the development of the project application, and that newspaper publication of that notice would most effectively reach the general public.

Response. A change has been made in the regulation by adding a new § 116b.21(b)(13) which requires that the project application contain a description of the procedures used to give parents of the handicapped children an opportunity to participate in the development of the project application. However, no change has been made in § 116b.22 to require newspaper publication of the opportunity to participate in the development of the project application. Programs and projects under this part are very diverse and vary greatly within a State in terms of the extent of geographic isolation (which may affect parent availability) and the numbers of handicapped children in a program or project. Because of this diversity, the Office of Education believes that the State agency is best able to determine what methods of notice are appropriate and what best constitutes an opportunity to participate in the development of any particular project application.

7. SECTION 116b.25 REPORTING BY STATE AGENCY OF CHILDREN TRANSFERRING TO A LOCAL EDUCATIONAL AGENCY PROGRAM

Comment. One commenter felt that the State educational agency should be able to set the timelines for submission of the report of children transferring to a local educational agency and submission of the project application. The commenter felt that this change would provide the needed administrative flexibility for the State educational agency.

Response. The required reporting date under § 116b.25 of June 30 has been dropped, and the new § 116b.25(b) requires the State educational agency to prescribe the manner of submitting the report. The proposed § 116b.21 (relating to submission of the project application) did not contain any required date for submission of the project application.

Comment. One commenter felt that the proposed § 116b.25, in requiring reporting the child's name, might be inconsistent with State laws. Another commenter feared that the provision would violate the Family Educational Rights and Privacy Act (governing the confidentiality of personally identifiable data in student records; 20 U.S.C. 1232g) and the confidentiality regulations under part B of the Education of the Handicapped Act (45 CFR 121a.560-121a.576).

Response. A change has been made in the regulation to permit an alternate method of identifying the child as well as identifying each child's handicapping condition. The change has been made to accommodate State laws. A report under this section which does include the name of the child would violate neither the part B confidentiality regulations nor the Family Education Rights and Privacy Act, although States are encouraged

not to collect data in personally identifiable form.

8. SECTION 116b.31 TRANSFER OF FUNDS TO LOCAL EDUCATIONAL AGENCIES

Comment. One commenter felt that, upon a child's leaving a State agency to enroll in a local educational agency, the funds should not be transferred to the local educational agency but should remain in the State agency for use by other handicapped children. Another commenter stated that the statute does not mandate the transfer of funds but permits the transfer if the two statutory conditions are met.

Response. The section has been revised so that the transfer of funds is not mandatory in certain situations. In addition a comment has been added, following the section, which discusses the situations in which the transfer of funds is either mandatory or permissive. Examples have been provided as well as suggested criteria that the State agency could take into account in determining whether to transfer funds to the local educational agency.

Comment. One commenter, noting that a child's placement can change at any time during the school year, stated that children enrolling in a local educational agency after they were counted October 1 in a State agency program did not become part of the local educational agency's average daily attendance count for many months after their transfer. The commenter felt that if those children were not qualified to receive services that year on a space available basis (§ 116b.55), those children were unfairly denied any services under this part during the year of their transfer.

Response. The comment added following § 116b.31 indicates that a State agency may transfer funds generated by a child in a State agency count at the time of the child's transfer to the local educational agency.

Comment. One commenter felt that the section should indicate that a State agency has the discretion to transfer an amount of funds greater than or equal to the amount of funds that the handicapped child generated.

Response. No change has been made in the regulation to permit a transfer of funds in an amount greater than or less than the amount of funds that the handicapped child generated. The statute only authorizes a local educational agency to receive an amount of funds equal to the amount the child generated. Section 116b.41(a)(3)(iv) states that a handicapped child in a local educational agency may be counted in average daily attendance under this Part if, among other conditions, the State agency transfers to the local educational agency an amount equal to the sums received by the State agency which are attributable to that handicapped child. This is a statutory provision. Section 116b.50(b) states that the entire amount of funds generated by a child need not be spent on that child as long as some of the funds are used to meet his or her individual special education needs. Having received the entire amount of funds generated by the handicapped child, the local educational agency has the discretion to use all or some of that amount on the child. The remaining funds generated by the child, if any, must be used according to § 116b.50(b).

Comment. One commenter felt that any mandatory transfer of funds to the local educational agency was an undesirable drain of funds from the State agency. The commenter felt that funds generated by a child currently in a local educational agency should be retained by the State agency for use on other handicapped children in the State agency who were either counted or uncounted under this part.

Response. A comment has been added following § 116b.31 which discusses under which circumstances a State agency may retain funds attributable to a child currently in a local educational agency for use for other handicapped children in that State agency. Section 116b.55 discusses the participation of children who were not counted under this Part.

Comment. One commenter felt that funds attributable to a child eligible under § 116b.41 (a child transferring to a local educational agency program or project), and who subsequently returns to the State agency, should not continue to be transferred to the local educational agency.

Response. Section 116b.33(b) states that the State educational agency may require the local educational agency to either retain funds generated by a child who has left the local educational agency and use those funds for other handicapped children enrolled in that local educational agency, or to return all or a portion of those funds to the State agency in which that child was formerly enrolled. Handicapped children who have left the local educational agency and who have returned to the State agency may not, of course, continue to be counted in the local educational agency average daily attendance count and are eligible to be counted in the State agency average daily attendance count.

9. SECTION 116b.41 ELIGIBILITY OF CHILDREN TO BE COUNTED

Comment. One commenter suggested that a child eligible under § 116b.41(a)(3) should not be counted by the local educational agency for longer than two years. The commenter, noting that the funds under this part are for State operated programs for handicapped children, felt that this restriction would permit more funds under this part to flow to and remain in the State agency itself.

Response. No change has been made in the regulation. A child may be counted by the local educational agency as long as the child is eligible, that is, meets the requirements of § 116b.41(a)(3). The statute sets no limitation on the length of time the child may be counted by the local educational agency.

10. SECTION 116b.43 AVERAGE DAILY ATTENDANCE COMPUTATION

Comment. One commenter felt that the requirement that average daily attendance be 94 percent of the total membership enrollment was undesirable, as average daily attendance in State operated programs is closer to 100 percent of enrollment. The commenter felt that the use of the 94 percent figure created inaccurate deviations in reporting by speaking of "whole" children versus "partial" children.

Response. The comment has been adopted by defining average daily attendance to mean the total membership enrollment of handicapped children.

11. SECTION 116b.44 DATES FOR COUNTING AND REPORTING AVERAGE DAILY ATTENDANCE

Comment. One commenter felt that the October 1 date should be replaced by a date later in the school year, as October 1 generally reflected a time of low enrollment of handicapped children in a State supported program, and many children had not been referred to the State agency by that date.

Response. The comment has not been adopted. The date for counting by the State agency and local educational agency will remain as October 1. The Office of Education feels that date for counting should be consistent with the counting date of handicapped children under part B of the Education of the Handicapped Act.

Comment. One commenter felt that the State educational agency should be allowed to establish the date for the counting of handicapped children under this part. The commenter felt that this would give the State greater flexibility and may permit a more accurate count.

Response. The comment has not been adopted. Although it may be true that greater flexibility in determining the date to count may permit a more accurate count in a given situation, the Office of Education feels that the October 1 date will allow for consistency in the counting of handicapped children under this program and part B of the Education of the Handicapped Act. In addition, the timely submission of average daily attendance data to the State educational

agency is critical in enabling the State educational agency to submit the average daily attendance data to the Commissioner by November 15, as required by § 116b.44(b).

Comment. One commenter felt that the report under § 116b.25(a)(1) (reporting of children transferring to a local educational agency) and the report under § 116b.44(a) (the report of average daily attendance) overlapped.

Response. No change has been made in response to this comment. As the mandatory reporting date of June 30 under § 116b.25 has been dropped, a State agency could determine that the information required under both sections could be reported at the same time. The Office of Education expects that the State educational agency may determine that the information required under § 116b.25 should be reported at a date later than October 1.

12. SECTION 116b.50 THE EDUCATIONAL PROGRAM

Comment. One commenter wanted this section to state that a child need not receive all the funds the child generated, as long as the child received some benefit from the funds.

Response. A change has been made in response to the comment by adding § 116b.50(b), which states that the entire amount of funds generated by a child under this part need not be spent on that child as long as some of the funds are used to meet his or her individual special education needs. The remaining funds, if any, generated by that child may be spent on other handicapped children counted under § 116b.41 in the school where the child is located. Participation of uncounted children is discussed in § 116b.55.

Comment. One commenter wanted clarification on what extent a program could be funded with funds under this part.

Response. A change has been made in the regulation by adding § 116b.50(c), which states that a project may be supported in whole or in part with funds under this part, but that a State agency shall not use funds under this part to pay for its entire educational program for handicapped children.

13. SECTION 116b.51 STATE STANDARDS

Comment. One commenter suggested that, in a situation where a handicapped child is withdrawn from a program assisted under this part because that program does not meet State standards, the State agency, through the State educational agency, should notify the Commissioner and the local education agency before the child's withdrawal. The commenter felt that the child's location should be known so that services for the child would be continued, if needed.

Response. The comment has not been adopted. The provision in the proposed rule requiring that the State agency notify the Commissioner of a handicapped child's withdrawal has been deleted. Reporting the withdrawal of an individual handicapped child from a program not meeting State standards would be an unduly burdensome reporting requirement for both the State agency and the Commissioner. However, the Office of Education recognizes the need to determine the location of any handicapped child withdrawn from a program to prevent that child becoming lost in the educational system. The new § 116b.51 requires the State educational agency have standards which insure that each handicapped child counted under this Part receives an appropriately designed education. In addition, as referenced in § 116b.73, part B of the Education of the Handicapped Act requires that any activities conducted with funds under this part to assist the education of handicapped children must meet the standards of the State educational agency. Enrollment of a child counted under this part in an inadequate program violates § 116b.51. In a State receiving part B funds, the Education of the Handicapped Act protects those handicapped children whether counted or uncounted under this part.

Comment. One commenter felt that the word "standards" was confusing in that it was too broad a term and may imply to the reader that all the education codes, regulations, and policies of the State educational agency must be met. The commenter felt that the word should be deleted or defined in § 116b.3.

Response. The comment has not been adopted. The Office of Education feels that "standards" is not too broad a term and refers to a coherent, recognizable set of educational requirements established by each State educational agency. In addition to the requirements of § 116b.51, a new § 116b.73 has been added to reflect the requirement of part B of the Education of the Handicapped Act that any activity to assist the education of handicapped children under part 116b must meet the educational standards of the State educational agency.

14. SECTION 116b.52 MAINTENANCE OF DIRECTION AND CONTROL

Comment. One commenter felt it was impractical for an agency to maintain complete control over a private program operated under contract or other agreement with the agency.

Response. The regulation has been changed by deleting the adjective "complete." The intent of the section is to require administrative and supervisory control and direction over the program. The use of the word "complete" may have been misleading. The section's intent was to prohibit contracting out all services to children and to require, as a minimum, participation of the State agency or local educational agency through the administration and supervision of the services provided.

Comment. One commenter stated that his State law does not permit one department to exercise supervision over a program in another department. The commenter suggested dropping the requirement of maintaining supervisory direction and control and to require only the maintenance of administrative direction and control.

Response. No change has been made in the regulation. As the particular State agency or local educational agency involved is charged with providing those children receiving funds under this part with an appropriately designed education program, the Office of Education feels that retaining the requirement of supervisory as well as administrative control is a valid one. The State educational agency must meet a similar requirement with respect to all education programs for handicapped children, including those administered by other State agencies.

15. SECTION 116b.53 DISSEMINATION, SECTION 116b.54 CONSTRUCTION AND EQUIPMENT

Comment. One commenter felt that the "promising special educational practices" referred to in § 116b.53 and the use of the word "equipment" in § 116b.54 should be clarified to indicate the terms may include the use of educational materials, media, and technology.

Response. No change has been made in the regulation. The Office of Education does not feel that it is practical to include a complete list of activities that may be included under these two sections. In not changing the regulation, the Office of Education in no way means to exclude educational materials, media, and technology from either of these two sections. The Office of Education encourages the development of educational materials, media, and technology in the spheres of educational practices and equipment development.

16. SECTION 116b.60 ALLOWABLE COSTS

Comment. Two commenters suggested that funds provided to a State agency under this part should be able to be used to pay for administrative costs. Another commenter felt that administrative costs should not be limited to one percent of the funds received by that State agency.

Response. No change has been made in the regulation. Section 116b.60 indicates that administrative costs of the State educational agency are permissible, subject to section 143(b) of the

Act. The limitation of one percent on that agency's administrative costs is statutorily set, and applies to the administration of all programs under Title I. (See the discussion in the preamble to the Migrant Program regulations, 42 FR 36077-36078, published July 13, 1977.) However, there is no statutory restriction on the use of funds received by a State agency (other than the State educational agency) for administrative costs. Therefore, a State agency may use funds under this part to pay for reasonable and necessary costs of administering those funds, subject to 45 CFR 100a.81 (Allowable costs) and 45 CFR Part 100c (Indirect cost rates).

17. SECTION 116b.61 SPECIAL EDUCATION AND RELATED SERVICES

Comment. One commenter wanted the section to authorize occupational therapy as a related service.

Response. No change has been made in the regulation to specifically mention occupational therapy. The proposed rule contained a non-exhaustive list of permissible related services. This final rule deleted that list and adopted the definition of related services from part 121a. That definition includes occupational therapy as a related service.

Comment. One commenter, noting that some children are placed in foster homes in a school district by a mental health agency, feared that the school district may not be able to meet the mental health needs of those students (necessary intensive counseling and therapy) in addition to providing educational services.

Response. No change has been made in the regulation to specifically mention counseling and therapy. However, the definition of related services, adopted for this part from part 121a, includes psychological services and counseling services as qualified "related services."

Comment. One commenter felt that the list of permissible related services in the proposed regulation was worded so broadly that it authorized the establishment of duplicate and competing health care facilities by the school system for treatment of handicapped children in lieu of the use of existing health department programs and facilities.

Response. No change has been made in the regulation. Neither the proposed rule nor this final regulation is intended to authorize the use of funds under this part to establish separate health care facilities to deliver related services to handicapped children.

Comment. One commenter felt that the list of related services in the proposed regulation should specifically include educational media, instructional materials, and media technology services as these services are of great importance in the advancement of special education.

Response. The definition of "related services" in § 121a.13, adopted for purposes of this part, does not specifically list media, materials, and technology as separate categories of services. However, it is expected and permissible that funds under this part may be used for the services suggested by the commenter to the extent they assist in the provision of special education and related services to children served under this part.

18. SECTION 116b.62 TUITION AND SERVICES

Comment. Many commenters objected to the provision proposing that parents not be charged for room, board, and medical expenses when the child is placed in a residential institutional care facility by the State agency. The commenters objected to the provision for the following reasons: (1) Many States have provisions for charging parents for room and board on a sliding scale basis—according to ability to pay. Some commenters felt that, since their State received more money from these charges than from section 121, it would force the State to discontinue participation in this Title I program. Another commenter felt that the sliding scale charges did not overburden the parents, as the charges were geared to the "ability to pay". (2) It was felt that in most circumstances, medical expenses are not related to enabling the child to benefit from an education, and parents of handicapped children should continue to be responsible for their child's medical care just as parents of non-handicapped children are responsible. (3) It was also stated that there is a distinction between those children placed in residential care facilities for educational purposes and those placed for other noneducational purposes (i.e., residential), and that the majority of section 121 children were placed for noneducational purposes. (4) Another reason given in opposing this provision was that other programs (i.e., insurance, Federal social service programs) which provide reimbursement for services such as room and board may require, as a condition of funding, that parents be charged fees on an ability-to-pay basis in order to be eligible for their programs, funding. Generally, other Federal funding programs preclude payments for educational services.

Response. The regulation has been changed to read that parents of handicapped children served under this part shall not be charged for special education or related services provided for those children (including the cost of services such as room and board and non-medical care which are provided in an institutional residential care facility in which the child is placed for educational purposes). The prohibition that medical costs cannot be charged to parents has been dropped in response to comments received and in an effort to coordinate the requirements of this part with the statutory and regulatory requirements of part B of the Education of the Handicapped Act, as amended by Pub. L. 94-142 and section 504 of the Rehabilitation Act of 1973. Citations to the latter regulations are contained elsewhere in this preamble. The prohibition that parents not be charged for the costs of room and board has been retained. Again, this has been done to comply with the requirements of part B and section 504. The Office of Education has determined that the "free" in "free public education" includes the requirement that room and board not be charged to parents when the handicapped child is placed in a residential care facility for educational purposes.

19. SUBPART H. REQUIREMENTS UNDER PART B OF THE EDUCATION OF THE HANDICAPPED ACT

This subpart has been added to make reference to the requirements of part B as they apply to programs and projects assisted under this part. The new § 116b.46 has been added to reflect the requirement of part B that children counted under section 121 may not be counted under part B. After consideration of all comments, Title 45 of the Code of Federal Regulations is amended by adding a new part 116b, to read as set forth below.

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

(Catalogue of Federal Domestic Assistance Number 13.427, State Operated Programs for Handicapped Children.)

Dated: November 4, 1977.

Approved: April 4, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Subpart A—General

Sec.
116b.1 Scope.
116b.2 Other applicable regulations.
116b.3 Definitions.

Subpart B—State Educational Agency Participation

116b.10 Submission of annual program plan.
116b.11 Submission of financial status and performance reports.
116b.12 State educational agency as fiscal agent.
116b.13 Other State educational agency responsibilities.

Sec.
116b.14 Reallocation of funds between State agencies.

Subpart C—State Agency Participation

116b.20 State agency eligibility.
116b.21 Project application requirements.
116b.22 Parental participation in the development of the project application.
116b.23 State agency responsibilities.
116b.24 Children who may be served.
116b.25 Reporting by State agency of children transferring to a local educational agency program.

Subpart D—Local Educational Agency Participation

116b.30 Local educational agency project application.
116b.31 Transfer of funds to local educational agencies.
116b.32 Local educational agency use of funds.
116b.33 Funds attributable to children who leave the local educational agency.
116b.34 Funds not used by a local educational agency.

Subpart E—Amount of Grants and Counting Average Daily Attendance

116b.40 Amount of grants.
116b.41 Eligibility of children to be counted.
116b.42 Education by more than one agency.
116b.43 Average daily attendance computation.
116b.44 Dates for counting and reporting average daily attendance.
116b.45 Children counted under Section 123.
116b.46 Children counted under Part B of the Education of the Handicapped Act.

Subpart F—Program Requirements

116b.50 The educational program.
116b.51 State standards.
116b.52 Maintenance of direction and control.
116b.53 Dissemination.
116b.54 Construction and equipment.
116b.55 Participation of children who were not counted.
116b.56 Participation in programs under Part 116a.

Subpart G—Allowable Costs

116b.60 General.
116b.61 Special education and related services.
116b.62 Tuition and services.
116b.63 Transportation costs.

Subpart H—Requirements Under Part B of the Education of the Handicapped Act

116b.70 Part B regulations.
116b.71 Supervision of programs for handicapped children.
116b.72 Use of funds for handicapped children.
116b.73 State educational agency standards.
116b.74 Withholding payments for noncompliance.

AUTHORITY: Sec. 121 of Pub. L. 89-10, as amended, 88 Stat. 491-492 (20 U.S.C. 241c-1), unless otherwise noted.

Subpart A—General

§ 116b.1 Scope.

This part applies to programs and projects assisted under section 121 of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 241c-1.)

§ 116b.2 Other applicable regulations.

Programs and projects assisted under this Part are also subject to the following regulations:

(a) Part 116 of this chapter (general requirements relating to Title I of the Act, including § 116.5 *Approval by State educational agency of applications from applicant agencies,* § 116.7 *Reports by State educational agencies,* § 116.31 *Cooperative projects,* and § 116.40 *Title I funds supplementary to State and local funds*), except that § 116.40(b) (Use of funds for services which the applicant is required to provide) does not apply; and

(b) Parts 100, 100b, and 100c of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 241c-1.)

§ 116b.3 Definitions.

As used in this part (in addition to the definitions set forth in Parts 100 and 116 of this chapter):

"Handicapped children" includes those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired, who because of those impairments need special education.

"Related services" is used in this Part as defined in § 121a.13 of this chapter.

"Special education" is used in this Part as defined in § 121a.14 of this chapter.

"State agency" means an institution or agency of the State which has direct responsibility established under State law for providing free public education for handicapped children.

"State-operated school" means a school or a program which is administered directly by a State agency.

"State-supported school" means a school or program operated under contract or other arrangement with a State agency.

(20 U.S.C. 241c-1; 20 U.S.C. 1401 (16), (17).)

Comment. A State agency may use funds under this part only to serve those handicapped children for whom the agency is directly responsible for providing free public education. The State agency may serve those handicapped children in State-operated or in State-supported schools. Although typically the State agency contributes a significant portion of the cost of providing education to handicapped children in a State-supported school, the extent of that contribution is irrelevant as long as the State agency is legally responsible for providing education to the handicapped children in that State-supported school.

Subpart B—State Educational Agency Participation

§ 116b.10 Submission of annual program plan.

(a) A State educational agency shall submit a general application and an annual program plan to the Commissioner as provided in § 116.3 of this chapter.

