AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-30-79
Vol. 44 No. 211
Pages 62277-62474

Federal Register

Tuesday
October 30, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue. **An interpreter for hearing impaired persons will be present for the November 16 briefing.**

62277 **United States Holocaust Memorial Council** Executive order

62375 **Grants for Training, Education, and Related Assistance Capabilities** Labor/OSHA extends the grant application submission date to 12–3–79

62281 **Income Tax** Treasury/IRS provides final rule regarding changes in the tax treatment of grantors of options to buy or sell certain property

62298 **Federally Funded Programs** GSA proposes to set forth guidelines against discrimination of the handicapped; comments by 12–31–79

62453 **Assessment, Improvement and Monitoring System** USDA/FNS proposes to analyze current school lunch and breakfast program management by State agencies; to foster improvements in program management by States; to monitor effectively the use of Federal funds; and to protect the nutritional integrity of meals served; comments by 1–2–80 (Part III of this issue)

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official 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.

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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 of 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.

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Area Code 202-523-5240

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62459 **Assessment, Improvement and Monitoring** USDA/FNS proposes to establish a specific set of actions to be taken if or when State agencies fail to implement the proposed system; comments by 1-2-80 (Part III of this issue)

62442 **National School Lunch** USDA/FNS proposes to provide for improved administrative procedures as a part of the Department's comprehensive Assessment, Improvement and Monitoring System (AIMS); comments by 1-2-80 (Part III of this issue)

62279 **Summer Food Service Program** USDA/FNS implements a provision which prohibits the payment of any fiscal year 1979 claim for reimbursement submitted after 1-1-80, with certain exceptions; comments by 10-30-79

62424 **Urban Development Action Grant Program** HUD prints a list of small cities which meet the minimum standards of physical and economic distress; effective 10-30-79 (Part II of this issue)

62279 **Child Care Food Program** USDA/FNS implements provision prohibiting the payment of any fiscal year 1979 claim for reimbursement submitted after 1-1-80 with certain exceptions

62295 **Civilian Health and Medical Program** DOD/Secy proposes an amendment to expand benefits of the uniformed services; comments by 11-29-79

62342 **Communications** FCC adopts report to advise Congress of the Communications Satellite Corporation (Comsat) corporate structure and operating activities; comments by 11-30-79

62312 **Cost Center Accounting and Reporting** ICC considers adopting a system for Class I railroads; comments by 12-31-79

62305 **Freedom of Information** FCC amends rules to update the search fee for salary increases; comments by 12-6-79

62331 **Grants and Cooperative Agreements** EPA announces guidelines used and determinations made for its programs

62397 **Sunshine Act Meetings**

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Presidential Documents

Title 3—

The President

Executive Order 12169 of October 26, 1979

United States Holocaust Memorial Council

By virtue of the authority vested in me as President by the Constitution of the United States of America and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), a committee to begin the implementation of the recommendations of the President's Commission on the Holocaust for the establishment of a Holocaust Memorial, it is hereby ordered as follows:

1–1. *Establishment of the Council.*

1–101. There is established a United States Holocaust Memorial Council. For the purpose of this Order, the "Holocaust" is the systematic and State-sponsored extermination of six million Jews and some five million other peoples by the Nazis and their collaborators during World War II.

1–102. The membership of the United States Holocaust Memorial Council shall consist of not more than 45 and not less than 25 members as follows:

(a) The President shall appoint between 15 and 35 members of the Council and shall designate one of these members to Chair the Council and another member to serve as Vice Chairman. The Chairman may recommend to the President a member of the Council to serve as Vice Chairman.

(b) The President of the Senate and the Speaker of the House of Representatives are each invited to designate five members of their respective Houses to serve as members of the Council.

1–2. *Functions of the Council.*

1–201. The Council shall recommend to the President and to the Secretary of the Interior ways to implement the approved recommendations of the President's Commission on the Holocaust: (a) the erection of a memorial museum, (b) the establishment of an educational and research foundation, and (c) the establishment of a Citizens Committee on Conscience.

1–202. The Council shall recommend specific site locations within the Washington, D.C. metropolitan area. Criteria for choosing architectural design should be included in the site recommendations.

1–203. The Council shall propose a concept for the memorial museum, including general descriptions of the types and categories of exhibits to be displayed in the museum. Similarly, suggested functions and limitations for the educational and research foundation should be recommended.