(b)(1) The annual program plan must include a description of each project funded under this part, including each project conducted by a local educational agency.

(2) The description of a project must include: (i) The project number, if any, (ii) a brief narrative description of the project, (iii) the project location, (iv) the number of children to be served in the project, (v) the number of personnel to be hired for the project, and (vi) the amount of funds provided under this part to be spend on the project.

(3) Each project description must be reported under the heading of the State agency from which the project receives its funds. If a project receives funds from more than one State agency, that project may be listed under a separate heading.

(20 U.S.C. 1232(c)(2). 241c-1, 241f.)

§ 116b.11 Submission of financial status and performance reports.

(a) Each State educational agency shall submit a final Financial Status Report and a Performance Report annually to the Commissioner, as required in Subparts P and Q of Part 100b of this chapter.

(b) If funds are carried over from the previous fiscal year, under § 100b.55 of this chapter, the State educational agency shall submit a separate Financial Status Report and a separate Performance Report with respect to those funds.

(20 U.S.C. 241c-1.)

§ 116b.12 State educational agency as fiscal agent.

The State educational agency may act as the fiscal agent of the State agency in disbursing funds under this part, including transfers of funds to local educational agencies under Subpart D of this part.

(20 U.S.C. 241c-1.)

§ 116b.13 Other State educational agency responsibilities.

In addition to those requirements in Part 116 of this chapter, each State educational agency shall:

(a) Determine whether each State agency is eligible for a grant under this part;

(b) Assist State agencies and local educational agencies in the development, implementation, evaluation, and supervision of projects under this part;

(c) Assist State agencies and local educational agencies in determining and reporting average daily attendance of handicapped children under Subpart E of this part;

(d) Insure that all handicapped children served with funds under this part are receiving special education in a program which meets the State educational agency standards under § 116b.51;

(e) Insure that the information reported under § 116b.44(b) is accurate; and

(f) Develop and implement procedures to monitor all projects.

(20 U.S.C. 241c-1.)

§ 116b.14 Reallocation of funds between State agencies.

The State educational agency shall reallocate funds (subject to the prior written approval of the Commissioner) between State agencies if a handicapped child who generated funds in one participating State agency is transferred to another participating State agency.

(20 U.S.C. 241c-1.)

Subpart C—State Agency Participation

§ 116b.20 State agency eligibility.

Each State agency is eligible to receive a grant under this Part for each fiscal year.

(20 U.S.C. 241c-1.)

§ 116b.21 Project application requirements.

(a) In order to receive a grant under this part, a State agency must submit a project application to the State educational agency.

(b) A project application must:

(1) Meet the requirements in Subpart D of Part 116 of this chapter;

(2) Set forth the number of handicapped children to be served with funds under this part;

(3) Describe the nature and purpose of the proposed project and include measurable child-centered objectives;

(4) Identify each school in which the handicapped children are enrolled, the number of those children, and their ages and handicapping conditions;

(5) Describe the educational services currently being provided for handicapped children with State and local funds in each of these schools;

(6) Provide an assessment and discription of the needs of those children for special education and related services based on the best available data, including data on their past educational performance;

(7) Describe each educational service to be provided with funds under this part to meet the needs assessed and described under paragraph (b)(6) of this section;

(8) Describe any proposed training for the school staff and for the parents of those children;

(9) Describe the procedures which will be used to evaluate the effectiveness of the project;

(10) Describe the nature and extent of any proposed coordination with other Federal, State, or local agencies, or related programs, in the development, operation, and administration of the program or project assisted under this Part;

(11) Provide for educational services and training for parents of those children, to the extent that parental understanding of the services being provided to their children could contribute to the effectiveness of the program or project;

(12) Describe the procedures to be used in developing and implementing the individualized education program which must be provided for each handicapped child under Part 121a of this chapter;

(13) Describe the procedures which were used to give parents of these children an opportunity to participate in the development of the project application; and

(14) Describe the methods of dissemination of project information.

(20 U.S.C. 241c-1.)

§ 116b.22 Parental participation in the development of the project application.

Each State agency shall provide parents of the children to be served with funds under this part with an opportunity to participate in the development of its project application.

(20 U.S.C. 241c-1; 1231d.)

§ 116b.23 State agency responsibilities.

Each State agency shall:

(a) Coordinate and consult with its State educational agency in the development, implementation, supervision, and evaluation of programs and projects assisted under this part; and

(b) Provide reports to the State educational agency as necessary to enable the State educational agency to fulfill its administrative and fiscal responsibilities under this part and Part 116 of this chapter.

(20 U.S.C. 241c-1.)

§ 116b.24 Children who may be served.

A State agency may use funds under this part only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children for whom the State agency is directly responsible for providing free public education.

(20 U.S.C. 241c-1.)

§ 116b.25 Reporting by State agency of children transferring to a local educational agency program.

(a) Each State agency which receives funds under this Part shall submit an annual report to the State educational agency of all handicapped children who:

(1) Were counted in average daily attendance under section 121 of the Act during the school year 1971-1972 or in a subsequent year; and

(2) Will leave or have left the special education program operated or supported by that agency in order to participate in a special education program operated or supported by a local educational agency.

(b) The State educational agency shall prescribe the manner of submitting the report.

(c) Each State agency shall insure that the report includes:

(1) The name of each child (or other information used by the State to identify the child),

(2) A description of each child's handicapping condition (or other information used by the State to identify the handicapping condition), and

(3) The name of the local educational agency in which the child will enroll.

(20 U.S.C. 241c-1.)

Subpart D—Local Educational Agency Participation

§ 116b.30 Local educational agency project application.

(a) In order to receive funds under this part, a local educational agency must submit a project application to the State educational agency.

(b) The application must meet the requirements in § 116b.21 and include any other information the State educational agency requires to perform its duties under this part.

(c) The State educational agency may reduce the amount of information submitted under § 116b.21, if the local educational agency serves five or fewer handicapped children under this part.

(20 U.S.C. 241c-1.)

§ 116b.31 Transfer of funds to local educational agencies.

A local educational agency may receive funds under this Part to serve a handicapped child if:

(a) The handicapped child left an educational program for handicapped children operated or supported by a State agency in order to participate in a program operated or supported by the local educational agency;

(b) The child continues to receive an appropriately designed educational program; and

(c) The State agency transfers the funds generated by the child under this part to the local educational agency.

(20 U.S.C. 241c-1.)

Comment. 1. Under the statute, it is the responsibility of the State agency to transfer funds to a local educational agency. However, under § 116b.12, the State educational agency may transfer the funds directly to the local educational agency as the fiscal agent of the State agency.

2. The local educational agency receives funds based on the number of transfer children that it serves. Subpart E provides the rules for counting these children. The local educational agency submits its count to the State educational agency.

3. It should be noted that funds generated by the count of a child in one year are not available until the following year. Because of this one-year delay in the availability of funds, the determination of which agency (local or State) should receive the funds can become a complex problem. The following clarifications are provided to assist in determining whether or not the transfer of funds to a local educational agency is mandatory.

(a) The local educational agency may receive all funds generated by a child whom the local educational agency counted in the previous year, subject to the compliance by the local educational agency with the requirements of this Part.

(b) The State agency may (but is not required to) transfer to the local educational agency funds generated by a child whom the State agency counted in the previous year. For example, the transfer of funds is optional in the following situations: (1) The State agency counts a child on October 1, and the child enrolls in the local educational agency following that count but during the same school year. The State agency may decide to transfer the funds to the local educational agency when those funds become available (the following year) or may decide to retain those funds for use on other counted handicapped children in that State agency. (If the local educational agency then counts the child, the following year's funds must be transferred.) (2) The State agency counts a child on October 1 of one school year and the child enrolls in the local educational agency the following school year (the year the funds become available). The State agency may decide to transfer those funds to the local educational agency at the time of the child's enrollment in the local educational agency or may decide to retain those funds for use for other counted handicapped children in that State agency. In examples (1) and (2), uncounted handicapped children may be served on a space available basis (§ 116b.55).

Although the transfer of funds to the local educational agency is optional under the examples in paragraph (b) above, the State agency may wish to take into account the following in exercising its option: whether or not the State agency continues to maintain approved projects, the number of children who have left the State agency and who are currently enrolled in a local educational agency, and the number of children in approved projects in the State agency.

(c) If a child has left the local educational agency, § 116b.33 governs the use of the funds.

§ 116b.32 Local educational agency use of funds.

(a) A local educational agency which receives funds under this Part shall use those funds to supplement the appropriately designed education for handicapped children provided by that agency.

(b)(1) The local educational agency may enter into a contract or other arrangement with other agencies and schools, intermediate school districts, or the State educational agency, subject to Subpart I of Part 100b of this chapter, for carrying out activities under this subpart.

(2) The local educational agency shall administer or supervise those activities.

(20 U.S.C. 241c-1(d).)

§ 116b.33 Funds attributable to children who leave the local educational agency.

(a) The State agency shall not transfer funds to a local educational agency if all handicapped children counted under this part cease to be enrolled in that local educational agency.

(b) If a handicapped child counted under this part ceases to be enrolled in the local educational agency, that local educational agency shall notify the State educational agency, and the State educational agency shall require the local educational agency to either:

(1) Retain funds generated by that child under this Part to be used for the other handicapped children enrolled in that local educational agency; or

(2) Return all or a portion of those funds to a State agency in which that child was formerly enrolled.

(20 U.S.C. 241c-1(d).)

§ 116b.34 Funds not used by a local educational agency.

If a local educational agency is unable or unwilling to use all or part of the funds available to it under this part, the State educational agency shall transfer the funds to the State agency in which the handicapped children counted under this part were formerly enrolled.

(20 U.S.C. 241-1(c) and (d).)

Subpart E—Amount of Grants and Counting Average Daily Attendance

§ 116b.40 Amount of grants.

(a) *Formula for determining the amount of grant.* A State agency is eligible to receive an amount of funds as computed under the formula in section 121(b) of the Act.

(20 U.S.C. 241c-1(b).)

(b) *Minimum payment.* In any fiscal year prior to October 1, 1978, no State shall receive an amount of funds under this part which is less than 100 percent of the amount which that State received in the prior fiscal year under section 121 of the Act.

(20 U.S.C. 241c-5.)

§ 116b.41 Eligibility of children to be counted.

(a) A handicapped child may be counted in average daily attendance for the purpose of computing a grant under section 121(b) of the Act, if:

(1) The child is on the membership roll of a State-operated school,

(2) The child is on the membership roll of a State-supported school; or

(3)(i) The child was counted in average daily attendance by a State agency during the school year 1971-1972 or a subsequent year and is now enrolled in a program operated or supported by a local educational agency;

(ii) The child was enrolled in the State agency school for at least one school year (which may not be less than 180 school days);

(iii) The child continues to receive an appropriately designed educational program; and

(iv) The State agency transfers to the local educational agency in whose program the child is enrolled an amount equal to the sums received by the State agency under this Part which are attributable to that child.

(b) There is no minimum number of hours that a child must be receiving educational services per day in order for the child to be eligible to be placed on a membership roll under this section. The length of a school day shall be determined solely by the needs of the handicapped child, as reflected in the child's individualized education program.

(20 U.S.C. 241c-1(b).)

§ 116b.42 Education by more than one agency.

If a handicapped child is receiving free public education from more than one State agency, the State agency which is primarily responsible for the child's education (as determined by the State educational agency) shall be the only State agency to count that child under this part.

(20 U.S.C. 241c-1.)

§ 116b.43 Average daily attendance computation.

For the purposes of this part, average daily attendance means the total membership enrollment of handicapped children who are counted under § 116b.41.

(20 U.S.C. 241c-1(b).)

§ 116b.44 Dates for counting and reporting average daily attendance.

(a) *State agency and local educational agency.* Each State agency and local educational agency shall count handicapped children (as specified in

§ 116b.41) on their membership rolls as of October 1 of each year and shall report their average daily attendance to the State educational agency.

(b) *State educational agency.* The State educational agency shall submit a report to the Commissioner by the following November 15 which sets forth the information submitted under paragraph (a) of this section.

(20 U.S.C. 241c-1 (b) and (d).)

§ 116b.45 Children counted under section 123.

A handicapped child who is counted in average daily attendance for the purpose of computing a grant under section 123 of the Act (program for neglected or delinquent children) may not be counted under this part.

(20 U.S.C. 241c-1(b).)

§ 116b.46 Children counted under Part B of the Education of the Handicapped Act.

A handicapped child who is counted for the purpose of computing a grant under Part B of the Education of the Handicapped Act may not be counted under this part.

(20 U.S.C. 241c-1(b).)

Comment. Effective October 1, 1977, section 611 (a)(5)(A)(iii) of Part B of the Education of the Handicapped Act requires that children counted under this part cannot be counted under Part B. (References to other requirements of Part B are in Subpart H.) However, handicapped children who receive special education and related services from a State agency directly responsible for providing them with free public education may be counted under this Part or under Part B. In addition, handicapped children counted or eligible to be counted under this part may be served with Part B funds, if all requirements of Part B are met.

Subpart F—Program Requirements

§ 116b.50 The educational program.

(a) Each handicapped child counted under this part must be provided with an educational program designed to meet the child's special educational needs.

(b) The entire amount of funds generated by a child under this Part need not be spent on that child, as long as some of the funds are used to meet his or her individual special education needs. The remaining funds generated by that child may be spent on other handicapped children who are enrolled in the State-operated or State-supported school where the child is located, and who were counted under § 116b.41.

(c) A project may be supported in whole or in part with funds provided under this part. However, a State agency shall not use funds under this part to pay for its entire educational program for handicapped children.

(20 U.S.C. 241 (c) and (d).)

Comment. The benefits a child receives must be designed to meet the child's individualized special education needs. For example, the services of a State agency coordinator would not meet this requirement, unless the State agency can document that those services were designed to meet the child's individualized special education needs. Under Part B of the Education of the Handicapped Act, all special education and related services must be provided under an individualized education program. See §§121a.340-121a.349 of this chapter.

§ 116b.51 State standards.

(a) The State educational agency shall have standards insuring that each handicapped child counted under this part receives an appropriately designed education.

(b) The State educational agency shall insure that every child in a State-supported school is provided an education which meets the standards of the State educational agency.

(20 U.S.C. 241c-1.)

§ 116b.52 Maintenance of direction and control.

Each State agency and local educational agency which provides services with funds under this part through contracts with other public or private agencies (such as hospitals, clinics, colleges, universities, and elementary and secondary schools) shall maintain those services under its administrative and supervisory direction and control. A State agency or local educational agency may not provide all those services to handicapped children through contracts with other agencies.

(20 U.S.C. 241c-1.)

§ 116b.53 Dissemination.

Each State agency and local educational agency shall have effective procedures for acquiring and disseminating to teachers, administrators, and parents significant information derived from special educational research, demonstration and similar projects, and for adopting, where appropriate, promising special educational practices developed through these projects for use in program planning and operation under this part.

(20 U.S.C. 241c-1.)

§ 116b.54 Construction and equipment.

(a) Construction undertaken and equipment purchased under this part are subject to the requirements of § 116.32 of this chapter.

(b) Each State agency and local educational agency shall insure that appropriately trained staff will be available to use and operate any equipment acquired with funds under this part.

(20 U.S.C. 241c-1.)

§ 116b.55 Participation of children who were not counted.

Children who may be counted under § 116b.41 but who were not counted, may participate in projects on a space available basis if:

(a) All children who were counted are receiving benefits from funds made available under this part; and

(b) All children who were counted are receiving an appropriately designed education commensurate with their needs.

(20 U.S.C. 241c-1.)

§ 116b.56 Participation in programs under Part 116a.

Nothing in this part precludes handicapped children from participating in projects funded under Part 116a of this chapter.

(20 U.S.C. 241c-1.)

Subpart G—Allowable Costs

§ 116b.60 General.

(a) *Cost principles.* Allowability of costs incurred under this part is determined in accordance with the cost principles referenced in § 100b.81 of this chapter and with Part 100c of the chapter.

(b) *Expenditures.* (1) Each agency may use funds under this part for expenditures which are reasonably necessary for activities directly related to the conduct of programs and projects to meet the special education needs of handicapped children.

(2) Permissible expenditures may include planning, evaluating, and disseminating the results of those activities.

(3) Administrative costs are allowable subject to section 143(b) of the Act (administrative costs of the State educational agency), and to Parts 100b and 100c of this chapter.

(20 U.S.C. 241c-1 and 241g(b).)

§ 116b.61 Special education and related services.

(a) Each agency may use funds under this part for the costs of special education and related services for handicapped children.

(b) The State agency may provide agency-wide services (in addition to services located in particular schools) under this part, if it determines that the educational needs of handicapped children will be better served by that method of programming.

(20 U.S.C. 241c-1.)

§ 116b.62 Tuition and services.

(a) *Tuition.* An agency shall not use funds under this part for the payment of tuition or fees.

(b) *Services.* Parents of handicapped children served under this part shall not be charged for special education or related services provided for those children (including the cost of room and board and non-medical care which are provided in an institutional resi-

dential care facility in which the child is placed for educational purposes).

(20 U.S.C. 241c-1.)

§ 116b.63 Transportation costs.

Expenditures for transportation of handicapped children are allowable only under the following conditions:

(a) The State educational agency has determined that the transportation is essential to ensure the child's safety or to enable the child to benefit from the special education or the other related services being provided;

(b) The school in which the child is enrolled has made reasonable efforts to secure other means of or resources for transportation of the child;

(c) There is no State law requiring the provision of the service; and

(d) The transportation is not normally provided to other handicapped children by the agency in whose educational program the child is enrolled.

(20 U.S.C. 241c-1.)

Subpart H—Requirements Under Part B of the Education of the Handicapped Act

§ 116b.70 Part B regulations.

Regulations under part B of the Education of the Handicapped Act are located in part 121a of this Chapter.

(20 U.S.C. 1417(b).)

Comment. The Commissioner advises each recipient to read the relevant regulatory provisions in part 121a, since those regulations provide additional specific rules for meeting the requirements in §§ 116b.71 through 116b.74.

§ 116b.71 Supervision of programs for handicapped children.

Section 612(6) of the Education of the Handicapped Act requires that the State educational agency be responsible for ensuring that all educational programs for handicapped children within the State, including all programs administered by any other State or local agency, are under the general supervision of persons responsible for educational programs for handicapped children in the State educational agency.

(20 U.S.C. 1412(6).)

§ 116b.72 Use of funds for handicapped children.

(a) Section 613(a)(2) of the Education of the Handicapped Act requires each State to insure that funds provided under this part to assist in the education of handicapped children are used only in a manner consistent with a goal of providing a free appropriate public education for all handicapped children.

(b) Paragraph (a) of this section does not limit the requirements of this part or of section 121 of the Act.

(20 U.S.C. 1413(a)(2).)

§ 116b.73 State educational agency standards.

Section 612(6) of the Education of the Handicapped Act requires that any activity to assist the education of handicapped children under this Part meet the educational standards of the State educational agency.

(20 U.S.C. 1412(6).)

§ 116b.74 Withholding payments for noncompliance.

(a) Section 616(a)(2)(B) of the Education of the Handicapped Act provides that the Commissioner may withhold payments available under this Part for assisting the education of handicapped children:

(1) For failure to comply substantially with any provision of section 612 or 613 of the Education of the Handicapped Act; or

(2) In the administration of the annual program plan under part B of the Education of the Handicapped Act for failure to comply with:

(i) Any provision of part B of the Education of the Handicapped Act; or

(ii) Any requirements in the application of a local educational agency or intermediate educational unit approved by the State educational agency under that annual program plan.

(b) The Commissioner must use the notice and hearing procedures in section 616 of the Education of the Handicapped Act before withholding payments under this section.

(20 U.S.C. 1416.)

[FR Doc. 78-9731 Filed 4-14-78; 8:45 am]

Federal Register

MONDAY, APRIL 17, 1978
PART III

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Reports

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

April 1978

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of April 1, 1978, of four rescissions contained in the fourteenth, fifteenth, and seventeenth special messages of FY 1977 and four rescissions and 59 deferrals contained in the first seven special messages for FY 1978. These messages were transmitted to the Congress on July 19 (both the fourteenth and fifteenth messages), July 26, September 23, October 3, November 10, December 15, 1977; and January 27, February 23, and March 10, 1978.

RESCISSIONS (TABLE A AND ATTACHMENT A)

There are presently no rescissions pending before the Congress. Table A summarizes the status of rescissions proposed by the President as of April 1, 1978, while Attachment A shows the history and status of each rescission proposed for FY 1978. Also included are four rescission proposals totalling $643.4 million made in FY 1977 but carried into FY 1978 and a single FY 1978 rescission for $2.7 million which was reclassified as a deferral.

DEFERRALS (TABLE B AND ATTACHMENT B)

As of April 1, 1978, $3,689.9 million in 1978 budget authority was being deferred from obligation and another $1.8 million in 1978 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1978.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Friday, July 22, 1977 (Vol. 42, No. 141, Part V) (both the fourteenth and fifteenth 1977 special messages)
Friday, July 29, 1977 (Vol. 42, No. 146, Part VIII) (seventeenth 1977 special message)
Thursday, September 29, 1977 (Vol. 42, No. 189, Part IX)
Friday, October 7, 1977 (Vol. 42, No. 195, Part IV)
Thursday, November 15, 1977 (Vol. 42, No. 220, Part IV)
Wednesday, December 21, 1977 (Vol. 42, No. 245, Part IV)
Wednesday, February 1, 1978 (Vol. 43, No. 22, Part VII)
Wednesday, March 1, 1978 (Vol. 43, No. 41, Part VII)
Thursday, March 16, 1978 (Vol. 43, No. 52, Part VII)

JAMES T. MCINTYRE, Jr.,
Director.