1–204. The Council shall recommend the size, composition, and names of distinguished American citizens qualified to serve on the Citizens Committee on Conscience. It shall advise on the specific duties and limitations of such a Committee.

1–205. The Council shall also advise on the various ways to fund all of these recommendations. Funding proposals should provide that construction costs would be raised primarily from private contributions.

1–206. In addition, the Council shall recommend appropriate ways for the Nation to commemorate "Days of Remembrance of Victims of the Holocaust."

1–207. The Council shall submit a final report to the President and to the Secretary of the Interior no later than June 30, 1980.

1–3. *Administrative Provisions.*

1–301. The Secretary of the Interior shall, to the extent permitted by law, provide the Council with administrative services, facilities, support, and funds necessary for the effective performance of the Council's functions.

1–302. Members of the Council who are not otherwise employed by the Federal Government may receive compensation for each day such member is engaged in the work of the Council at a daily rate to be determined by the Secretary of the Interior. Such rate shall not exceed the amount payable pursuant to the Federal Advisory Committee Act, as amended.

1–303. Members of the Council shall be entitled to 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.

1–4. *General Provisions.*

1–401. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Secretary of the Interior in accordance with guidelines and procedures prescribed by the Administrator of General Services.

1–402. The Council shall serve as an interim body and shall terminate on July 31, 1980, unless sooner extended.

Jimmy Carter

THE WHITE HOUSE,
October 26, 1979.

[FR Doc. 79–33775
Filed 10–29–79; 10:50 am]
Billing code 3195–01–M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program; Final Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is issuing an amendment to the Summer Food Service Program regulations to implement a provision of Pub. L. 96–38. This provision prohibits the payment of any fiscal year 1979 claim for reimbursement submitted after January 1, 1980, with the exceptions of amended claims resulting from audits and/or investigations. This rule will enable State agencies to finalize their accounting records in a timely manner.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–8211.

SUPPLEMENTARY INFORMATION: At the Federal level the U.S. Department of Agriculture administers the Summer Food Service Program. Within the States the Program is administered by State agencies, with the exception of several States where Food and Nutrition Service Regional Offices administer the Program. The State agencies and the Regional Offices make agreements with sponsoring institutions which are responsible for the administration of one or more sites and which have the legal authority to operate the Summer Food Service Program. In return for Federal cash reimbursements, a sponsoring institution must agree to provide meals to eligible children and to comply with certain administrative requirements. One such requirement is the submission of a claim form to the State agency, containing data in sufficient detail to justify the reimbursement claimed. Reports and studies by the General Accounting Office and the Department's Office of Inspector General have raised questions about the effectiveness of present child nutrition program management systems. One specific area of concern is the reimbursement claiming procedure. Some sponsoring institutions have not been submitting claims within a reasonable time. This has prevented State agencies and the Department from finalizing their fiscal year accounting records in a timely manner.

Recognizing the problem of late submission of claims and the overall need to maintain tighter control over the programs, Congress has required "* * * that only claims for reimbursement for meals served during fiscal year 1979 submitted to State agencies prior to January 1, 1980, shall be eligible for reimbursement." This requirement was made a part of Pub. L. 96–38 which was enacted on July 25 of this year. In order to fully comply with the substance and intent of Pub. L. 96–38, this nondiscretionary amendment to the Summer Food Service Program regulations shall prohibit a State agency or Regional Office from paying any fiscal year 1979 claims for reimbursement submitted after January 1, 1980, with the exception of amended claims resulting from audits and/or investigations.

PART 225—SUMMER FOOD SERVICE PROGRAM

Accordingly, Part 225 is amended as follows:

In § 225.13, the last sentence of paragraph (a) is amended to read as follows:

§ 225.13 Program payment procedures.

(a) * * *. Appropriate payments may then be made if the claim submitted by the sponsor is valid; however, no payments shall be made by the State agency, or Regional Office where applicable, for any original or amended Claim for Reimbursement for any period during the fiscal year 1979 which is submitted after January 1, 1980, with the exception of amended claims resulting from audits and/or investigations.