TABLE A.—*Status of 1978 rescission proposals*

[In millions of dollars]*

	Amount
Rescissions proposed by the President	[1]$701.3
Reclassified (from R78-1 to D78-54)[2]	−2.7
Rescinded by the Congress (GSA's repair and alteration program, and DoD military procurement programs)	−538.4
Enrolled rescissions awaiting Presidential action[4]	−55.3
Rejected by the Congress (missile procurement)	−105.0
Total pending before the Congress	0

[1]This amount includes $643.4 million in rescission proposals for fiscal year 1977 which were still pending in fiscal year 1978.

[2]This rescission proposal, originally transmitted in conjuction with a request for transfer for the Department of Justice, was superceded by a deferral (D78-54) submitted to report the extension of this withholding pending final action on the transfer. The transfer was approved in the Supplemental Appropriations Act, 1978, and the deferred funds were made available.

[3]Of this amount, $463.4 million, for B-1 Bomber and SRAM missile procurement, was originally proposed for rescission on July 19, 1977. These funds were made available for obligation on Oct. 5, 1977, following the 45-day Congressional consideration period. Subsequently, the funds were rescinded by the Supplemental Appropriations Act, 1978 (Pub. L. 95-240).

[4]These proposals are contained in an enrolled rescission bill (H.R. 10982) which was awaiting Presidential action on April 1.

*Detail does not add to total due to rounding.

TABLE B.—*Status of 1978 deferrals*

[In millions of dollars]

	Amount
Deferrals proposed by the President	$4,902.6
Routine Executive releases (−$1,131,900) and adjustments (−$40,200).	−1,172.1
Overturned by the Congress	−38.8
Total currently before the Congress.	[1]3,691.7

[1]This amount includes $1.8 million in outlays for a Department of the Treasury deferral (D78-28B).

STATUS OF RESCISSIONS

FISCAL YEAR 1978
(amounts in thousands of dollars)

As of April 1, 1978

Agency/Bureau/Account	Rescission Number	Amount Proposed: Previously Considered by the Congress	Amount Proposed: Currently Before the Congress	Date Special Message Transmitted to Congress	Amount Rescinded	Amount Made Available	Date Made Available
Funds Appropriated to the President							
International Security Assistance:							
Military assistance.	R78-2 1/	40,200 2/		01-27-78	1/		
Department of Defense - Military							
Aircraft procurement, Air Force.....	R77-18	462,000		07-19-77	462,000 3/	3/	
Missile procurement, Air Force.....	R77-19	1,400		07-19-77	1,400 3/	3/	
Missile procurement, Air Force.....	R77-20	105,000		07-26-77		105,000	10-14-77
Department of Justice							
Law Enforcement Assistance Administration:							
Salaries and expenses.....	R78-1 4/5/	2,668		09-23-77	4/	4/	
Department of State							
Contributions for international peacekeeping activities.....	R78-3 1/	5,000		01-27-78	1/		
General Services Administration:							
Federal Buildings Fund.....	R77-17	75,000		07-19-77	75,000 6/		
Federal Home Loan Bank Board							
Federal Home Loan Bank Board Revolving fund.....	R78-4 1/	10,055		01-27-78	1/		
TOTAL:.....		701,323 7/			538,400	105,000	

1/ These proposals are the subject of an enrolled rescission bill (H.R. 10982) which was awaiting Presidential action as of April 1.
2/ This amount was initially deferred (D78-47) in a special message transmitted to the Congress on December 15, 1977.
3/ These funds, originally proposed for rescission on July 19, 1977, were made available for obligation on October 5, 1977, following the 45-day Congressional consideration period. Subsequently, the funds were rescinded by the Supplemental Appropriations Act, 1978, (P.L. 95-240).
4/ This rescission proposal was transmitted in conjunction with a request for transfer of the same funds within the Department of Justice (contained in the Supplemental Appropriations Act, 1978, P.L. 95-240). The proposal was superseded by a deferral (D78-54) submitted to report the extension of this withholding pending final action on the transfer. The President signed the Act on March 7, approving the transfer.
5/ An opinion issued by the Comptroller General on October 28, 1977, holds that this proposal should have been classified as a deferral.
6/ P.L. 95-186.
7/ Of this amount $643,400,000 was proposed for rescission in FY 1977.

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 04-01-78
AGENCY: FUNDS APPROPRIATED TO THE PRESIDENT								
International Security Assistance								
Military assistance...	D78-47	131,200		12-15-77			-40,200 1/	91,000
International military education and training.....	D78-48	2,000		12-15-77				2,000
Foreign military credit sales.....	D78-49	673,250		12-15-77	-567,270			105,980
TOTAL:		806,450	0		-567,270		-40,200	198,980
AGENCY: DEPARTMENT OF AGRICULTURE								
Foreign Agricultural Service								
Salaries and expenses (special foreign currency program)...	D78-1	988		10-03-77				
	D78-1A		52	01-27-78				1,040
Agricultural Stabilization and Conservation Service								
Commodity credit corporation.....	D78-2	2,871		10-03-77	-2,871			0
Forest Service								
Timber salvage sales....	D78-59	4,500		03-10-78				4,500
Permanent appropriations, Expenses, brush disposal.....	D78-3	31,312		10-03-77				
	D78-3A		4,839	03-10-78				36,151
Permanent appropriations, Licensee programs.....	D78-4	141		10-03-77				141
TOTAL:		39,812	4,891		-2,871			41,832
AGENCY: DEPARTMENT OF COMMERCE								
Economic Development Administration								
Local public works program.....	D78-5	4,000		10-03-77	-4,000			0
Financial and technical assistance.....	D78-6	3,900		10-03-77				3,900
Economic development revolving fund.....	D78-51	123,647		01-27-78				123,647
National Oceanic and Atmospheric Administration								
Operations, research, and facilities.....	D78-7	3,750		10-03-77	-3,750			0
Promote and develop fishery products and research pertaining to American fisheries...	D78-8	5,429		10-03-77				
	D78-8A		639	01-27-78				6,068
Fisheries loan fund...	D78-9	6,177		10-03-77	-723			5,454
Fishermen's guaranty fund.....	D78-10	716		10-03-77	-38			678
Maritime Administration								
Ship construction.....	D78-57	122,000		02-23-78				122,000
TOTAL:		269,619	639		-8,511			261,747

1/ This amount is included in a rescission proposal (R78-2) transmitted to the Congress on January 27, 1978.

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 04-01-78
AGENCY: DEPARTMENT OF DEFENSE-MILITARY								
Shipbuilding and conversion, Navy.....	D78-44	871,125		11-10-77				871,125
Military construction, all services.....	D78-11	438,439		10-03-77	-110,285			328,154
TOTAL:		1,309,564			-110,285			1,199,279
AGENCY: DEPARTMENT OF DEFENSE-CIVIL								
The Panama Canal								
Canal Zone Government: Capital outlay.....	D78-52	309		01-27-78				309
Miscellaneous accounts								
Wildlife conservation, etc. military reservations.....	D78-12	458		10-03-77	-12			446
TOTAL:		767			-12			755
AGENCY: DEPARTMENT OF ENERGY 1/								
Energy (Plenum Fill experiment).....	D78-31	1,500		10-03-77				
	D78-31A		800 2/	11-10-77				2,300
Energy (Clean boiler fuel from coal project).....	D78-32	46,660		10-03-77				
	D78-32A		2/	11-10-77				46,660
Energy (Molten salt breeder reactor project).....	D78-36	1,500		10-03-77				
	D78-36A		2/	11-10-77				1,500
Energy (10 MW Central receiver solar thermal power plant)...	D78-45	31,000		11-10-77	-31,000			0
TOTAL:		80,660	800		-31,000			50,460

1/ See also Energy Research and Development Administration.
2/ The supplementary report changed the deferral from the Energy Research and Development Administration to the Department of Energy.

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 04-01-78
AGENCY: DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Office of the Assistant Secretary for Health								
Scientific activities overseas (special foreign currency program).....	D78-53	3,497		01-27-78				3,497
Office of Education								
Higher education.....	D78-13	3,740		10-03-77				3,740
Social Security Administration								
Limitation on salaries and expenses.....	D78-14	13,865		10-03-77				
	D78-14A		1/	01-27-78				13,865
TOTAL:		21,102						21,102

1/ The supplementary report changed the budget account title under which this deferral had been previously reported from the Limitation on construction to the Limitation on salaries and expenses account.

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 04-01-78
AGENCY: DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands.	D78-15	31,200		10-03-77				
	D78-15A		1,980	02-23-77				33,180
Bureau of Outdoor Recreation								
Land and water conservation fund.....	D78-16	30,000		10-03-77				30,000
Geological Survey								
Payment from proceeds, sale of water.....	D78-17	34		10-03-77				34
Bureau of Mines								
Drainage of anthracite mines.....	D78-18	3,500		10-03-77				3,500
Office of Territorial Affairs								
Trust territory of the Pacific Islands.....	D78-19	12,000		10-03-77				12,000
TOTAL:		76,734	1,980					78,714
AGENCY: DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities.....	D78-20	42,245		10-03-77				42,245
Law Enforcement Assistance Administration								
Salaries and expenses.....	D78-54	2,668		01-27-78	-2,668			0
TOTAL:		44,913			-2,668			42,245
AGENCY: DEPARTMENT OF LABOR								
Employment and Training Administration								
Advances to the unemployment trust fund and other funds.....	D78-55	1,380,114		01-27-78	-300,000			1,080,114
TOTAL:		1,380,114			-300,000			1,080,114
AGENCY: DEPARTMENT OF STATE								
Emergency refugee and migration assistance fund 1/	D78-43	2,000		11-10-77				
	D78-43A		5,800	12-15-77	-6,800			1,000
TOTAL:		2,000	5,800		-6,800			1,000

1/ This account, previously displayed in the Funds Appropriated to the President section of this report, was moved to the Department of State section to reflect a corresponding change in its location in the President's budget.

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 04-01-78
AGENCY: DEPARTMENT OF TRANSPORTATION								
Coast Guard								
Acquisition, construction, and improvements.....	D78-21	13,031		10-03-77	-13,031	1/		0
Federal Aviation Administration								
Construction, Metropolitan Washington Airports..	D78-22	1,010		10-03-77				1,010
Civil Supersonic aircraft development termination.....	D78-23	134		10-03-77				
	D78-23A		14	01-27-78				148
Facilities and equipment (Airport and airway trust fund)	D78-24	320,650		10-03-77	-68,487			252,163
Federal Highway Administration								
Trust fund share of other highway programs.....	D78-25	74,880		10-03-77	-3,130			71,750
TOTAL:		409,705	14		-84,648			325,071

1/ Impoundment resolution, S. Res. 282, passed the Senate on November 1, 1977, rejecting this deferral. The funds, however, were made available for obligation on October 31, 1977.

* * * \

STATUS OF DEFERRALS
FISCAL YEAR 1978

(amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amount Transmitted in Special Message: Original Request	Amount Transmitted in Special Message: Subsequent Change	Date Special Message Transmitted	Cumulative OMB/Agency Releases	Congressionally Required Releases	Cumulative Adjustments	Amount Deferred as of 04-01-78
AGENCY: ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION 1/								
Operating expenses (Gas cooled reactors)...	D78-30	15,000		10-03-77		-15,000 2/		0
Plant and capital equipment (Fusion material test facility).....	D78-33	7,500		10-03-77		-7,500 3/		0
Plant and capital equipment (Intense neutron source facility).....	D78-34	11,300		10-03-77		-11,300 4/		0
Plant and capital equipment (Intersecting storage ring accelerator).....	D78-35	5,000		10-03-77		-5,000 5/		0
TOTAL:		38,800				-38,800		0
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims.....	D78-39	10,738		10-03-77				10,738
Interstate Commerce Commission								
Payment of directed rail service.....	D78-40	13,700		10-03-77				13,700
National Science Foundation								
Research, and related activities..	D78-46	4,500		11-10-77				4,500
	D78-56	6,900		01-27-78				6,900
United States Information Agency 1/								
Salaries and expenses (special foreign currency program)..	D78-41	1,153		10-03-77				
	D78-41A		500	01-27-78				1,653
United States Railway Association								
Payment for purchase of Conrail securities..	D78-42	260,000		10-03-77				260,000
TOTAL:		296,991	500					297,491
TOTAL: ALL DEFERRALS	BA	4,838,931	54,053		-1,124,105	-38,800	-40,200	3,689,879
	O	4,185	5,388		-7,755			1,818

1/ See also Department of Energy.
2/ Impoundment resolution H. Res. 851 passed the House on November 2, 1977, rejecting this deferral.
3/ Impoundment resolution H. Res. 852 passed the House on November 2, 1977, rejecting this deferral.
4/ Impoundment resolution H. Res. 853 passed the House on November 2, 1977, rejecting this deferral.
5/ Impoundment resolution H. Res. 854 passed the House on November 2, 1977, rejecting this deferral.

* * * \

federal register

MONDAY, APRIL 17, 1978
PART IV

DEPARTMENT OF THE INTERIOR

Office of the Secretary

■

BUREAU OF INDIAN AFFAIRS REORGANIZATION TASK FORCE

Recommendations

[4310-10]

OFFICE OF THE SECRETARY

BUREAU OF INDIAN AFFAIRS; REORGANIZATION TASK FORCE

Notice of Period for Public Comment on Report and Recommendations

The Bureau of Indian Affairs Reorganization Task Force, established at the request of the Secretary of the Interior, and operating in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I, completed its report to the Secretary and the Under Secretary March 31, 1978.

The membership of the Task Force and their method of operating—including open meetings in Washington and public hearings in other cities—are described in the introductory chapter of the report.

The whole report is printed here. There is to be a public comment period of 60 days from the date of this publication, giving all interested persons an opportunity to make their views known to the Secretary, the Under Secretary, and the Assistant Secretary for Indian Affairs.

Comments should be addressed to: Assistant Secretary—Policy, Budget and Administration; Attention: BIA Reorganization Task Force; Department of the Interior, Washington, D.C. 20240.

Comments will be considered in actions taken to improve the operations of the Bureau of Indian Affairs. Comments will be available for public inspection after the close of the comment period at the above address.

Dated: April 12, 1978.

JAMES A. JOSEPH,
Under Secretary.

REPORT FROM THE BIA REORGANIZATION TASK FORCE

ESTABLISHED AT THE REQUEST OF THE SECRETARY OF INTERIOR

March 1978

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 31, 1978.

HON. CECIL D. ANDRUS,
Secretary of the Interior,
Department of Interior Building,
Washington, D.C.

DEAR SECRETARY ANDRUS: In response to your letter of request, submitted herewith is the report from the BIA Reorganization Task Force. It reflects the results of an intensive effort performed over a four-month period (December 1977 through March 1978) by an 11-member Task Force organized into five subcommittees—Education, Administration, Tribal Resources Development, Indian Services, and Indian Trust Responsiblities.

REPORT ARRANGEMENT

We have arranged our report into four chapters:

I. Executive Summary.
II. Introduction.
III. Background.
IV. Recommendations and Supportive Logic; Action Plan.

The appendices[1] include a statement from the Assistant Secretary for Indian Affairs to the Task Force, and summaries of comments from the public hearings held by the Task Force.

IMPLEMENTATION

We strongly suggest that this effort not be treated as "just another study", but that it receive a major departmental commitment toward carrying it forward into implementation. More specifically, we propose that an implementation team of three to five people be established to serve as the catalyst and monitoring mechanism, and that the BIA Reorganization Implementation Team have a direct reporting relationship to the Secretary so that all of the Department's resources can be brought to bear for as long as needed to implement the recommendations made.

We collectively thank the Department for the opportunity to participate in this important effort, and wish to thank the Department and BIA officials who assisted in the effort, for the considerable assistance and cooperation they provided the Task Force.

Sincerely,

EARL OLD PERSON,
Chairperson.

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY OF FINDINGS AND RECOMMENDATIONS

II. INTRODUCTION—THE TASK FORCE

III. BACKGROUND—THE BUREAU OF INDIAN AFFAIRS

IV. RECOMMENDATIONS AND SUPPORTIVE LOGIC

A. ORGANIZATIONAL STRUCTURE, SYSTEMS, BETTER PROCESS AND OVERALL ADMINISTRATION

Recommendations

1-6 Central Organization.
7-14 Field Structure and Executive Management/Development.
15-16 Budget System.
17-22 Management Systems and Procedures.
23-24 Implementing Federal Trust Responsibility.
25-26 Economic Development and Services to Indian Tribes and Alaska Natives.
27-35 Education for Today's Indian and Alaska Native People.
36 Consultation: Indian and Alaska Native Participation in Decision-making—Extent and Limitations.

B. ACTION PLAN

Appendices

A. Statement of the Assistant Secretary for Indian Affairs.
B. Summary Views from Field Hearings.
C. Representative Bibliography of Statements Received by the Task Force.
D. Area Office Locations.

[1] Appendices A-D filed as part of the original document.

I. EXECUTIVE SUMMARY OF FINDINGS AND RECOMMENDATIONS

The mission of the Bureau of Indian Affairs is generally viewed at present as three-fold:

(1) To fulfill and execute the Federal Government's trust obligation to American Indian Tribes and Alaska Native groups, and;

(2) To recognize and preserve the inherent rights of Indian tribal and Alaska Native self-government; to strengthen the capacities of these governments to govern, and to provide resources for tribal and Alaska Native government programs, including delivery of services in fulfillment of the special obligation of the United States to Indians and Alaska Natives; (3) To serve as an advocate for the sovereignty and rights of American Indian Tribes and Alaska Native groups in dealing with other governmental entities and the private sector.

In the course of the Reorganization Task Force's hearings and deliberations, several realities arose repeatedly. Those realities had clear implications for organization and structure, although they were of such a nature as to form a background or substructure for specific organizational issues. At the outset, then, it is important to identify these realities and make a few comments respecting them. Specific recommendations follow regarding management, organizational and structural change within the Bureau of Indian Affairs. Some of these recommendations may appear "old hat" or simple minded—obvious to those familiar with previous BIA studies or with current management and organizational practice. But the most significant change resulting from the work of this Task Force will be the actual implementation for the first time of recommendations made repeatedly in the past. In short, this Task Force has observed that the problem is not so much reorganization as organization.

The trust responsibility of the United States for Indian tribes is the primary reality upon which rest virtually all relationships between Indians and the Federal Government. By and large, the trust responsibility has been affirmed by all three branches of the Federal Government. Yet there is no clear agreement as to what precisely is contained within its provisions. In periods of stress, there are those in government who deny that any such responsibility ought to exist at all today. Under these circumstances the future is far from clear. Uncertainty, anxiety, and distrust thus pervade the Indian communities of the United States and the agencies formed to serve their needs. The impact of these feelings on the management and the functioning of the Bureau of INdian Affairs—which employs large numbers of Indians and finds itself playing the dual

role of advocate for Indians and administrator of governmental policies, dollars, and legislation—is often severe and injurious.

The Task Force, therefore, strongly advises the development of a definitive commitment to trust responsibility that may be used as a basic foundation for U.S. relationships with Indian tribes and Alaska Natives. This should be a continuing cooperative effort between the Secretary and representatives of Indian tribes and Alaska Natives.

Self-determination has been formulated both as policy of the United States for Indian tribes and as a body of legislation under Pub. L. 93-638. There are still many questions being asked in and outside of the Indian communities as to its real meaning and intent. Some suggest that it is merely another form of termination, in which services once performed by agencies of the government will be contracted out, and then funding will be cut off. Thus the reality of self-determination is closely linked to that of trust responsibility. Organizationally, many Indians are reluctant to assume responsibilities under self-determination so long as they lack assurance that they are not preparing themselves for abandonment by the Federal Government.

A general management crisis pervades the Bureau of Indian Affairs. To an important degree, this crisis results from the issues cited above. But it also stems from a number of other factors, some of them historical, others structural and organizational. In the recommendations enumerated below, the Task Force has proposed some organizational and managerial tools to correct the conditions that contribute to the crisis. In the last analysis, however, it is people, not structures or systems, that will make this reorganization work to the benefit of the Indian people and to the benefit of the larger U.S. society.

It was neither possible nor necessary for the Reorganization Task Force to undertake as sweeping a survey of management, organization structure of the BIA as that conducted by the Management Study of the American Indian Policy Review Commission. As the above study pointed out, various facets of BIA management have been repeatedly subject to study over the past twenty-five years. Some ingredients of sound management remain constant: Trustworthy information systems, sound accounting and budgetary procedure, personnel management principles, coherent and vigorous executive leadership, adequate communications throughout the organization, clear policies and procedures, accountability and personal integrity are all necessary for effective organizational operation. They are contained in the recommendations of this report as well as in its predecessors.

As the AIPRC Management Study reported, and as the Reorganization Task Force confirmed, many of these ingredients are either faulty in practice or simply absent. Members of the Task Force agree with the AIPRC that the following management elements need increased attention:

Improvement in management ability on all levels;

Responsible and accountable executive leadership on all organizational levels;

Development of comprehensive, timely information for purposes of planning and control;

Installation of improved communications networks throughout the BIA, Indian tribal governments and Alaska Native corporations, and the Department of the Interior with relation to Indian Affairs;

Utilization of long range planning and strategic thinking, rather than crisis management;

Implementation of recommendations (rather than review and further study).

The Task Force agrees with at least the spirit of the following major management recommendations in the AIPRC Management Study: a formal planning system as part of the budget process; effective operations without impeding progress toward the fullest employment of Indians in the Bureau; an aggressive recruiting program to secure both qualified and trainable Indians and Alaska Natives, with a continuously maintained skills bank listing qualified Indians and Alaska Natives, and a revision of current classification and qualification functions; a consistent, formal management training program instituted for all levels of the Bureau; and types of management by objectives procedures revised to get goals flowing toward the Central Office from tribes, agency and area office levels, with effective implementation guidelines flowing outward from management in a timely manner.

In approaching its assignment, the Task Force concentrated its attention on three major groups of issues:

(1) The structure and functions of BIA top management, line and staff.

(2) The structure, role, and functions of BIA field operations, with particular focus on Area and agency levels.

(3) The structure, role and function of several program areas: Trust Responsibility, Resource Development, Economic Development and Services, and Education.

A recommendation was made with respect to consultation—its extent and its limitations. Other recommendations were made with regard to morale, selection qualifications, personnel management—overall better process, with focal points throughout for accountability and responsibility. It should be noted that a single recommendation may include several additional specific steps or activities within its full discussion in the body of the report.

The conclusion of the report contains a recommended brief action plan for implementation.

Following is a summary list of the Task Force's 36 recommendations:

The Assistant Secretary should have three principal Deputies—for policy, planning and evaluation, for operations (Commissioner) and for budget and finance (Comptroller) to insure a reasonable span of management control, and due attention paid to long range planning, day-to-day operations and the budget cycle.

The Assistant Secretary should have a relatively small immediate staff, reporting through an Executive Assistant, to perform the usual staff support functions—Congressional relations, public information and the like. Two new staff positions are added—a legal specialist to deal with the numerous items which have legal overtones (not intended to usurp functions of the Solicitor's office on the Trust Responsibilities); and an Executive Management Development position to oversee upgrading of management talent within the system, and to perform executive search functions for top level positions.

In addition to consultation procedures recommended below, the Assistant Secretary should establish a regular, informal process through which he can hear the views of field employees and constituents as to the effectiveness of BIA performance in any area. (Recommendations 1-2-3.)

Three essential functions should be focused directly under the Deputy Assistant Secretaries as an indication of their overriding importance in carrying out the intent of the recommendations: the program and policy implementation of Pub. L. 93-638, and the Management, Research and Evaluation unit, both to report to the Deputy for Policy, Planning and Evaluation; and the administration of existing training programs and special facilities to be consolidated under the Deputy for Operations (Commissioner). (Recommendations 4-5-6.)

The Area Office organization structure should reflect the functional make-up of the Central Office under the Assistant Secretary. Area Directors responsibilities should be agreed to on a contractual basis, between the Director and the Assistant Secretary, so as to reflect the unique aspects of the particular area. Clear performance measures should be agreed upon subject to regular review.

In turn the Area offices should reflect two major responsibilities for

agencies as a general rule: to furnish administrative support, and to meet needs which agencies and/or tribal government cannot meet.

With regard to location of field installations, the Task Force had insufficient time for appropriate analysis. Therefore, the recommendation is that there be a review of area offices on a case-by-case basis, to consider the need to retain or combine offices. Two deserving particular consideration, as expressed to the Task Force, are a move of the Juneau Area Office to Anchorage; and a consolidation in Oklahoma City of the Muskogee and Anadarko Area Offices. (Recommendations 7-8-9-10.)

Several recommendations deal with ways to provide maximum career development and job location options for executives and employees at all levels by assuring that they qualify not only for higher positions in several program areas of the BIA, but elsewhere in government as well. The flexibility of having Area Directors "Schedule C to insure timely response to, and support of, administrative policy is recommended. It is urged, further, that the Secretary state his support of the principles underlying these recommendations. (Recommendations 11-14.)

Recommendations regarding the budget system indicate there should be more consistent tribal input throughout all stages of the process, the process should be more directly based on needs, and that means should be found to stabilize sources of funding to some degree. The same principles should be applied to funding for programs and services under contract to single tribes or multi-tribal agencies. (Recommendations 15-16.)

Several recommendations relate to establishment of sound management systems. Clear organization and programmatic objectives should be established, and used as a basis for program management and evaluation. All offices in the Bureau should be subject to periodic management audit, to determine weakness in overall guidance and allocation of resources, as well as management capabilities. The management information system should be upgraded. A data bank for access to Indian and Alaska Native people with skills in critical disciplines is recommended. Personnel standards of the Civil Service Commission should be upheld throughout the Bureau. The BIA Policy/Procedures Research should be upgraded to provide the useful guidance intended. (Recommendations 17-22.)

The times and the realities of today, with the potential for more complex demands/opportunities for use or development of Indian resources—land, water, minerals, etc.—make it apparent to the Task Force that the Office of Trust Responsibilities should be strengthened in Washington and in the field, and charged with being an activist trust rights unit with sound technical backing. Its advocacy mission and its activist functions should be clearly stated, understood, and supported throughout the Bureau and the Department.

The Rights Protection Office should be elevated to equivalent status with other units within Trust Responsibilities, and it should be adequately staffed. Regional trust protection units should be established in regions/areas, with strong, versatile staffs reporting through Area Directors for administrative purposes, but reporting direct to the central office of Trust Responsibilities on programmatic and technical service matters. Such staffs should be available for advice and service to agencies, tribes, and Alaska Native corporations. Further, each agency should have its own trust advocate. Ad Hoc Project Teams should be formed to develop specific cases which embody new policies or call for major decisions.

Legal staffs trained and experienced in the range of trust issues should be established in the field, reporting directly to the Associate Solicitor for Indian Affairs. Legal services on educational matters should be made available to school boards, administrators, and tribal governments to assure, among other things: duly constituted legal entities locally in control of schols, students rights protection, and fair and binding appeals procedures. The Department Solicitor's Office should be formally entitled to file separate briefs in cases of conflict of interest.

At the Department level, an Indian Trust Council should be established, including the Secretary, as Chairman, the Assistant Secretary for Indian Affairs and the Solicitor. The group would articulate policy, devise strategy for pursuit of priority trust goals, and assure that expertise from elsewhere in the Department is brought to bear on problems as needed.

The Task Force further recommends that the President establish a cabinet level Federal Indian Trust Committee, headed by the Vice President, and including the Secretary of the Interior and the Attorney General. The group would focus on issues of national interest, deserving the attention of the President.

An Office of Resources Development should be established under Trust Responsibilities to provide competent, sophisticated assistance to tribes in technologies and economic analysis for management, conservation and development of their natural resources. (Recommendations 23-24.)

An Office of Business and Economic Development should be established, reporting to the Deputy Assistant Secretary for Operations (Commissioner), to provide all Indian tribes and Alaska Native corporations with sophisticated assistance in economics, marketing, and finance; and an advocacy service in packaging Federal and private funds and technical assistance. Tribal and Native corporation planning for such activities should be systematically linked with other Bureau programs providing community infrastructure needs.

The present Office of Indian Services should be carefully reviewed and realigned or reinforced as necessary to support a clearly-defined, comprehensive Community Services approach to reservation and community needs. Needs should be established by tribes and Alaska Natives, and the services delivery planning based on these needs should be systematically linked with other planning, such as for education and training, business and economic development, natural resources development, if any; and community jobs/skills availability. (Recommendations 25-26.)

A statement of the philosophy of education for Indian and Alaska Natives should be formulated, and a set of goals and priorities developed by each tribe or community consistent with that philosophy. Maximum participation of Indian and Alaska Native parents, governments, and Indian education specialists should be systematically sought at all levels of decision-making—the community, the region, and Washington. Changes should be made in locations of key BIA education-related organizational units, to assure a focused central direction for all education programming, and the most efficient distriution of technical assistance resources. Indian education should remain in the Bureau of Indian Affairs, rather than any other Federal agency.

Plans for all education related activities should include statements or steps whcih recognize or reinforce Indian and Alaska Native cultural heritage as a basis for identity, self-esteem and strength—as tribes, as communities and as individuals. Steps should be taken to upgrade the caliber of education offered in tribal and BIA schools and in other schools which serve Indian and Alaska Native people. Community and tribal education needs assessments, adequately funded, should be started immediately with full local Indian and Alaska Native participation. Comprehensive school funding packages should result, accompanied by some process for commitment to a relatively stable level of funding for stated periods. (Recommendations 27-35.)

President Carter has said that decisions affecting Indians would be made in "Tribal Council Chambers". The Assistant Secretary for Indian Affairs

should clearly define the consultation process—what it is and what it is not; establish guidelines both for identifying appropriate persons and groups to be consulted, and for determining when consultation is appropriate. Obligations of Federal law and regulation, as well as the Federal trust relationship, make Federal agencies—including the Department of the Interior and the Bureau of Indian Affairs—legally responsible for final decisions, so consultation cannot be broadly interpreted to mean that decisions by Federal trustees can be vetoed by tribes or groups. The consultation process must be a timely and meaningful one, not a random collection of information made at some point before the decision is made. The process must include lead time for affected peole to understand the issues, formulate an opinion, and transmit that opinion to the decision-maker. The process should also include feedback to participants as to decisions made. (Recommendation 36.)

The Action Plan calls for the Report to receive wide public review and comment. The Secretary, the Under Secretary, and the Assistant Secretary for Indian Affairs will review both the Report and the comments received, and set or continue in motion the means of implementing the agreed-upon recommendations or principles. The Task Force is convinced that high Departmental priority will be assigned to necessary changes. The changes proposed in the report have been reviewed to date by significant numbers of Indians and Alaska Native individuals and groups. The Task Force believe that the preponderance of Indian and Alaska Native opinion has been reflected in the Report.

II. Introduction—The Task Force

This is the Report of the Bureau of Indian Affairs Reorganization Task Force. The Task Force was organized at the direction of the Secretary of the Interior, Cecil D. Andrus, and the Task Force effort was conducted over a four month period (December 1977 through March 1978).

This introductory chapter addresses the following series of subjects:

Reasons for establishing the BIA Reorganization Task Force.

Objectives and scope of the Task Force's work.

Task Force structure and membership.

Study approach.

Arrangement of the Report.

REASONS FOR ESTABLISHING THE BIA REORGANIZATION TASK FORCE

The BIA Reorganization Task Force was formed to assist the Under Secretary (Joseph), and the Assistant Secretary for Indian Affairs (Gerard), in meeting the commitments they made to Congress during their confirmation hearings, that they would focus their attention on improving the organization effectiveness of the Bureau of Indian Affairs.

Many policy recommendations were already clear as the Task Force began its work—from the recent report of the American Indian Policy Review Commission (AIPRC) and from other sources, historic and in-house. With its necessary constraints of time and resources, the Task Force chose to focus on urgent needs, especially those with Bureau-wide implications. Its conclusions with regard to priority, its policy recommendations, and its suggested next steps are intended to be responsive to the organization's most immediate needs, to aid top management of the Bureau and of the Department—and thus to serve Indian and Alaska Native people.

OBJECTIVES AND SCOPE OF THE TASK FORCE'S STUDY WORK

The following are (1) mission, (2) goal, and (3) objective statements adopted by the Task Force in January 1978.

1. *Mission statement.* "The mission of the BIA Reorganization Task Force is to propose, formulate and submit recommendations to the Secretary for restructuring the Bureau of Indian Affairs into an organization which:

Is a more effective advocate of Indian interests,

Anticipates the needs of native Americans and Tribes while ensuring that the Federal Government's trust responsiblities are carried out efficiently, and

Provides services more efficiently to native Americans and strengthens Tribal Governments."

2. *Statement of Goals.* "The goals of the BIA Reorganization Task Force are to identify, analyze and comprehend the key responsiblities and major operating concerns of the Bureau of Indian Affairs as they are discharged and manifested within the current organizational structure and management system—all in relation to Tribal needs, laws, regulations, and other government organizations/responsibilities."

3. *Statement of objectives.* "The objectives of the BIA Reorganization Task Force are to develop and submit specific recommendations regarding the management structure, principles and procedures of the Bureau of Indian Affairs which will improve the Bureau's performance . . .

The essential ingredient of these recommendations will consist of an organizational structure, and associated delegations of authority, which outlines:

The jurisdictions and clear lines of accountability of each level of management and operating office, both within BIA and in relation to other government organizations,

An objective-setting and policymaking mechanism,

A program planning and evaluation system based on standards of accountability for program achievement,

A problem identification and decision-making procedure producing timely results,

Budget, manpower allocation, personnel management, and work method processes which operate as an integrated system with assigned responsibilities,

A management information system which serves the current needs of operating and administrative officials,

An internal communications system which fosters adequate information at all levels for effective program operations."

STRUCTURE AND MEMBERSHIP OF THE TASK FORCE

Exhibit II-1 shows the structure of the Task Force, which was organized into five principal subcommittees: Education, Administration, Tribal Resources Development, Indian Services, and Indian Trust Responsibilities.

The membership consisted of eleven people as follows: six public members, two BIA members, one NTCA member, and one NCAI member.

Mr. Earl Old Person, Chairman, Representative of the National Tribal Chairmen's Association, Chairman, Blackfeet Tribal Council, Browning, Mont. 59417.

Mr. William Hinsley, Vice Chairman, Executive Vice President, NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752.

Mr. Ray Goetting, Representative of the National Congress of American Indians, P.O. Box 356, Laguna, N.M. 87038.

Mr. Robert D. Hampton, Vice President, ATE Management and Service Company, Inc., 1911 North Fort Myer Drive, No. 705, Arlington, Va. 22209.

Mr. Ted Marston, Vice President, Cummins Engine Co., 1000 Fifth Street, Columbus, Ind. 47201.

Ms. Lorraine Misiaszak, Acting Director, Advocates for Indian Education, 905 East Third Street, Spokane, Wash. 99202.

Mr. Jim Sansaver, Resources Development, Billings Area Office of the Bureau of Indian Affairs, 316 North 26th Street, Billings, Mont. 59101.

Dr. Thomas E. Sawyer, President, Sage Institute, Suite 209, 242 North University Avenue, Provo, Utah 84601.

Mr. Ronald Toya, Reservation Program Office, Bureau of Indian Affairs, Southern Pueblo Agency, Albuquerque, N.M. 87103.

The Honorable Stewart Udall, Of Counsel, Duncan, Brown, Weinberg and Palmer, 1775 Pennsylvania Avenue NW., Suite 1200, Washington, D.C. 20006.

Mr. David Ushio, Special Assistant, Policy, Budget and Administration, Department of the Interior, Washington, D.C. 20240.

Staff

Staff Director—Mandy Balch.

Staff Assistant—Caren Burke.
Editorial Consultant—Alan Green.
Project Manager for the Assistant Secretary for Indian Affairs—Paul Lorentzen.
Technical Advisor for Report—Cecil Hoffmann.

STUDY APPROACH

The study approach used involved four principal steps: Initial meetings and presentations, public hearings in the field, analysis and report writing, presentations.

1. *Initial meetings and presentations.* The first step was a series of meetings of the Task Force to establish a working structure, begin to define major study issues or questions, and review previous related studies and materials. This included meetings of the Task Force in Washington, D.C. on December 21, 1977, January 4, 1978 and January 18-19, 1978.

Four additional Task Force meetings were held in Washington, D.C.—February 15, 1978, March 1-2, 1978, March 15-16, 1978, and March 27-30, 1978.

During the total time of this Task Force's life, remarks and presentations were made to the Task Force, including the following:

BIA Central Office Program Directors.

15-member BIA Superintendents Committee.

Six BIA Area Directors.

Representatives of a National Indian organization (NTCA).

Representatives of a Federal employee union (NFFE).

Assistant Secretary—Indian Affairs.

Under-Secretary—Department of the Interior.

Deputy Assistant Secretary—Indian Affairs (Program Operations).

2. *Public hearings in the field.* A series of five public field conferences were held in: Phoenix, Ariz., January 30, 1978; Oklahoma City, Okla., February 1, 1978; Denver, Colo., February 1, 1978; Portland, Oreg., February 2, 1978; and Duluth, Minn., February 8, 1978.

The principal purpose of the hearings was to obtain as much grass roots input as possible (within the time and resource limitations of the Task Force). A summary of statements made by people attending the hearings is included as an appendix to this report.

3. *Analysis and report writing.* Step three was a period of analysis and report writing, during which time a considerable amount of material was reviewed and analyzed. Examples include:

American Indian Policy Review Commission Report.

AIPRC Management Study.

BIA's Action Plan for Management Improvement.

Statements for handout prepared by BIA Central Office staffs, area directors and superintendents.

Eleven GAO Audit Reports on BIA.

Letter and press release from Chairman of Senate's Select Committee on Indian Affairs.

Numerous written letters and statements of individuals and groups.

Formal written presentations from BIA management.

A staff paper on organizational options and management systems from Policy, Budget and Administration Office of Department of the Interior.

Individual interviews were conducted by members of the Task Force.

4. *Presentations.* The final step was the presentation of the study report to BIA and Department of the Interior top management.

ARRANGEMENT OF THIS REPORT

Following the Executive Summary and this introductory chapter on the Task Force, the report contains two additional chapters, as follows:

III. Background—The Bureau of Indian Affairs.

IV. Recommendations and Supportive Logic; and Action Plan.

The appendices consist of:

A. Statement from the Assistant Secretary for Indian Affairs to the Task Force.

B. Summaries of Comments From Public Hearings Held by the Task Force During the Course of the Study.

C. List of Reports and Comments Received by the Task Force.

D. Area Office Locations and Addresses.

III. Background—The Bureau of Indian Affairs

This chapter presents background information related to the Task Force effort on the following subjects:

Current organization and staffing of the Bureau.

Functions of the principal organizational entities within the Bureau.

Location of Bureau's Area Offices, and numbers of agencies served.

Central Office functions performed at locations outside of Washington, D.C.

Results and Recommendations of the American Indian Policy Review Commission.

Principle recommendations from recent Government Accounting Office (GAO) Reports (included as Exhibit III-3).

CURRENT ORGANIZATION AND STAFFING OF THE BUREAU

Exhibit III-2 shows the BIA's overall organization structure (approved in December 1977). The structure has the following general characteristics:

The Assistant Secretary—Indian Affairs with two Deputy Assistant Secretaries.

Five principal offices at the central office reporting to the Deputy Assistant Secretaries—Tribal Resources Development, Indian Education Programs, Trust Responsibilities, Indian Services, and Administration.

Twelve Area Directors across the country reporting to the two Deputy Assistant Secretaries.

Eighty-three Agency Superintendents reporting to the Area Directors in their respective geographical areas.

FUNCTIONS OF THE PRINCIPAL ORGANIZATIONAL ENTITIES WITHIN THE BUREAU

As outlined earlier, there are five principal offices at the Central Office level which function as staff rather than line organizations: Office of Tribal Resources Development, Office of Indian Education Programs, Office of Trust Responsibilities, Office of Indian Services, and Office of Administration.

Exhibit III-2 outlines the key functions of the Divisions within each of the above offices.

OUTLINE OF PRINCIPAL FUNCTIONS OF MAJOR UNITS, BUREAU OF INDIAN AFFAIRS—CENTRAL OFFICE

OFFICE OF TRIBAL RESOURCES DEVELOPMENT

Organization and Functions

Division of Business Enterprise Development; development of Indian-owned and operated businesses.
Division of Credit and Financial Assistance; IFA programs, credit services, tribal lending programs.
Division of Job Placement and Training; ART, DE, and on-the-job training programs.
Division of Indian Technical Assistance; administers IAP by providing technical assistance and resources through IAT contract.
Division of Transportation; road construction and road maintenance programs.

OFFICE OF INDIAN EDUCATION PROGRAMS

Organization and Functions

Cultural Studies Staff; curriculum development, bi-lingual education research studies.
Indian Education Resources Center; continuing education, educational assistance, educational audio-visual services, education evaluation and research, school facilities.
Management Support Staff; management reports, management and administrative services, program support.
Planning and Program Development Staff; budget guidelines, program development.
Division of Elementary and Secondary Education; grades K through 12, curriculum development, principal evaluation, needs assessment.
Division of Post-Secondary Education; post-secondary education curriculum development, program evaluation, needs assessment.
Post-Secondary Schools; administration of post-secondary schools.

OFFICE OF TRUST RESPONSIBILITIES

Organization and Functions

Division of Trust Facilitation; environmental control, rights protection, tribal rolls.

Division of Trust Services; financial investments, grazing rights, land use, appraisal, minerals and mining.

OFFICE OF INDIAN SERVICES

Organization and Functions

Division of Tribal Government Services; tribal relations, enforcement, judicial services.

Division of Tribal Planning Services; planning assistance, youth and adult programs, Indian census, agricultural extension.