* * * * *

(Title I, Chapter I, Pub. L. 96–38, 93 Stat. 98 (42 U.S.C. 1776 a)) (Catalog of Federal Domestic Assistance No. 10.559)

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-33852 Filed 10-29-79; 8:45 am]
BILLING CODE 3410-30-M

7 CFR Part 226

Child Care Food Program; Final Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is issuing an amendment to the Child Care Food Program regulations to implement a provision of Pub. L. 96–38. This provision prohibits the payment of any fiscal year 1979 claim for reimbursement submitted after January 1, 1980, with the exceptions of amended claims resulting from audits and/or investigations. This rule will enable State agencies to finalize their accounting records in a timely manner.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–8211.

SUPPLEMENTARY INFORMATION: At the Federal level the U.S. Department of Agriculture administers the Child Care Food Program. Within the States the Program is administered by State agencies, with the exception of several States where the Food and Nutrition Service Regional Offices administer the Program. The State agencies and Regional Offices make agreements with sponsoring institutions which are responsible for the administration of one or more centers and/or day care homes and which have the legal authority to operate the Child Care Food Program. In return for Federal cash reimbursements, a sponsoring institution must agree to provide meals to eligible children and to comply with certain administrative requirements. One such requirement is the submission of a claim form to the

State agency, containing data in sufficient detail to justify the reimbursement claimed. Reports and studies by the General Accounting Office and the Department's Office of Inspector General have raised questions about the effectiveness of present child nutrition program management systems. One specific area of concern is the reimbursement claiming procedure. Some sponsoring institutions have not been submitting claims within a reasonable time. This has prevented State agencies and the Department from finalizing their fiscal year accounting records in a timely manner.

Recognizing the problem of late submission of claims and the overall need to maintain tighter control over the programs, Congress has required "* * * that only claims for reimbursement for meals served during fiscal year 1979 submitted to State agencies prior to January 1, 1980, shall be eligible for reimbursement." This requirement was made a part of Pub. L. 96–38 which was enacted on July 25 of this year. In order to fully comply with the substance and intent of Public Law 96–38, this nondiscretionary amendment to the Child Care Food Program regulations shall prohibit a State agency or Regional Office from paying any fiscal year 1979 claims for reimbursement submitted after January 1, 1980, with the exception of amended claims resulting from audits and/or investigations.

PART 226—CHILD CARE FOOD PROGRAM

Accordingly, Part 226 is amended as follows:

In § 226.12, paragraph (k) is revised to read as follows:

§ 226.12 Claim for Reimbursement.

* * * * *

(k) Not more than 10 days of the beginning or ending month of Program operations in a fiscal year may be combined on a Claim for Reimbursement with the operations of the month immediately following the beginning month, or preceding the ending month. Claims for Reimbursement may not combine operations during the ending month of a fiscal year with the beginning month of the next fiscal year. The State agency, or Regional Office where applicable, shall not pay for any original or amended Claim for Reimbursement for any period during the fiscal year 1979 submitted after January 1, 1980, with the exception of amended claims resulting from audits and/or investigations.

* * * * *

(Title I, Chapter I, Public Law 96–38, 93 Stat. 98 (42 U.S.C. 1776(a)) Catalog of Federal Domestic Assistance No. 10.558)

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–33653 Filed 10–29–79; 8:45 am]

BILLING CODE 3410–30–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

[Revision 13, Amendment 32]

Small Business Size Standards: Organization of SBA Size Appeals Board

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment will change the composition of the SBA Size Appeals Board by deleting the Chief Counsel for Advocacy as a member and substituting the Associate Administrator for Policy, Planning and Budgeting as a member. Since this amendment is administrative in nature, affecting internal agency organization, SBA finds that notice and public procedure are unnecessary and that the amendment may be effective immediately.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Stephen Klein, Office of General Counsel (202) 653–6762.

§ 121.3–6 [Amended]

Accordingly, pursuant to Section 5(b)(6) of the Small Business Act (15 U.S.C. 634), the Small Business Administration amends Part 121 of its Regulations (13 CFR Part 121) by amending § 121.3–6(a) to delete the words "Chief Counsel for Advocacy" and substitute in lieu thereof "Associate Administrator for Policy, Planning and Budgeting."

Date: October 22, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79–33276 Filed 10–29–79; 8:45 am]

BILLING CODE 8025–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–2993]

Leroy Gordon Cooper, Jr., a.k.a. Gordon Cooper; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires an individual from Encino, Calif. engaged in advertising, selling and endorsing a product known, among other names, as the G.R. Valve, to cease representing, without reliable substantiation, that installing the G.R. Valve or any substantially similar automobile retrofit device in a motor vehicle will result in fuel economy improvement. The order further prohibits Mr. Cooper from using or providing any endorsement or testimonial which has not been properly authorized or which contains unsubstantiated representations; bars him from misrepresenting an endorser's expertise in a field of knowledge, and the conclusions of tests or surveys relating to the performance of a product or service. Additionally, the order requires that advertising disclose any material economic interest in the sale of a product or service that may exist between endorser and marketer of such product or service.