Division of Law Enforcement Services; crime prevention and deterrence, investigations, Indian Police Academy, SOS unit.

Division of Social Services; welfare payments, child welfare, tribal work experiences program.

Division of Housing Services; housing improvement program, real estate leases, residential counseling and training program.

Division of Indian Self-determination Services; contract support, self-determination grants, training and technical assistance, planning.

OFFICE OF ADMINISTRATION

Organization and Functions

Financial Management, Division of Accounting Management; accounting, fiscal operations, financial management, accomplishment reporting, centralized payroll, automatic personnel records systems, employee data and compensation.

Financial Management, Division of Program Development and Implementation; budget formulation, annual program plans, budget justifications, field planning allowance and tentative allocation.

Personnel Management; personnel management policies, objectives, guidelines, problems.

ADP Planning Staff; ADP policies, guidelines and standards, liaison with other Interior offices and other Federal agencies.

Field Administrative Office; support services to Central Office operations in Albuquerque and other locations.

Contracting and Grants Administration Staff; contract and grant policies, procedures and practices.

Management Services, Division of ADP Services; ADP systems technologies and equipment.

Management Services, Division of Facilities Engineering; construction of new facilities, architecture, engineering, construction management, contract services.

Management Services, Division of Management and Personnel Evaluation; organization evaluation, organization analysis, paperwork management, management systems development, management programs, managerial operating methods and procedures.

Management Services, Division of Property Management; management of real and personal property, space, and motor vehicles; procurement.

Management Services, Division of Safety Management; area safety programs; safety and health programs.

Indian Police Academy; Brigham City, Utah.

Special Operation Service Unit (SOS); Brigham City, Utah.

LOCATION OF THE BUREAU'S AREA OFFICES AND THEIR AREAS OF COVERAGE

The BIA maintains 12 area offices, as follows:

Location	Number of offices under area [1]
Aberdeen, S. Dak	14
Albuquerque, N. Mex	9
Anadarko, Okla	10
Billings, Mont	10
Juneau, Alaska	7
Minneapolis, Minn	7
Muskogee, Okla	14
Navajo, Window Rock, Ariz	6
Phoenix, Ariz	18
Portland, Oreg	11
Sacramento, Calif	6
Washington, D.C. (eastern)	7
Total	119

[1] Includes agencies, schools reporting to Area Director, irrigation projects, field offices.

(Appendix D lists their addresses and telephone numbers and areas of coverage.)

For administrative support, Muskogee services Anadarko, Aberdeen services Minneapolis, Phoenix services Sacramento, and the Central Office services Eastern.

CENTRAL OFFICE ORGANIZATIONAL ENTITIES LOCATED OUTSIDE WASHINGTON, D.C.

Primarily as a result of an emphasis on decentralizing during the last administration, there are a number of BIA entities located outside Washington, D.C. with national scope of operation. They are as follows:

CENTRAL OFFICE ORGANIZATIONAL ENTITIES LOCATED OUTSIDE WASHINGTON, D.C.

1. Southwest Field Coordinator, Albuquerque, N. Mex.
2. Joint Use Administrative Office, Flagstaff, Ariz.
3. Investment Branch, Office of Trust Responsibilities, Albuquerque, N. Mex.
4. Land Records Improvement Program, Office of Trust Responsibilities, Albuquerque, N. Mex.
5. Fire Management, Office of Trust Responsibilities, Boise, Idaho.
6. Division of Transportation Staff, Office of Tribal Resources Development, Albuquerque, N. Mex.
7. Indian Technical Assistance Center (ITAC), Office of Tribal Resources Development, Lakewood, Colo.
8. Division of Financial Assistance Audit Staff, Office of Tribal Resources Development, Lakewood, Colo.
9. Indian Police & Research Center, Office of Indian Services, Brigham City, Utah.
10. Cultural Studies Staff, Office of Indian Education Programs, Santa Fe, N. Mex.
11. Institute of American Indian Arts, Office of Education Programs, Santa Fe, N. Mex.
12. Haskell Indian Junior College, Office of Indian Education Programs, Lawrence, Kans.
13. Southwestern Indian Polytechnic Institute, Office of Indian Education Programs, Albuquerque, N. Mex.
14. Indian Education Resources Center, Office of Indian Education Programs, Albuquerque, N. Mex.
15. Division of Educational Audio-Visual Services, Office of Indian Education Programs, Brigham City, Utah.
16. Field Administrator, Office of Administration, Albuquerque, N. Mex.
17. Division of Accounting Management, Office of Administration, Albuquerque, N. Mex.
18. Division of ADP, Office of Administration, Albuquerque, N. Mex.
19. Division of Safety Management, Office of Administration, Albuquerque, N. Mex.
20. Division of Facilities Engineering, Office of Administration, Albuquerque, N. Mex.
21. Branch of Federal Supplies & Property Inventory, Office of Administration, Albuquerque, N. Mex.

RESULTS AND RECOMMENDATIONS OF THE INDIAN POLICY REVIEW COMMISSION

The American Indian Policy Review Commission evaluated a wide range of the subjects, most of which are related directly or indirectly to the BIA.

One aspect of the Commission's work was a Bureau of Indian Affairs management study, which was completed in September 1976. The objectives of the study were to:

Pinpoint and evaluate key decision points, the amount of discretionary authority exercised and the level of Indian participation in the budget process.

Identify and assess manual and automated information systems used to manage, evaluate and control the Bureau in order to determine needs and shortcomings, including possible economies and efficiencies.

Examine present personnel activities and employee relations techniques to determine if the Bureau is responsible to the Indian people.

Identify and evaluate the management relationships which exist between the Indian people, the BIA and other government agencies to determine the most effective methods for delivering services.

Eliminate unnecessary duplication of previous management and organization studies by reviewing their conclusions and recommendations.

The BIA management study resulted in 23 recommendations, grouped under three subject headings: Budget process, personnel management, and management information. In addition there was a section on reorganization of the Bureau.

PRINCIPAL RECOMMENDATIONS FROM GAO REPORTS

Controls over Indian self-determination contracts, grants, and training and technical assistance activities need to be strengthened

Give the tribes complete funding data and information on: (1) The individual programs for which funding priorities are to be identified, (2) each

tribe's share of Bureau programs not subject to tribal input; and (3) other available Federal benefits and services.

Identify the "unavoidable minimum amount" of funds by program necessary to maintain Federal trust responsibilities and services the Bureau cannot eliminate so that the tribes will know the amount of funds actually available to change the mix of programs and funding priorities.

Increase the number of programs and related funding subject to direct tribal input.

Give the tribes more time to develop program-funding priorities.

Revise the procedures and requirements for setting program-funding priorities to assure that tribal officials are given an opportunity to identify their priorities.

Revise the procedures and requirements for developing new program proposals and making major revisions to existing programs to provide the tribes an opportunity to participate.

Review the Bureau's Planning, Programming and Evaluation Data System to determine how it can be improved to provide the tribes with the information to evaluate program performance and managerial effectiveness.

Identify the number of Indian tribes and Alaskan Native groups requiring planning assistance and allocate funds accordingly for comprehensive tribal plans and needs analyses.

The Bureau of Indian Affairs needs to evaluate its Indian training program and assist tribes in training efforts

Establish, with the Indian contractors, measurements to evaluate the effectiveness of the Indian Action Team program.

Modify the Indian contracts to reflect the measurement criteria established including reporting requirements.

Require that Indian contractors be responsible for submitting the necessary reports to ITAC for evaluation purposes.

Evaluate the Indian contractors' performance as soon as possible to identify those programs that should be cut back or discontinued.

Evaluate proposed training programs and fund the most promising ones if, as a result of the contractor evaluations, funds become available.

Review all Indian Action Team program contracts with the Indian contractors to determine if technical assistance may be needed and to provide such assistance.

The Indian Self-Determination Act—Many obstacles remain (March 1978)

To promptly resolve the problems and obstacles inhibiting tribes from contracting under Title I, we recommend that the Secretaries of the Interior and HEW direct BIA and IHS to establish criteria for measuring their progress in implementing the Self-Determination Act. In addition, they should promptly develop and implement procedures for:

Ensuring that tribes have a full understanding of their options under title I.

Helping tribes obtain the information needed for fully informed decisions on assuming programs or program segments. Specifically, the agencies should use their own survey results and provide the training and technical assistance needed by the tribes. This may require:

Helping tribes assess their ability to operate and manage the contractable programs:

Guiding the tribe in determining how to acquire the skills or resources needed to contract for a particular program or program segment, including training and assistance available from the agencies.

In addition, some tribes may even require:

A description of the programs and program segments available for contracting under title I.

A list or description of the services delivered to the tribe by the agencies.

Tribal participation in the Bureau of Indian Affairs budget system could be improved

Give the tribes complete funding data and information on: (1) The individual programs for which funding priorities are to be identified; (2) each tribe's share of Bureau programs not subject to tribal input; and (3) other available Federal benefits and services.

Identify the "unavoidable minimum amount" of funds by program necessary to maintain Federal trust responsibilities and services the Bureau cannot eliminate so that the tribes will know the amount of funds actually available to change the mix of programs and funding priorities.

Increase the number of programs and related funding subject to direct tribal input.

Give the tribes more time to develop program funding priorities.

Revise the procedures and requirements for setting program funding priorities to assure that tribal officials are given an opportunity to identify their priorities.

Revise the procedures and requirements for developing new program proposals and making major revisions to existing programs to provide the tribes an opportunity to participate.

Review the Bureau's Planning, Programming and Evaluation Data System to determine how it can be improved to provide the tribes with the information to evaluate program performance and managerial effectiveness.

Identify the number of Indian tribes and Alaskan Native groups requiring planning assistance and allocate funds accordingly for comprehensive tribal plans and needs analyses.

Greater Federal efforts needed to improve standard of living of Indians through business development

Conduct an economic feasibility study that identifies reservations considered most likely to support self-sustaining economic development and carry out a comprehensive business development program including: (1) Aggressively pursuing promising businesses to locate on reservations; (2) providing them initial financial assistance; and (3) assisting them in becoming self-sustaining and profitable enterprises

Decide whether long-term Federal support should be provided to economically develop other reservations or whether alternative strategies are needed to improve the living standard of Indians living on reservations that lack potential for successful business development, and if so, develop new strategies and propose them to the Congress for implementing authority and funding

Establish specific procedures and guidelines to preclude making revolving fund loans to tribal relending organizations that have experienced continuous problems

Approve loans only when there is reasonable prospect of repayment

Correct deficiencies in the revolving loan funds automated accounting system

Insure that the required documentation is obtained, is accurate, and is evaluated by BIA before making or guaranteeing loans and grants

Establish a policy restricting participation in the guaranteed loan program to only private lenders that demonstrate adequate loan-serving capability

Insure that necessary technical and management assistance is promptly identified and provided

Concentrate on identifying and correcting deficiencies in the grant computer system, including requiring that each agency obtain the required information reports from its grantees.

The Assistant Secretary should also: (1) Review BIA's policy of allowing lenders to arbitrarily require short repayment terms on guaranteed loans and change the policy if it is not consistent with normal loan practices or places an unreasonable financial burden on the loan applicant; and (2) determine the reason why there have been no insured loan agreements, the effect this has on hindering the development of Indian business, and what action is needed to make the loan program viable.

The Congress should determine whether or not the restrictive provi-

sion in section 201 of the Indian Financing Act preventing 300,000 individual Indians from participating in the guaranteed and insured loan program should be continued and if not, consider amending it to allow participation.

We recommend that the Congress consider consolidating Federal Indian economic development programs and place them in a single agency.

More effective controls over Bureau of Indian Affairs administrative costs are needed (dated February 15, 1978)

Revise its accounting system to use its organizations' operating budgets, as approved by the Bureau's budget office, to control costs and prevent unauthorized deviations from operating budgets.

Establish fund controls that will keep area office within amounts budgeted and require them to obtain prior approval from the Bureau's budget office for significant deviations.

GAO also recommends additional actions that should be taken by the Bureau to correct accounting system weaknesses. The revised system should be submitted to GAO for approval.

The Bureau has time to make reductions in its 1978 administrative costs, and the Secretary of the Interior should direct the Bureau to:

Act immediately to reduce its administrative costs for fiscal year 1978 by most, if not all, of the $4 million requested by the committees

Discontinue plans to show reimbursement for computer operations as reductions in administrative costs.

Identify and eliminate: (1) Positions that overlap or layer another position, and (2) unqualified personnel.

Information on organization and functions of the Indian Education Resources Center (dated February 15, 1978)

Assistance provided by the Center is generally regarded as satisfactory by its clientele—mostly BIA field offices and schools. However, we have previously reported, and school and Center officials have stated, that the Center could do more to improve the education provided to Indian children. Center officials and the Director of Indian Education said that the additional needed services, such as monitoring and evaluation of school activities, have not been provided because of staffing problems and/or travel fund limitations.

On the basis of recent travel, we believe two of the divisions should remain in Albuquerque, but we can see no reason why the Center's other two divisions located in Albuquerque need to be there. However, if these two divisions perform additional monitoring and evaluation, they also will have to perform more travel and may need to be located in the field.

Controls are needed over Indian self-determination contracts, grants and training and technical assistance activities to insure required services are provided to Indians (dated February 15, 1978)

The Secretary of the Interior should direct the Assistant Secretary for Indian Affairs to develop a management reporting system to help monitor and control self-determination contracts, grants, and training and technical assistance activities. The Assistant Secretary should also be directed to revise the Bureau's policies, regulations, procedures and practices as appropriate to:

Prohibit award of contracts in which the starting date precedes the date of award.

Require that all contracts and grants include specific criteria against which to measure performance.

Require that contracts and grants are effectively supervised and monitored by contract and grant officers. This should include: (1) designation of full-time contract and grant officer representatives at the area level rather than agency level in order to remove conflict of interest; (2) clear description of contract and grant officer representative responsibilities; and (3) adequate training of contract and grant officer representatives.

Prevent training and technical assitance funds appropriated for self-determination purposes from being used for assistance that does not help tribes: (1) Develop the capability to negotiate and administer self-determination contracts and grants of; (2) improve their managerial and governmental capabilities required to fully exercise their self-determination options.

The Bureau of Indian Affairs needs to determine how well its Indian training program is working and assist tribes in their training efforts (dated February 15, 1978)

The Secretary of the Interior should direct the Assistant Secretary for Indian Affairs to carry out the recommendations of the Bureau's management review team and to make every effort to reorganize the Indian Technical Assistance Center in the manner outlined in the Bureau's draft operating manual. The Assistant Secretary should then instruct the Chief of the Center to:

Establish, with the Indian contractors, measurements to evaluate the effectiveness of the Indian Action Team program.

Modify the Indian contracts to reflect the measurement criteria established and the reporting requirements.

Require that Indian Contractors submit necessary reports to the Center for evaluation purposes.

Evaluate the Indian contractor's performance as soon as possible to identify those programs for which further contracts should not be negotiated.

Evaluate proposed Indian Action Team programs and fund the most promising ones if, as a result of the contractor evaluations, funds become available.

IV. Recommendations and Supportive Logic

Organizational structure, systems, better process and overall administration

This chapter describes the recommendations of the Task Force.

As the name implies—"BIA Reorganization Task Force"—a major emphasis of the study work was focused on the Bureau's organization structure—its internal effectiveness from the Central Office to area and agency offices, and the interrelationship of the BIA structure with other Department of Interior organizations and with other Federal agencies.

Because of limitations on time and resources, the Task Force focused on what appear to be the more major organizational issues and problems rather than performing in-depth analyses of every organizational unit. Therefore, this report with its accompanying recommendations represents a first step in a process that should be carried forward over the next 12 to 18 month period.

It should be emphasized that it is people who make an organization work—not organization structure. As part of the implementation effort, a program should be established to continuously upgrade the management skills of the Bureau's management people at all levels.

Within this framework, the following are the recommendations.

Central Organization

(1) The top level organization should consist of the Assistant Secretary for Indian Affairs with three principal Deputies—for policy, planning and evaluation, for operations (Commissioner), and for budget and finance (Comptroller).

(2) The Assistant Secretary should have a relatively small immediate staff reporting through an Executive Assistant.

(3) The Assistant Secretary should establish a regular, informal process through which he can make direct contacts to hear the views of a wide variety of field employees of the BIA, Indian tribal members, and Alaska Natives.

(4) To reflect the high level of commitment to self-determination on the part of the Bureau, program and policy implementation of Pub. L. 93-638 should be placed under the Deputy Assistant Secretary—Policy, Planning and Evaluation.

(5) Administration of existing training programs and special facilities should be consolidated under the Deputy Assistant Secretary—Operations (Commissioner) so as to impove the training and technical assistance capabilities of the Bureau immediately, to meet the needs of its personnel and of Indian tribal governments and Alaska Natives; and these functions should be physically consolidated at a centralized location.

(6) The Management Research and Evaluation (MR&E) Unit should be strengthened, and should report directly to the proposed Deputy Assistant Secretary for Policy, Planning and Evaluation.

Field Structure and Executive Management/Development

(7) The Area Office Organiztion structure should reflect the functional structure of the BIA Central Office staffs under the Assistant Secretary for Indian Affairs.

(8) The present responsibilities and authority of Area Directors should be thoroughly reviewed by the Assistant Secretary and the three Deputies. New job descriptions should be written in consultation with individual Area Directors on a contractual basis, reflecting the unique aspects of the particular area. Clear performance measures should be agreed upon and should be subject to frequent review (quarterly).

(9) The Area Office should reflect two major responsibilities to agencies:

To furnish administrative support, supervision, evaluation/monitoring;

To establish tribal needs and to ensure that these needs are met, either through contracting with tribes or through agency levels, and at area levels only if tribe or agency cannot meet the needs.

(10) Consideration should be given to the location of field offices: there should be a review of each Area Office on a case-by-case basis to consider the need to retain or combine these offices. Particular consideration should be given to:

Moving the Juneau Area Office to Anchorage;

Consolidating the Muskogee and the Anadarko Area Offices, and locating in Oklahoma City.

(11) Top management should institute a system of positive incentives, including monitoring of promotion and rotation policies to enhance performance effectiveness, advancement opportunities and general management versatility of executives on all levels of BIA operations.

(12) The BIA should create a management development program to provide opportunties for all intermediate and senior management and professional staff to gain new experiences and acquire new skills, thus preparing themselves for promotion to higher levels of responsiblity within the BIA, the Department of the Interior or other agencies of the Federal Government.

(13) The Secretary of the Interior could periodically state publicly his support and his own dedication to the principles of Indian self-determination and ongoing trust responsibility, to provide credibility to the determination of the Department of the Interior to make the most of the capacities of the BIA.

(14) Top management should have the option of appointing people in the "Schedule C" category for Area Director positions.

Budget System

(15) The Budget system should be redesigned so that it is soundly based on needs determined at the reservation or local level, with a variety of funding sources effectively integrated to meet those needs.

(16) Funding levels for the tribal programs and tribal service delivery which are under contract to tribes or corporations and to multitribal groups should be related to needs, e.g., to actual functions to be performed.

Management Systems and Process

(17) The Bureau should establish clear organizational and programmatic objectives and use them as a basis for program management and evaluation.

(18) The Central Office and each Area Office should be subjected to a management audit by the Central Office every two years.

(19) The BIA Management Information System should be upgraded to provide the accurate, timely information necessary for sound management decisions at all levels.

(20) A data bank for access to Indians and Alaska Natives possessing critically needed skills should be designed and implemented.

(21) The top management of the Bureau of Indian Affairs should ensure that personnel standarads of the Civil Service Commission are upheld on all levels of the Bureau, and that sound, flexible personnel management principles are utilized.

(22) The BIA's Policy/Procedures Manuals should be reviewed and updated annually.

Management and Implementation of the Federal Trust Responsibility

(23) The Bureau and Department trust responsibility functions should be strengthened and extended in Washington and the field:

The Office of Trust responsibilities should be charged with being an activist trust rights unit with sound technical backing; and with its advocacy mission and its activist functions clearly stated, understood, and supported throughout the Bureau and the Department;

Rights Protection Office should have status equivalent to other units, and increased staffing;

Rights Protection units should be established in the field; with trust advocates at each agency;

Legal staff reporting to Associate Solicitor for Indian Affairs should be placed in the field.

An Indian Trust Council should be established in the Department, and a Federal Indian Trust Committee at the National level consisting of highest responsible officials, to consider matters of trust policy.

The Solicitor should be formally entitled to file separate briefs in cases of conflict of interest.

(24) An Office of Resources Development should be established under Trust Responsibilities to provide competent, sophisticated assistance to tribes in technologies and in economic analysis for management, conservation and development of natural resources.

Economic Development and Services to Indian Tribes and Alaska Natives

An Office of Business and Economic Development reporting to the Deputy Assistant Secretary—Operations (Commissioner) should be established to provide Indian tribes and Alaska Native corporations with sophisticated assistance in finance, economics, and marketing, etc.; and a competent advocacy service in packaging Federal and private funds and technical assistance.

(26) The organizational units of the present Office of Indian Services should be carefully reviewed, and realigned or reinforced as necessary to support a clearly-defined comprehensive Community Services approach to reservation and community needs; needs should be established by Indian tribes and Alaska Natives, and the services delivery planning and implementation systematically linked with other planning such as for education and training, business and economic development, community jobs/skills availability and resources.

Education for Today's Indian and Alaska Native People

(27) A statement of the philosophy of education for Indians and Alaska Natives should be formulated.

(28) A set of goals and priorities should be systematically developed, consistent with the above philosophy.

(29) Maximum participation of Indian and Alaska Native parents, tribal governments, and Indian education experts should be systematically sought in the decision-making process in the community, the region, and Washington.

(30) Changes should be made in locations of key BIA education-related or-

ganizational units, to assure (a) a focused central direction for all educational programs; and (b) the most efficient distribution of technical assistance resources.

(31) Plans for all education-related activities should include statements or steps which recognize or reinforce Indian and Alaska Native cultural heritage as a basis for identity, self-esteem and strength—as tribes, as communities, and as individuals.

(32) Steps should be taken to upgrade the caliber of education offered in tribal, BIA schools, and other schools which serve Indian and Alaska Native people.

(33) Community and tribal needs assessments, adequately funded, should be started immediately with full local Indian or Alaska Native participation.

(34) Comprehensive school funding packages should be developed, accompanied by a process for commitment to a relatively stable level of funding.

(35) Discussions with tribal leaders and educators in the Indian community revealed a strong belief that Indian education should remain in the Bureau of Indian Affairs and not be placed in another Federal Department or Agency.

Consultation: Indian and Alaska Native Participation in Decision-Making—Extent and Limitations

(36) The Assistant Secretary and top management of the Bureau of Indian Affairs should:

Clearly define the consultation process,

Develop guidelines for determining when consultation is appropriate,

Establish guidelines for identifying appropriate persons or groups to be consulted.

1. The top level organization should consist of the Assistant Secretary for Indian Affairs with three principal Deputies—Policy, Planning and Evaluation; Operations (Commissioner); and Budget and Finance (Comptroller).

Organization Principles

The following are the general principles upon which this recommendation is based:

To establish the Assistant Secretary for Indian Affairs as the focal point for leadership (1) in the Interior Department for the management of Indian programs with other Assistant Secretaries on matters of shared concern, and with individual Bureaus; and (2) to work with other Federal agencies in furtherance of comprehensive Indian and Alaska Native goals.

To enable the Assistant Secretary to be free from day-to-day operating problems so that he can focus on the longer range aspects of Indian programs—strategic planning, budget formulation, legislation Congressional relations, etc.

To establish a span of control under the Assistant Secretary that is broad enough so that there is no unnecessary layering, yet limited enough to assure effective management control.

To establish a Deputy Assistant Secretary structure with prime responsibilities for development and execution of Indian program divided according to time frames: immediate—this year; mid-range—next year (budget cycle); and long-range—3 to 5 years out.

To effectively retain a position of BIA Commissioner.

To have a structure that is compatible with the Department of the Interior structure especially in areas of policy, budget and analysis.

To group like functions together with clear focal points established so that responsibility and accountability for performance and effectiveness can be identified and monitored.

To make constructive changes to the organization structure, but not to change only for the sake of change with the resulting unnecessary distruption and anxiety.

To match the top level jobs to the variety of types of skills and experience the Assistant Secretary is likely to need.

Proposed Top Level Structure

Exhibit IV-1 shows the proposed top level organization structure consisting of three principal deputies:

Deputy Assistant Secretary for Indian Policy, Planning and Evaluation;

Deputy Assistant Secretary for Operations (Commissioner);

Deputy Assistant Secretary for Budget and Finance (Comptroller).

In addition, the immediate staff of the Assistant Secretary would consist of heads of functions in direct support of the Office of the Assistant Secretary.

Concept of Division of Responsibilities

Exhibit IV-2 is a chart which shows the proposed concept of division of responsibilities between the three principal deputies by time frame:

The Deputy Assistant Secretary for Operations (BIA Commissioner) would be the chief operations officer primarily responsible for accomplishing the current year program and budget.

The Deputy Assistant Secretary for Budget and Finance (BIA Comptroller) would be the chief financial officer primarily responsible for formulating the budget for the next fiscal year, and for audit functions.

The Deputy Assistant Secretary for Indian Policy, Planning and Evaluation would be, the chief long-range planning officer directly responsible for developing programs and plans for three to five years out.

As shown in the exhibit, each deputy would also have an advisory role related to the primary responibilities of the other two deputies.

Physical Location

Insofar as possible, the principal offices should be co-located for the most efficient use of their time. The Deputy Assistant Secretary for Operations (Commissioner) should be somewhat separated, however, to reinforce the distinction of his functions from those of the Assistant Secretary.

Summary

In summary, the following outlines how the proposed structure achieves each of the principles outlined earlier:

Principle	*Comment*
To establish the Assistant Secretary for Indian Affairs as the focal point for leadership in the Department for the management of Indian programs.	Although the BIA Commissioner would be retained as the chief operations officer, the chief planning officer and chief financial officer would report independently to the Assistant Secretary.
To free the Assistant Secretary from day-to-day operating problems so that he can focus on the longer-range aspects of Indian programs.	The area Directors and Central Office units primarily involved in day-to-day operations would report to the Deputy Assistant Secretary for Operations (Commissioner).
To establish a span of control under the Assistant Secretary that is broad enough so that there is no unnecessary layering yet limited enough to assure effective management control.	Under the proposed structure there would be three principal deputies reporting to the Assistant Secretary, with an Executive Assistant responsible for the Assistant Secretary's immediate staff.
To establish a Deputy Assistant Secretary structure with prime responsibilities for development and execution of Indian programs.	The division would be operations (current year), finance (next year), and longer range planning (3 to 5 years out), and evaluation.
To effectively retain a position of BIA Commissioner.	The proposed structure includes a Deputy Assistant Secretary for Operations (Commissioner).
To have a structure that is compatible with the Department of the Interior structure.	It is believed that the proposed structure will establish closer working relationships with counterparts particularly in the department's Office of the Assistant Secretary for Policy, Budget and Administration.
To group like functions together with clear focal points established so that responsibility and accountability for performance and effectiveness can be identified and monitored.	Particular emphasis is placed on the 638 function and on heightened emphasis, system wide, on training.
To make constructive changes to the organization structure, but not change only for the sake of change.	With proper planning and orientation, the proposed changes need not result in major disruption and anxiety.
To match the top level jobs to the variety of types of skills and experience the Assistant Secretary is likely to need.	The Deputy structure calls for people with three different types of background-operations, finance, planning.

EXHIBIT IV-1

PROPOSED TOP LEVEL ORGANIZATION STRUCTURE

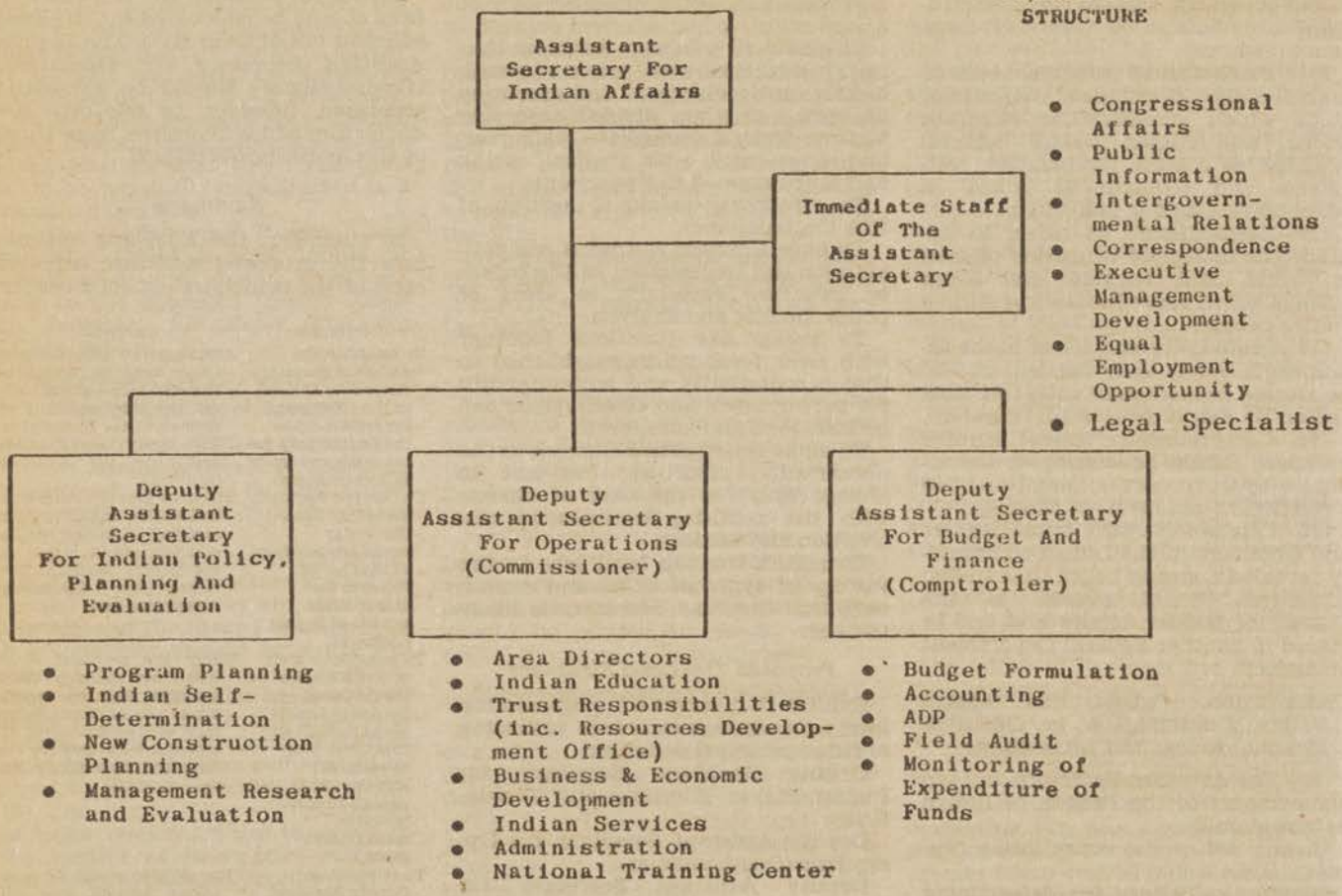


EXHIBIT IV-2

PROPOSED CONCEPT OF DIVISION OF RESPONSIBILITIES

Principal Deputies To The Assistant Secretary	Current Fiscal Year	Next Fiscal Year	Fiscal Years Beyond Next Year
BIA Commissioner/ Deputy Assistant Secretary for Operations	Responsible For Accomplishing The Current Year Program And Budget	Provide Input To Next Year's Budget And Zero Base Justification	Provide Input To The Three To Five Year Plan
BIA Comptroller/ Deputy Assistant Secretary for Budget and Finance	Account For and Monitor Expenditure Of Funds	Responsible For Formulating The Budget For Next Fiscal Year	Provide Input To Three To Five Year Plan
Deputy Assistant Secretary for Indian Policy, Planning and Evaluation	Evaluate Current Programs As An Input To Future Plans	Provide Budget Guidelines - Limitations, Priorities, Goals, Etc.	Responsible For Developing Program And Plan For Three To Five Years Out

2. The Assistant Secretary should have a relatively small immediate staff reporting through an Executive Assistant.

Functions Involved

The proposed functions are those which are needed close at hand by the Assistant Secretary to efficiently perform the function as the chief policy and Congressional relations officer: Congressional affairs, Public information, Intergovernmental relations, Correspondence, Legal specialist, Executive management development, Equal employment opportunity.

Two of the functions (legal specialist and executive management development) are additions to currently existing functions on the Assistant Secretary's immediate staff.

Legal Specialist

Because most of the issues and problems that the Assistant Secretary for Indian Affairs deals with on a day-to-day basis have legal aspects or overtones, the Task Force believes that the Assistant Secretary needs a legal advisor focusing on a broader range of legal issues than the Solicitor's staff can be involved in.

The proposed legal specialist function is not intended to duplicate or usurp the responsibilities and authorities of the Indian Division of the Department's Solicitor's Office.

Executive Management Development

The Task Force proposes the establishment of an Executive Management Development position to focus solely on the identification and development of the Bureau's future top level professional managers.

The director of Management Development would also be responsible for the training and periodic rotation of Agency Superintendents and other key executives—both the subject of recommendations presented later in this chapter.

Finally, the position would also serve as the Assistant Secretary's principal assistant for recruiting and screening people to fill top level positions.

3. The Assistant Secretary should establish a regular informal process through which he and his top management can make direct contacts to hear the views of a wide variety of field employees of the BIA, Indian tribal members, and Alaska Natives.

The major rationale for this recommendation is to correct the complete absence of upward communication within the Bureau.

It is also intended to improve morale among BIA employees by providing rank and file field employees a means of access to top management.

Implementation of this recommendation may take a variety of forms, including periodically scheduled meetings, in Washington and in the field, with different people representing diverse interests.

4. To reflect the high level of commitment to self-determination on the part of the Bureau, program and policy implementation of Pub. L. 93-638 should be placed under the Deputy Assistant Secretary—Policy, Planning and Evaluation. Furthermore;

Problems of implementation should receive close attention to remove impediments to the delivery of benefits to all Indians and Alaska Natives;

All improvement efforts should be expedited.

The Task Force endorses improvement efforts of the Assistant Secretary—Indian Affairs, Pub. L. 93-638 Task Force and the Congress.

5. Administration of existing training programs and special facilities should be consolidated under the Deputy Assistant Secretary—Operations (Commissioner) so as to improve the training and technical assistance capabilities of the Bureau immediately, to meet the needs of its personnel and of Indian tribal governments and Alaska Natives; and these functions should be physically consolidated at a centralized location.

Changes in programs and changes caused by laws such as Pub. L. 93-638 make new demands on the Bureau and tribes. There is limited capability in the Bureau to prepare BIA employees in their assignments or to develop tribal expertise in program administration. A massive training effort is required to meet these many needs, as is a massive and coordinated technical assistance thrust.

The Task Force recommends the current fragmentation of training delivery be resolved by the establishment of a centralized training unit which would provide for a synergistic training effort and more effective use of limited technical assistance and training dollars.

A major thrust of the Bureau is to provide technical assistance to tribal governments (and BIA staff) and these functions are also fragmented.

As these two functions are closely linked, the Task Force recommends a centralized training and technical assistance unit which oversees the following:

The Indian Technical Assistance Center (ITAC) in Denver;

The National Indian Training Center (NITC) in Brigham City;

Planning Support Group in Billings;

Training and Technical Assistance funds provided under Pub. L. 93-638;

Technical Assistance oriented to functions of the Indian Education Resource Center in Albuquerque;

Various Area training functions to design training programs;

The Indian Police Academy in Brigham City;

The Continental Divide Training Center in New Mexico;

Planning funds currently in the Office of Indian Services.

A centralized training unit administered by the Central Office would:

Assure the Bureau of Indian Affairs a comprehensive employee and tribal training program by planning, coordinating and directing the Bureau training effort;

Assure a broad and systematic approach to training;

Issue policy guidance and resolve conflicts arising from special projects and individual training requests;

Develop guidelines for instructional material development, course modules and innovative training methods;

Monitor and evaluate BIA-wide employee development programs;

Assure the needs of program managers and delivery staffs are addressed, effectively and promptly;

Work with other Federal agencies to develop cooperative relationships; and with State and private agencies as appropriate on behalf of Bureau and tribal and Alaska needs;

Provide a pool of money that tribes can draw on in order to complete comprehensive training development plans integrated with other tribal planning and reflecting overall tribal needs and priorities; funding would be based on the plans;

Provide a training center through which tribes can have ready access to timely and well-focused technical and financial assistance to continue their self-determination efforts.

6. The Management Research and Evaluation (MR&E) Unit should be strengthened and should report directly to the proposed Deputy Assistant Secretary for Policy, Planning, and Evaluation.

This restructuring will put the Unit in a much better organizational position to perform its assigned management analyses and studies objectively.

Staffing

Because of the importance and complexity of the MR&E Unit's work, it should be staffed with relatively high graded people, but few in numbers.

The MR&E Unit had an authorized staffing level in fiscal year 1978 of 20 positions, but currently only 12 are filled. Three of the 12 are on detail, leaving the current staffing at 9. This is severely limiting the Unit's ability to accomplish its work program. Sample task areas include: evaluate four area offices per year; develop work measurement standards to be used in the evaluation process; develop a program to train BIA employees in the use of the metric system; implement Presidential objectives, e.g., reduce paperwork; and coordinate

BIA's role in external audits and investigations (GAO, FBI, etc.).

The first step in the implementation of this recommendation should be to staff the MR&E Unit up to its full budgeted complement of 20 people.

Field Structure and Executive Management/Development. (Recommendations 7-13 are discussed together on page IV-19.)

7. The Area Office organization structure should reflect the functional structure of the BIA Central Office staffs under the Assistant Secretary of Indian Affairs.

One of the important issues that has developed during the Task Force hearings is the lack of direction, communication, and cooperation between the Area Offices and the BIA Central Office.

The Area Office must be organized so that the major functional responsibilities of management reporting, planning, trust, administration, resources development and education have a direct line to the policy makers of the BIA. It is imperative that Area Offices take policy direction from BIA top management.

8. The present responsibilities and authority of Area Directors should be thoroughly reviewed by the Assistant Secretary and the three Deputies. New job descriptions should be written in consultation with individual Area Directors on a contractual basis, reflecting the unique aspects of the particular area. Clear performance measures should be agreed upon and should be subject to frequent review (quarterly).

9. The Area Office should reflect two major responsibilities to agencies: to furnish administrative support, supervision, evaluation/monitoring; and to establish tribal needs and to ensure that these needs are met, either through contracting with tribes or through agency levels, and at area levels only if tribe or agency cannot meet the needs.

These responsibilities should be carried out by means of contractual agreements with agencies, such as those negotiated between Central Office executives and Area Office heads, described in separate recommendation.

The Area Office must be responsive to tribal needs, either through agencies or through self-determination procedures, depending upon tribal preference.

10. Consideration should be given to the location of field offices; there should be a review of each area office on a case-by-case basis to consider the need to retain or combine these offices. Particular consideration should be given to: (1) Moving the Juneau Area Office to Anchorage; and (2) Consolidating the Muskogee and Anadarko Area Offices and locating in Oklahoma City.

The task force, limited in time and money, could not give adequate consideration to the relocation or consolidation of area offices. The task force feels that there could be merit, based on testimony and discussions with tribal and Bureau personnel, to consolidating some area offices or the movement of some offices.

There are many considerations such as travel dollars and time and availability of technical expertise which may influence the movement of these offices.

11. Top management should institute a system of positive incentives, including, but not limited to, monitoring promotion and rotation policies to enhance performance effectiveness, advancement opportunities and general management versatility within the Federal Government of executives on all levels of BIA operations.

12. The BIA should create a management development program to provide opportunities for all intermediate and senior management and professional staff to gain new experiences and acquire new skills, thus preparing themselves for promotion to higher levels of responsibility within the BIA, the Department of the Interior, or other agencies of the Federal Government.

13. The Secretary of the Interior could periodically state publicly his support and his own dedication to the principles of Indian self-determination and ongoing trust responsibility, to provide credibility to the determination on the Department of the Interior to make the most of the capacities of the BIA.

Discussion of Management Capacity and Location Issues

One of the most difficult problems facing the Assistant Secretary of Indian Affairs is how to assist the executives within the BIA organization—Area Directors and others—to provide effective, efficient management, continuity of administration and policy implementation, and at the same time ensure accountability to Bureau and Department top management, as well as to Indians and Alaska Natives themselves.

Historically, Area Directors have developed their own organizational structures and modes of operation largely in the absence of, sometimes in spite of, leadership from the Central Office. The Areas are diverse, each with widely differing (if not unique) tribal and agency needs to serve.

Having had to function frequently without effective central leadership during the past several years, and being forced to deal with widely diverse conditions peculiar to their particular areas, the Area Directors have assumed a great deal of autonomy and discretionary latitude in decision making. They have also tended to respond to the more immediate pressures from tribes, agency offices, state and Federal legislators. Accountability to the various staff and program officers in the Central office took a lower and less urgent priority. Local backing carried more weight in resolving Washington versus Area conflicts. The operating mode was reactive, with actions generated most frequently in response to real or perceived crises so continuing relationships in pursuit of mutual long range goals were not readily fostered.

Geographical Considerations

In the light of these considerations, the American Indian Policy Review Commission has raised the question as to the usefulness of retaining a geographically intermediate management or administrative function within the BIA, operating between the tribe and village oriented agencies and the Washington Central office. This task force firmly believes that elimination of Area offices would create more structural and management problems than it would solve, causing excessive spans of control and thrusting the BIA Central office into day-to-day operations of far away Bureau field offices. If Area Offices were abolished, some other geographical arrangement of mid-level management functions would have to be created, since for sound management it is inconceivable that a structure consisting of some 119 local offices reporting to a remote Central office would prove workable. Nor would six regional service centers be able to do the work that must be performed on intermediate levels.

It is clear, given the bewildering complexities and varieties of tribes, locations, natural resources, interests and service needs that have to be dealt with on Area levels, that Area Directors must be highly flexible, competent, and knowledgeable of local concerns. This does not, however, mandate autonomy from Central office line functions.

Responsibility and Accountability

The Assistant Secretary needs people in the field as well as in the Central office willing to execute both the letter and spirit of his policies and their implementation. Yet he also needs people who know their areas well, and who have the confidence of tribal constituencies and Area office staffs. Finally, he needs executives on area and agency levels who are thoroughly trained in the latest techniques of organizational, fiscal and personnel management, in the oversight of data collection and interpretation, and in knowledge of the complex of federal agencies and regulations so that Indian tribes may request and receive the full assistance to which they are entitled, through BIA and elsewhere

in the federal and state govenments. All of the qualities mentioned above are keys to the timeliness and effectiveness of BIA management responses to needs of Indians and Alaska Natives.

Management Training

For these reasons one of the most important undertakings of top management in the BIA, backed to the fullest extent by the Secretary of the Interior and all his internal staff resources, must be a comprehensive management training program for executives on all levels of the Bureau: agency, area and central office. This training program must begin immediately, not only with new executive appointments, but with existing staff as well.

Because management competence is lacking in many areas, outside experienced managers must be brought in to do and teach at the same time, either through varieties of on-the-job training or by means of intensive minicourses of short duration. As a result of such training, BIA managers would be qualified to occupy higher level appointments, not only within BIA, but throughout the Federal government as a whole.

Department Support

The Secretary and top Departmental staff must be substantially supportive of the necessary interfaces with non-Interior offices, (such as Civil Service and OMB) in order to accomplish these goals. The Department can help with provision of competent technical assistance teams and individuals for specific tasks and project terms in support of the Assistant Secertary for Indian Affairs with requisite skills from within and without Interior, available on a contract-model basis.

The Assistant Secretary's Deputies and immediate Staff should have the same status as those of other Assistant Secretaries staffs with regard to pay, communications, and senior policy staff interfaces. Though the Assistant Secretary for Indian Affairs has but one bureau entity in his charge, the same functional separation and Secretarial office support is warranted given the size of the BIA budget with relation to Interior as a whole, and the scope of the programs, which represent virtually every category of Federal domestic assistance.

Recommendations contained in other sections of this Report which are particularly applicable to area office operations are:

Area Directors should become Schedule C.

Appropriate training to ensure that Area Directors, Agency Superintendents, and other intermediate managers can function effectively.

Area and Agency functions and personnel, as well as Central office, undergo periodic management audits.

Management by objectives will be utilized to achieve synergistic overall bureau functioning.

14. Top management should have the option of appointing people in the "Schedule C" category for Area Director positions.

Assistant Secretary's Position

This recommendation presents somewhat of a similar concept proposed by the Assistant Secretary for Indian Affairs (described in Appendix A): ". . . A comprehensive review of the need for Schedule C positions in the Bureau (is required) to ensure that top management consists of that cadre of leaders committed to the policies, directions, and changes of the administration, the Department, and the Bureau leadership"; and ". . . I believe this calls for the expansion of the number of Schedule C positions, to include all key Central Office managers as well as all Area Directors."

The flexibility to have some percentage of Schedule C positions in the field would allow: Area Director positions could still be filled by people with career experience; and/or As special problems or unique management needs arise, the Assistant Secretary would have the option of attracting top flight managers, primarily from industry (Indian or non-Indian) to come in and serve as an Area Director.

The result will be two-fold. Top management will have the ability to infuse "new blood" at the critical Area Director level as the need arises. It should also have a more subtle effect of making the Area Directors who are career appointments, more responsive to the goals and objectives of top management and the current administration as a whole.

15. The budget system should be redesigned so that it is soundly based on needs determined at the reservation or local level, with a variety of funding sources effectively integrated to meet those needs.

Needs should be assessed in terms of: objectives of and for the people served at the reservation or local level; plan of implementation, including priority listing; and costs.

To ensure that a high percentage of funding from BIA programs reaches the agency or local level, a process should be initiated, containing the following elements:

(a) The Bureau should provide leadership and coordination in aggressively seeking adequate funding sources in other Federal agencies, and assisting the tribes in packaging funds from all available sources to meet their needs.

(b) The budget system should provide for development projections for a minimum of three years. This system would allow Congress better to understand long range objectives and costs involved in reaching those objectives. The current budget year should be a part of the total budget as a request for authority, e.g. Snyder Act.

Such a concept has been supported by various management reviews of the Bureau's budgetary process, including the 1978 Comptroller General's reports and was also recommended by the AIPRC.

Such a budget system would: Provide for comprehensive budget planning at the local level; give ability to evaluate program for more than one year; and provide flexibility for priority adjustments.

(c) Budget formulation system and budget execution system (accounting) should be coordinated so as to identify the real costs of carrying out programs on every organizational level of BIA operations.

This coordination would: Ensure compliance with congressional authorization; and evaluate actual costs of accomplishment at various levels of the operation.

16. Funding levels for the tribal programs and tribal service delivery which are under contract to tribes or villages and to multitribal groups should be determined by needs, e.g. to actual functions to be performed.

Many funding levels at the agency level are not adequate to run meaningful tribal programs and tribal service delivery.

The funds are limited, but the tribe, as a contractor, is still held responsible for the quality of the program. A poor funding level results in poor service delivery.

Provisions should be made for the entire budget process to dovetail with the financial requirements of the tribe. The budget formulation process must be based on needs at the local tribal level for tribal considerations to become a priority.

Adequate funding levels or a mechanism to increase the funding level tied with tribal contracts needs to be incorporated into the Bureau's budget process.

A funding mechanism should reflect the funding needs at the reservation level to underscore that the Federal Government is serious about self-determination. Contracting at multitribal agencies is practically impossible where services of one or two individuals must be divided among eight, ten or more tribes. The result is that the spirit of Pub. L. 93-638, the Self-Determination Act is subverted not be any Bureau conspiracy or lack of tribal knowledge but by the realities of dollars and cents.

Overall, some flexibility should be designed into the budget process which allows for funding of programs at multitribal agencies and which allows "filling in behind" some positions, such as IPA assignments or details, to provide T/TA to tribes.

Discussion of Budget System

The Task Force found widespread dissatisfaction, particularly on local levels, with the Bureau's Budget process.

Some complaints were:

(1) There is no comprehensive approach to reservation funding though there are a variety of comprehensive planning efforts in existence;

(2) Inadequate funding at the Agency level results in limited program accomplishments, especially at multitrubal agencies where it becomes impossible to contract for programs;

(3) Constrained funding levels at the agencies are not reflected at Area or Central office levels in the form of similar budgetary constraints;

(4) Tribes have not been able to influence those programs not in the band, with report to funding levels, priorities, etc;

(5) Continuous changes in what programs are in the band have made it difficult for tribes to determine priorities or make long range plans;

(6) There is little openness in the budget process outside of the Agency band;

(7) Contracts by tribes which contains an inadequate funding level does not relieve tribes of their responsibility to deliver quality services, though the system severely hampers the delivery of quality services;

(8) Minimum budgetary flexibility exists at the Agency level in contrast to Area or Central office levels.

Management Systems and Procedures

17. The Bureau should establish clear organizational and programmatic objectives and use them as a basis for program management and evaluation.

The implementation of Bureau policy and the provision of program services by agency and area offices could be improved by the use of a management by objective approach.

The establishment of specific objectives for individual programs and organizational units is best done within the larger framework of those basic goals, policies, and priorities formulated by the agency's leadership.

The concept of agency and program direction by objective rather than any particular management technique is the thrust of this recommendation. The Bureau needs to be given a strong sense of purpose and policy direction which can be translated into specific objectives.

Using objectives as a principle for organizing the work of the agency can help clarify responsibilities and accountability, improve communication, set priorities, define performance, measure progress, and focus management attention on accomplishments rather than inputs.

18. The Central Office and each Area Office should be subjected to a management audit by the Central Office every two years.

The purpose of the audits would be to provide the Assistant Secretary with a quality assurance and feedback mechanism. The scope of the audits should include not only the Central and Area Offices themselves, but the programs and units under the overall direction of the Office.

The audits should be management type audits—broader than the more traditional financial audits.

Each audit should result in a formal written report providing an overall assessment accompanied by specific and implementable recommendations. The draft report should be submitted to the area director for comment prior to its being finalized. A copy of the area director's comments should be included as an appendix to the final report—similar to the procedure used by the GAO for their reports.

A management audit manual should be prepared to serve as a guideline for the audit teams and to bring a degree of uniformity to the effort. The manual should consist of a series of checklists (and forms if appropriate)—one for each functional area in the area office.

19. The BIA Management Information System should be upgraded to provide the accurate, timely information necessary for sound management decisions at all levels.

20. A data bank for access to Indians and Alaska Natives possessing critically needed skills should be designed and implemented.

As the number of job opportunities for people of Indian descent has increased in recent years (within the Federal Government and outside), employers—including the BIA—have experienced continuing difficulty in finding qualified candidates.

Part of the problem is communication related. With the exception of the BIA's personnel system, there is no systematic approach or method for employers to identify qualified Indian candidates for positions.

The concept of an Indian skills bank has been talked about for several years, and most recently endorsed by the Indian Policy Review Commission.

As a starting point, a limited amount of information should be compiled on individuals and put into a computer data base. Examples include:

Basic identifying information—current name, previous names, last known address and telephone number, social security number.

Descriptive information—age, sex, tribal affiliation, last known job and work location, Civil Service classification.

Education—highest educational level achieved, post-secondary schools attended, degrees received.

Job experience—jobs qualified for, jobs interested in, location preferences.

Over time, the amount of information on each person could be expanded.

System Operations

The main difficulty to be overcome is to first assemble the information on each person and then to keep it up to date. The assistance of Tribal Governments should be sought in this effort.

Once designed, the operation of the system could be contracted out to a consortium of national Indian interest groups to operate—e.g., NCAI, NTCA.

Requests could then be made to the BIA or the contractor (by mail or telephone) and the computer file search by computer terminal operators. Computer printed lists of candidates could then be mailed (or telephoned) back to the person making the inquiry.

As a future potential enhancement, computer tapes of job openings could be obtained on a regular basis from State employment agencies and matched against the skills bank by the computer to identify job opportunities for people out of work or opportunities for advancement.

21. The top management of the Bureau of Indian Affairs should ensure that personnel standards of the Civil Service Commission are upheld on all levels of the Bureau, and that sound, flexible personnel management principles are utilized.

The Task Force endorses the Action steps proposed in the BIA's own *Action Plan for Personnel Management Improvement*, some of which are being presently implemented.

Uniform practices consistent with sound personnel management policy and Civil Service Commission standards are seriously lacking in the Bureau of Indian Affairs.

22. The BIA's Policy/Procedures Manuals should be reviewed and updated annually.

Exhibit IV-3 shows the contents of the BIA Manual. Although it is fairly comprehensive, it is very out of date and a project is underway by the BIA to update it. (It has been more than 10 years since most of the material was last updated.)

The Task Force recommends that the update and publication be completed (in draft) for comment by the end of the current fiscal year (September 30, 1978); and that the review and update procedures become a systematic annual process.

CONTENTS OF THE BIA MANUAL

Bureau Directives System, Personnel.
Organization and Organizational Concepts and Functions, Plant Design and Construction.
Reservation Acceleration Program, Plant Management.
Delegations of Authority, Credit and Financing.
Intergovernmental Relations, Natural Resources.

Legislative and Tribal Relations, Indian Rights Protection.
Inspection, Real Estate Appraisal.
Records Management Program, Forestry.
Civil Defense, Real Property Management.
Public Information, Land Operations.
Indian Involvement Programs, Road Construction.
Program Analysis, Road and Airstrip Maintenance.
Statistics, Education.
Administrative Audit Services, Community Development.
Safety Management, Housing Development.
Environmental Quality, Social Services.
Management and Systems, Law and Order.
Computer Systems, Joint Use Administrative Office.
Job Corp, Indian Business Development Program.
Budget, Employment Assistance.
Financial Management, Tribal Operations.
Property and Supply Commercial and Industrial Development, Alaska Native Affairs.

Management and Implementation of the Federal Trust Responsibility

Because any organizational changes must be attuned to tomorrow's realities if they are to be useful, the Task Force made some observations as a preface to specific recommendations on trust responsibilities.

The American people, and those responsible for trust management in the Federal government, should realize that Indian resource problems and development decisions will inevitably become more complex—and probably more controversial—in the years ahead if the government does not shirk in performing its task as trustee of these resources. We fully anticipate, for example, that:

The development of Indian and Alaska Native energy resources will involve difficult decisions which will sometimes create conflicts between Indian needs and the energy plans of non-Indian interests;

Water rights claims brought under the Winters doctrine will increasingly create conflicts between Indian and non-Indian water rights in the Western states;

The evolution of Indian self-determination will likewise create new conflicts at state and local levels as Indians exercise their inherent taxing and licensing powers in order to expand their resource base and develop viable economic systems on their reservations; and

Controversies involving land claims, boundary disputes and fishing rights will also continue to ignite, or exacerbate, contention between Indian and non-Indian interests.

Decisions respecting the use of Indian and Native Alaskan natural resources should be made by affected tribes. To arrive at these decisions tribes should have access to accurate, technically expert analyses of the resources, their use, value, benefits and disadvantages of development.

As these events occur, recent historical trends indicate that the Federal government will be held to a higher standard of trust management—and it is assumed that the government will want to achieve a higher level of performance in discharging its trust responsibilities. Consequently, the recommendations follow out of a conviction that changes are needed which will enable all trust decisionmakers to do a better job of protecting and enlarging Indian rights in the years ahead.

In this spirit, the Task Force makes the specific recommendations which follow.

23. The Bureau and Department trust responsibility functions should be strengthened and extended in Washington and the field:

The Office of Trust Responsibilities should be charged with being an activist trust rights unit with sound technical backing; and with its advocacy mission and its activist functions clearly stated, understood, and supported throughout the Bureau and the Department;

Rights Protection Office should have increased status and staffing;

Rights Protection units should be established in the field; with trust advocates at each agency;

Legal staffs reporting to Associate Solicitor for Indian Affairs should be placed in the field;

An Indian Trust Council should be established in the Department, and a Federal Indian Trust Committee at the National level consisting of highest responsible officials, to consider matters of trust policy;

The Solicitor should be formally entitled to file separate briefs in cases of conflict of interest.

Discussion

A strong statement of the mission, the goals and the priorities of the Office of Trust Responsibilities should be formulated, with provision for systematic review and periodic restatement of priorities.

The Rights Protection Unit should be adequately staffed; and established at equivalent status to the two existing units, (Trust Facilitation and Trust Services). This will allow advocacy and trust enforcement effectively distinct from trustee record keeping, conservation, and development functions.

Regional Trust protection units should be established in regional/area offices (similar to ones now functioning in Phoenix and Billings). These units should have strong, versatile staffs which report through Area Directors according to the established Bureau patterns, with respect to administrative matters; but which work programmatically and on technical service matters directly with the Central Office of Trust Responsibilities. The advice and service capacities of the Trust Protection units should be made available to agency superintendents, and to tribal and village governments. Further, each agency, and other field installation as needed, should have its own trust advocate.

A system should be established by which *ad hoc* Project Teams can be formed to develop specific cases which embody new policies or call for major decisions. By this means, the Assistant Secretary of Indian Affairs, the Secretary, and other decisionmakers could fulfill their trustee functions based on the best technical data, analysis, and insights available, in timely fashion.

Legal staffs trained and experienced in the range of trust issues should be established in field offices of the Solicitor of the Interior Department reporting directly to the Associate Solicitor for Indian Affairs, and available to Area offices, agencies and tribal governments.

Legal services in educational matters should be made available to school boards, administrators and tribal governments to insure, for example: duly constituted legal entities in control of schools; effective and enforceable contracts for instructional and other services; enforceable codes; students' rights; and appeals procedures that are both fair and binding.

Department

At the Department level, an Indian Trust Council (IDTC) should be established. The Secretary should serve as chairman of this Council. Its two other permanent members should be the Assistant Secretary for Indian Affairs and the Solicitor. The Council should be the policymaking body in all matters where Interior has responsibility over Indian Trust rights.

This group would articulate policy, devise strategy for pursuit of priority trust goals, resolve conflicts and assure that expertise needed from other units of the Department is brought to bear on trust issues. On an *ad hoc* basis the Secretary should designate other appropriate Interior officials to participate in the deliberations of the Council.

The Task Force recommends that the Interior Department Solicitor be allowed to file separate briefs in cases of serious conflicts of interest, such as arise when the Federal trust responsibility appears in conflict with other Federal mandates. (This recommendation would formalize an existing practice.)

The Task Force further recommends that the President establish a cabinet-level Federal Indian Trust Committee. The Chairman of the FITC should be the Vice President, and other permanent members should be the Secretary of the Interior and the Attorney Gen-

eral. This committee should have authority to make government-wide policies and recommendations concerning the protection and enhancement of Indian trust rights, and should be given wide latitude to focus on issues and policy questions which concern the national interest and deserve the attention of the President himself.

24. An Office of Resources Development should be established under Trust Responsibilities to provide competent, sophisticated assistance to tribes in technologies and in economic analyses for management, conservation and development of natural resources.

The major responsibility of the Office of Resources Development should be delivery to Indian tribes and Alaska Natives of highly competent, sophisticated technological assistance in inventory of resources, planning for development or conservation and enhancement, and execution of contracts of other activities in furtherance of plans. Counsel on technologies and economics of development options will parallel the legal assistance offered by the Rights Protection office.

The Resources Development office should have adequate technical capability to deal with the major areas of tribal resource concerns: energy and other minerals; water, land, fish and wildlife; Agriculture—range, crops, livestock; forestry, timber.

The flow of expertise should be from the Central Staff downward, i.e., as the need is established at the area, agency and reservation level, the capability will be provided to meet specific program needs.

Viable economic development demands close working relations and well defined interfaces between most, if not all, Bureau divisions and many non-Interior Federal departments and agencies, to develop the necessary infrastructure and business opportunities for qualified Indian entrepreneurs.

Resources Development office responsibilities will center on service to tribes, with the first task being to work on long term planning on a tribe-by-tribe basis; inventory, development options, financing, and time frames.

Organizing and acquiring staff with the technical competence to do this should have first priority.

Tribes must be actively involved in decisions as to needs, priorities and assignments of availalble manpower and dollars.

The Office of the Secretary should assist during the start-up period with appropriate staff having the necessary expertise in a variety of disciplines; and with assurance of adequate BIA personnel and funding ceilings.

All plans for this effort must include development of both tribal and BIA personnel capacities in resources management technology.

Justification and related recommendations:

Development of major resources is closely related both to trust responsibilities and to the business and entrepreneurship kinds of economic development opportunities for tribes and for individuals.

A division of responsibilities can logically be made resulting in two units, the Office of Resources Development under Trust Responsibilities, and an Office of Business and Economic Development elsewhere. The offices should be closely and systematically related under one manager or through specific coordination procedures such as joint tribal planning assistance projects, regular joint staff meetings, shared communications, and review and concurrence procedures.

Economic Development and Services to Indian Tribes and Alaska Natives

25. An Office of Business and Economic Development reporting to the Deputy Assistant Secretary—Operations (Commissioner) should be established to provide Indian tribes and Alaska Native corporations with sophisticated assistance in finance, economics, and marketing, etc.; and a competent advocacy service in packaging Federal and private funds and technical assistance.

It would include and extend some of the divisions under what is now called Tribal Resources Development. It would be designed to complement the functions of the proposed Office of Resources Development.

Emphasis would be placed on helping tribes and Alaska Native groups coordinate and package funds both Federal and private, along with BIA funds. A wider, more innovative and aggressive approach to the economic viability of reservations as a whole should be developed, for the benefit of reservations, and Alaska Native-owned land, communities and tribally sponsored industrial development, and individual Indian entrepreneurs.

Staff should include a high level of competence in such disciplines as economics for diversified growth planning, product market analysis and the like, for the range of Indian business actual and potential—minerals, crops, livestock, fishing, agriculture, etc. Means should be found to stimulate venture capital coming on reservation despite bonding constraints, e.g., Indian Development Bank.

The planning and activities of many organizational elements of the Bureau should be systematically coordinated with the Office of Business and Economic Development so that qualified Indian and Alaska Native businesses have maximum opportunity to capture economic benefits from:

Energy resource development, forest products, agricultural crop and livestock processing, including, over time, the trades and services demanding sophisticated technologies and skills which now so often leave, or never come on the reservation for lack of qualified Indian personnel.

Construction and other business resulting from reservation funding for housing, (new starts and self help); public facilities and other infrastructure construction, operation and servicing.

Sophisticated advice and technological expertise would be available, largely on a team basis, as needed by tribes and agencies, with technical assistance geared to different stages of need:

Planning and early development;

Follow through with assistance tailored to protecting capital investment during business start-up, and during the transition period when a solid business base is being developed;

Expansion and diversification assistance, to build on success.

Bureau staff would function as advocates to lower the administrative barriers to Indian entrepreneurship posed by such things as Federally-assisted housing design stipulations.

Infrastructure should be closely integrated with economic development. Careful consideration should be given to moving some organizational elements of the present office of Indian Services, such as those responsible for housing and physical facilities, to bring at least the planning for key infrastructure elements into an alignment providing tribes necessary support for development of viable economies.

Options for creating useful working alignments include not only reorganization, but better designed and more conscientiously applied communications and coordination procedures.

A systematic leadership role in attracting funds from other agencies and private industry will require those same kinds of procedures. Establishment of field contacts with other agencies, and development of agency (and area) "grantsmanship" capabilities in support of tribal development planning are essential.

26. The organizational units of the present Office of Indian Services should be carefully reviewed, and realigned or reinforced as necessary to support a clearly-defined comprehensive Community Services approach to reservation and community needs; needs should be established by Indian tribes and Alaska Natives, and the services delivery planning and implementation systematically linked with other planning such as for education and training, business and economic development, community jobs/skills availability and resources.

Because of the highly localized nature of municipal services for the various Indian and Alaska Native com-

munities, the diversity of tribal and Native needs is so great that a single clear-cut organizational recommendation in this area is not possible. Consideration should be given to setting a common standard for requirements, insofar as is possible within State and other applicable mandates.

The overall management systems improvements, and the recommendations with regard to training of both BIA and tribal personnel elsewhere in this report will have clear, positive results on some current malfunctions in delivery of Indian Services. So will the Budget oriented recommendations regarding contracting under 93-638.

Needs should be assessed by tribes with support of the Bureau—needs assessments can in many cases be coordinated with needs assessments for other government programs.

A planning, implementation, follow-through, and evaluation sequence needs to be designed to provide a recognized Community Services planning framework within which individual Indian tribal and Alaska Natives needs for services and capabilities to provide services can be systematically arrayed and dealt with.

Planning should take place in close conjunction with planning for other reservation program and development planning (although coordination should not delay delivery)—planning for education and training facilities and programs, business and economic development planning, and resource development, roads or other physical facilities planning.

Special care should be taken to preserve the office's flexibility to deal with the essentially unique combination of needs for municipal-type services presented by the range of Indian tribal and Alaska Native governments to be served.

Care should be taken to preserve those existing systems and relationships with individual tribes and Alaska Native corporations which are working to their satisfaction.

Consideration should be given to changing the name of the function to Office of Community Services to underline the comprehensive planning framework approach.

A special effort should be made by offices responsible for Public Information and for communications with Indian and Alaska Native constituencies to be sure that success stories and useful experiments are relayed to other communities as options for solving their problems, and improving their quality of community life.

Education for Today's Indian and Alaska Native People

The Federal Government is more deeply involved in the education of Native Americans than in the education of any other group of American citizens. It now spends over $500 million per year for this purpose, with this spending about equally divided between the Interior Department's Bureau of Indian Affairs (BIA) and HEW, Office of Education (OE). Yet the educational attainment of Indian and children and adults is poorer than for any other major group. In addition, the overwhelming bulk of these funds are administered outside tribal and community control, despite the fact that the statutory objective of Federal Indian policy is to begin "an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs."

The recommendations which follow are targeted to BIA education programs, respecting the limitations imposed on the current task force effort. Through the leadership of the tribes and villages, Bureau personnel, the Assistant Secretary for Indian Affairs and the Secretary, much can be done in other education program areas at the same time as efforts focus on strengthening BIA's capacities to respond to Indian and Alaska native needs in education.

Further, the recommendations of this report focus on education of young people, but the underlying principles can well be extended to all ages—to provide advanced and continuing education through a range of personally fulfulling Indian and Alaska Native cultural enrichment opportunities.

27. A statement of the philosophy of education for Indians and Alaska Natives should be formulated.

A basic philosophical statement should be articulated to reflect Indians' concept of what education for Indians should be. The statement should reflect: Respect for traditional cultural beliefs, retaining strong identities as tribes and as individuals; historical and traditional rights to education of tribes because of the special relationship with the Federal government; self determination; interface with dominant culture; the freedom of choice amoung sound educational options.

Education governed by this philosophy should provide Indian and Alaska Native students: Basic tools essential to learning in today's world, appreciation of oneself, one's society, one's place in the world, ability to think critically, opportunity to develop creatively, options for vocational and professional skills, marketable within the community of choice.

28. A set of goals and priorities should be systematically developed, consistent with the above philosophy.

The system established to develop and maintain a set of goals and priorities should provide for: Means to reach the goals, e.g. manpower and resources needed, planning, schedules for completion, assignments of responsibility, etc.; continuing review and evaluation of goals and priorities, allowing for change as goals are reached, or as events may change priorities; continuing input from tribal and Alaska Native communities in setting goals and priorities and in steps to implement.

The goals and priorities would be based on the stated philosophy of Indian and Alaska Native education, and the needs of the tribes and villages, rather than, as in the past, on the appropriations available.

The goals and priorities once established by the Assistant Secretary, with meaningful tribal participation, would be communicated not only throughout the BIA operated schools, but through appropriate advocates and informed leadership to public schools with Indian populations as well.

Needs assessments and educational codes already developed by some tribes provide a basis for goals and priorities. Other tribes and villages should have access to these models and incentives to develop their own assessments and codes.

The basic system should be established, with tribal and native input throughout, within no more than two years.

29. Maximum participation of Indian and Alaska Native parents, tribal governments, and Indian education experts should be systematically sought in the decisionmaking process in the community, the region, and Washington.

Community

BIA-operated schools and the three post-secondary education institutions should be administered with maximum local participation as soon as possible: Using Boards of Regents, tribal or Alaska Native school boards, or multi-tribal school boards, as appropriate; with board having authority for operations including contract negotiations, budget approvals, hiring and firing of staff; accountable to students, parents, tribal and village governments, and school administrators for quality of education (guidelines for accountability will include mechanisms for resolving conflicts and bringing appeals to a binding solution); with a policy of offering alternatives to hiring teachers only through Civil Service, without the necessity of contracting for the entire school operation; if civil servants are replaced, alternative Civil Service jobs should be found for them, or they should be otherwise provided for via early retirement or by other means.

Regional

Regional/area school boards should be established, representative of local

school boards, including parents, tribal and village governments, and recognized Indian education experts, to be responsible for continuing Indian input to decisions such as locations, staffing, and other resources needed for wider-than-local technical support. One member, perhaps the Chairman, would serve on a national committee or board.

Intermediate or regional offices should assist school boards and tribal governments in region/area: To initiate and carry out educational needs assessments and planning; to maintain two-way communication between Indian or Alaska Native community and Washington on overall policy and regulation, and on tribal needs and concerns, as reflected in budget and other participation opportunities; to develop necessary legal entities and instruments for local management of schools; encouraging both *provision* of local options for education in Indian and Alaska Native schools, public schools, and boarding schools and the *understanding* of the options available; assist tribes in selecting geographical location for its educational services center, and acquiring the necessary resources and expertise to be made available there.

National Level

A working committee should be established to advise the Assistant Secretary on establishment of goals and priorities, and on implementation, review and evaluation.

The committee should be made up of tribal education leaders, Indian and Alaska Native educators who are recognized experts in their fields both locally and nationally, and parents representative of local school boards, and able to relay communications from tribal communities as well as to them. Recognized Indian education groups should have access to the committee through appropriate consultation procedures and representation.

Members of the working committee should represent such key areas of expertise as teacher training, curriculum development, library, audio-visual learning materials, school administration, educational data gathering and use (including statistical data).

Membership should be short term, if not ad hoc, allowing flexibility so that expertise targeted to particular priority needs can be brought to bear, within a specific timeframe, for action recommendations to the Assistant Secretary. The working committee should be product oriented. That is, it should undertake projects and develop specific recommendations in areas of need, as opposed to being a general advisory panel with broad, philosophical reasons for being, but with no sharply focused goals.

Overall

The initial and continuing task of boards/committees at each level and location should be to develop goals and priorities for each kind of educational need under its control: To communicate these to higher level and/or to oversee implementation as plans are drawn and resources become available; to resolve conflicts between points of view or priorities, in a systematic and orderly manner; and to attack the unmet needs in the next order of priority.

30. Changes should be made in locations of key BIA education-related organizational units, to assure (a) a focussed central direction for all educational programs; and (b) the most efficient distribution of technical assistance resources.

The administrative authority for all education-related programs should be brought together, headquartered in the Central Office in Washington.

Educational activities now administered elsewhere in the BIA, such as adult education, vocational training, career development, those portions of other programs that can best be served by the education division, internships, and other related programs, should be brought together and administered under education line authorities. For portions not moved, specific communication and coordination procedures should be instituted. In the past, many activities which tribes and villages view as "educational" have often followed different policies, guidelines, and directives from different places within the Central Office.

Educational technical assistance services should be offered at geographical locations convenient to groups of tribes, as determined by them.

31. Plans for all education-related activities should include statements or steps which recognize or reinforce Indian and Alaska Native cultural heritage as a basis for identity, and strength—as tribes, as communities, and as individuals.

Indian and Alaska Native youth should know their history, their culture, their legendary heroes and today's role models, the relationship of the past to the present, and the current affairs of their tribes.

Bicultural and bilingual programs should be pursued as a way of maintaining options for youth in choosing careers and life-styles, from Indian world and from the dominant culture. Some means include: Seeking technical assistance and financial support for expert needs analysis and array of options for interested tribes; technology transfer from tribes with successful programs underway; orientation of teachers, administrators and parents to possibilities and issues, resources and commitments needed; preparing to respond affirmatively to tribal and village choices, including necessary interface/advocacy with HEW-OE; seed money for planning, research and development.

Sessions, beginning informally as soon as possible, should be arranged to orient school teachers and administrators so their attitudes reflect high expectations for the youth in their charge, which are both realistic and fair, and which are understood by the students and their parents.

The Cultural Studies Center at Santa Fe should be provided increased funding and staff capability to better serve the range of Indian and Alaska Native needs: In testing educational innovations; in controlled/contained Indian culture "laboratory" situations for use in orienting non-Indian policy makers to the ramifications of Indian culture.

The Santa Fe School of Art should be evaluated and used as a model for establishing centers in other regions which would offer comparable Indian educational experience.

32. Steps should be taken to upgrade the caliber of education offered in BIA schools and other schools which serve Indian and Alaska Native youth.

Schooling for Indian people should be raised to a measurably high standard, and so recognized—for the benefit of students seeking opportunities elsewhere, and to assure due recognition of professional and vocational qualifications of Indian candidates for positions anywhere.

An accreditation system should be developed for Indian and Alaska Native schools which meets at the least all minimum scholastic standards of non-Indian schools (necessary for post secondary school entrance), with no diminishing of cultural identity.

An Indian teacher training program should be developed comparable to the Careers Opportunity Program. Administration, teachers and support staff of Indian schools should receive in-service cultural orientation.

A determination should be required, with Indian and Alaska parent and tribal government participation, of the role of off-reservation boarding schools (halfway house, special education, others). Goals and objectives of the school should be articulated. Open enrollment should be the rule.

Standard eligibility criteria should be developed and used for the award of scholarships for higher education, continuing education, vocational education, etc. Incentives should be developed, including seeking of extra earmarked funds, to encourage graduate level or continuing education of well-qualified candidates in critically needed disciplines.

Provision shall be made and opportunities sought to offer teachers, administrators and boards knowledge of and access to innovative techniques:

To overcome special problems such as limited previous educational background of both teachers and students; distance of pupils from teaching resources, etc., techniques include educational television; cable, closed circuit and portable cassette television; satellite systems; other communication and audio-visual aids; transportation systems; mobile talent pools for special sessions, seminars, training.

Systematic and concerted efforts should be made to transfer the results of experiments, innovations, or any problem solutions from the place of testing to places which could benefit from the experience, by means of continuous, thoughtful communications throughout the entire network of school and BIA administrators, service personnel, teachers, students, parents, boards and committees, and tribal governments.

An evaluation should be made of special Indian programs provided under contracts with specific colleges and universities, as opposed to allowing Indian youth to attend schools of their choice. Since the overhead charges for such programs constitute 40% of the funding and colleges then have to train their staffs in Indian relationships, direct funding of students would appear to be better and more flexible use of available dollars. It might also serve to broaden the options for disciplines available to advanced Indian and Alaska Native students.

Administrative procedures throughout the education systems should be simplified and expedited to arrive at decisions quickly, announce the results whether negative or positive, and move ahead to develop new plans and strategies for unmet needs.

As a general rule, the maximum dollar amounts should go to local levels, distributed on the basis of the needs assessments of the tribes themselves. Less discretionary money should be left at area and national levels.

33. Community and tribal needs assessments, adequately funded, should be started immediately with full local Indian and Alaska native participation.

Funding should be sought and made available immediately so that local schools and boards can begin needs assessments.

Needs assessments should be done insofar as possible by Indian tribes and Alaska Native communities themselves. Any necessary data processing and analysis techniuques can be supplied by contracted or in-house project teams or individuals from area office, multi-tribal regions, or Central office.

Time frames for original needs assessments should be very brief, no longer then six months, and provision should be made for periodic review and update of needs assessments depending on such factors as changing age ranges or numbers of school children served.

34. Comprehensive school funding packages should be developed and accompanied by a process for commitment to a relatively stable level of funding.

Other government funding sources in addition to those in BIA, should be reviewed in a systematic manner to assist tribes or villages in meeting local needs indicated by their assessments.

Accompanying this packaging of funds should be some form of commitment, for an agreed-upon period of years beyond the then-current budget planning cycle, so that tribes and communities can plan for the longer range with greater certainty than at present. Performance should be monitored, and technical assistance available to assure satisfactory performance over the commitment period, so the system does not constitute an unwarranted risk of Federal funds. (A possible mechanism, subject to study and legal review, would be some form of revolving fund or account, allowing for some averaging out of funds projected against funds actually available without the necessity for case by case reprogramming.)

35. Discussions with tribal leaders and educators in the Indian community revealed a strong belief that Indian education should remain in the Bureau of Indian Affairs and not be placed in another Federal Department or Agency.

Consultation: Indian and Alaska Native Participation on Decision-Making—Extent and Limitations

President Carter has said that decisions affecting Indians would be made in "Tribal Council Chambers." In previous years, Presidents Johnson and Nixon emphasized the need for more constructive participation by Indian tribes and Alaska natives. In the early 1970's, funds and some measure of funding decision-making for social and economic assistance programs were restored to local government levels; that is, to tribal councils and village corporations.

36. The Assistant Secretary and the top management of the Bureau of Indian Affairs should: Clearly define the consultation process, establish guidelines for identifying appropriate persons or groups to be consulted, and develop guidelines for determining when consultation is appropriate.

As part of the policy aimed at getting grass-roots involvement in decision-making, Federal Government agencies requested consultation with representatives of those groups affected by social legislation. Indians and Alaska Natives were represented on national and regional levels by several different groups, representing diversified interests.

The National Tribal Chairmen's Association was established in 1971 by tribal leaders to allow elected tribal leaders a strengthened voice in advising and participating in Federal program and policies of high importance to Indians and Alaska Natives on the national level. The NTCA constitution precludes any involvement of the Association in internal matters of any tribe.

The National Congress of American Indians was originally formed during the 1950's. It is an organization made up of tribes, tribal representatives and individuals encompassing a larger cross-sectional representation of American Indians. NCAI is controlled by an Executive Council made up of member tribes. It has increasingly requested consultation on Federal Indian programs and policies.

Local and Special Interest Representation

In each area served by the BIA there are at present representative intertribal groups which have served as consultants on a range of subject matters—be they national Indian or Alaska Native priorities on issues which impact only their geographical area—of concern to the tribes they represent. These area intertribal groups vary widely in nature. Some examples are: All Indian Pueblo Council, Montana Intertribal Council, United Tribes of Western Oklahoma & Kansas, Affiliated Tribes of Northwestern Indians, Interlakes Tribal Council, United Sioux Tribes, United Tribes of North Dakota, United South Eastern Tribes, Intertribal Council of Arizona and Nevada, Small Tribes of Western Washington, Alaska Federation of Natives, etc.

Other groups have formed based upon common resources problems, such as minerals development—Council of Energy Resource Tribes; the Native American Natural Resource Development Federation of the Northern Great Plains; water resources—Federation of Colorado River Tribes.

Some other expamples of organizations offering consultation are: The National Indian Education Associations, National American Indian Cattlemen's Association, National Indian Women's Groups to name only a few.

Attempts to Define Consultation

Several interpretations of self-determination hold that consultation gives tribes or groups the right to make the final decision. Others have interpreted consultation as a process of conferring with the affected tribes or groups before a final decision is reached, which decision may or may not fully reflect the desires of the tribe or tribal

group or native village. The consultation process is clearly meaningless if it is nothing more than random information haphazardly collected from groups prior to a decision made by the Federal government agency involved. On the other hand, consultation cannot be broadly interpreted to mean that Federal appointments or decisions by the Federal trustees can be vetoed by a tribe or group.

Obligations of the Federal trust relationship, laws and Federal appointment and other regulations make the Federal Government or its agencies legally responsible for final determinations so they must specify in large part what those determinations must be. Some of those determinations may be contrary to the wants of tribes or tribal groups.

Under provisions of the Self-Determination Act, there is no barrier to a tribe or tribal group participating fully in the decision-making process, provided that a formal mechanism exists to ensure equitable participation by affected Indian tribes or Alaska Natives in that process. But not even every decision under the Self-Determination Act may be made by Indian or Native Alaska tribes or tribal groups acting in their own behalf. Many decisions, even under that law, must still be made and enforced by duly constituted Federal agencies.

Effecting Consultation

Based upon the above discussion, three questions should be asked about consultation:

(I) What is the consultation process?

(II) Who is the appropriate person or group to consult on a particular issue?

(III) When is consultation appropriate?

These questions, particularly the first, are not easy to answer, but the Task Force members believe they must be answered. In the absence of answers, calls for consultation with Indian and Native Alaska people can only breed cynicism and irresponsibility.

To assist BIA top management to formulate answers to these questions, the Task Force offers some guidelines for consideration.

Issue (I)

(A) The consultation process must involve at least the following steps: Identification of the appropriate people, tribes or intertribal groups or corporations likely to be affected; issues clearly displayed, with factual information provided so that intelligent, knowledgeable consultation can take place; adequate lead time to provide for complete understanding of issues, reflection, reporting, recommending; reporting back of decisions made and reasons therefor to those involved in consultation; including documentation of participation; route of appeal, if necessary, by affected parties.

(B) Position paper summaries on major issues should be maintained and kept available for Government decision-makers.

(C) Statement should be prepared and promulgated that consultation does not convey veto power.

(D) The Task Force recommends consultation be defined as process of communication with tribes or tribal groups on policy and program proposals or issues which will affect the tribe or group by providing them with an opportunity for review and response.

(E) A variety of means should be employed for consultation—including a full range of "public participation techniques," ranging from informal meetings and contacts for information dissemination and feedback to formal hearings, depending on the subject at issue, and some brief record should be kept of the means, the participants and the opinions heard.

Issue (II)

(A) The Task Force recommends that on matters of national Indian priority the consultation process be between the BIA, the Department, (or other Federal agency) and the national Indian organizations, with the opportunity for input by constituent tribes and members into the positions taken by the national organizations.

(B) With respect to matters affecting certain areas, consultation should be between the regional or area officials and the area intertribal groups and their constituent tribes.

(C) With respect to matters of impact on specific subject matters such as natural resources minerals, water, livestock, etc., consultation should be between the Federal agency involved at whatever level and its corresponding level of tribal organization and constituent tribes and members (whether the question is of national, regional or local concern).

(D) With respect to matters affecting a tribe, consultation should be with that tribal council and the corresponding level of the Federal agency involved be it national, regional or local.

Issue (III)

The consultation process is only appropriate when there is room for latitude within enabling legislation, executive order, or governing regulations such that consultation can result in significant modifications or changes in proposed actions.

The Assistant Secretary and top management of the Bureau (and the Department) should be constantly aware of need for clear, timely information on issues of significance to Tribes and Alaska Natives, with indication of formal and informal consultation or comment opportunities described, and responsible offices or officials identified for inquiry.

B. ACTION PLAN

The Task Force recommends the following plan for carrying the report recommendations forward into implementation.

Introduction

Based on the commitment to reorganization by the President, the Secretary of the Interior and the Assistant Secretary for Indian Affairs, the Task Force is convinced that highest Departmental priority will be assigned to implementing these or equivalent recommended changes. The proposed changes in this Report have been reviewed by significent numbers of Indians and Alaska Native individuals and groups. The Task Force believes that the preponderance of Indian and Alaska Native opinion has been reflected in its Report.

Five general steps are proposed

1. Release of Report for review and comment by Indian and Alaska Native tribes, groups and individuals, to be accomplished within 60 days of publication in the FEDERAL REGISTER.

2. Review and approval in principle of the Report and comments by Indians and Alaska Natives, by the Secretary, the Under Secretary, and the Assistant Secretary for Indian Affairs. Decision reached by top management as to what portions of the Report will be accepted for implementation.

3. Establishment of a suitable implementation team reporting to the Secretary. The team should include Indian representation.

4. Develop detailed implementation work plan—tasks, responsibility assignments, target dates.

5. Evaluate implementation to determine progress toward reorganization. These evaluations should be conducted quarterly for the first two year, followed by an orderly transition to the Management Research and Evaluation unit (MR&E) for subsequent monitoring.

[FR Doc. 78-10065 Filed 4-14-78; 8:45 am]