DATES: Complaint and order issued September 25, 1979.*

FOR FURTHER INFORMATION CONTACT: FTC/PE, Linda C. Dorian, Washington, D.C. 20580. (202) 724–1524.

SUPPLEMENTARY INFORMATION: On Wednesday, July 25, 1979, there was published in the **Federal Register,** 44 FR 43486, a proposed consent agreement with analysis In the Matter of Leroy Gordon Cooper, Jr., also known as Gordon Cooper, an individual, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.110 Endorsements, approval and testimonials; § 13.135 Nature of product or service; § 13.170 Qualities or properties of product or service; § 13.170–34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or

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

other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart-Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly. Subpart-Corrective Actions and/or Requirements: § 13.533–20 Disclosures; § 13.533–45 Maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1665 Endorsements; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure; § 13.1885 Qualities or properties; § 13.1888 Respondent's interest; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[FR Doc. 79-33536 Filed 10-29-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Redelegations of Authority From the Commissioner of Food and Drugs; Hearings and Review Boards

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for delegations of authority. It authorizes the Associate Commissioner for Health Affairs and the Deputy Associate Commissioner for Health Affairs (Medical) to hold hearings under Part 16 (21 CFR Part 16). The Commissioner of Food and Drugs has assigned to the Associate Commissioner the function of holding all regulatory hearings under Part 16 relating to whether an investigator is entitled to receive investigational new drugs. This redelegation will provide a continuing delegation to the Associate Commissioner and will eliminate the need for specific redelegations on each case.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA–340), Food and Drug Administation, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him or her as "acting," or unless it is not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 5 is amended in § 5.30 by revising paragraph (d), to read as follows:

§ 5.30 Hearings and review boards.

* * * * *

(d) The Associate Commissioner for Health Affairs, the Deputy Associate Commissioner for Health Affairs (Medical), the Directors and Deputy Directors of Bureaus, Regional Food and Drug Directors, and District Directors are authorized to serve as the presiding officer, and to designate other Food and Drug Administration employees to serve as the presiding officer, at a regulatory hearing and to conduct such a hearing pursuant to the provisions of Part 16 of this chapter. An official can serve as the presiding officer in a particular hearing only if he or she satisfies the requirements of § 16.42(b) of this chapter with respect to the action that is the subject of the hearing. Such officials are delegated authority vested in the Secretary of Agriculture by 7 U.S.C. 2217 (43 Stat. 803) to administer or to take from any person an oath, affirmation, or deposition for use in any prosecution or proceeding under, or in enforcement of, any law as cited in this part.

Effective date. This regulation is effective October 30, 1979.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: October 20, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-33171 Filed 10-29-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7652]

Income Tax; Taxable Years Beginning After December 31, 1953; Tax Treatment of Grantors of Certain Options To Buy or Sell

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to changes in the tax treatment of grantors of options to buy or sell certain property. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations provide the public with the guidance needed to comply with these changes.

DATE: The regulations are effective with respect to options granted after September 1, 1976.

FOR FURTHER INFORMATION CONTACT: Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3459).

SUPPLEMENTARY INFORMATION:

Background

On April 19, 1979, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1234 of the Internal Revenue Code of 1954 (44 FR 23262). These amendments were proposed to conform the regulations to section 2136 of the Tax Reform Act of 1976 (90 Stat. 1929). No comments were received with respect to the proposed amendments, and no public hearing was requested or held. The proposed amendments are adopted by this Treasury decision with one technical change.

Explanation

Section 1234, as amended by the Tax Reform Act of 1976, provides that gain or loss from a closing transaction with respect to an option granted in stock, securities, commodities, or commodity futures, and gain on the lapse of such an option, are to be treated as short-term capital gain or loss to the grantor of the option. However, this rule does not apply to an option granted in the ordinary course of a taxpayer's trade or business of granting options. In addition to conforming the regulations to the changes made by the Tax Reform Act of 1976, the amendments adopted by this Treasury decision provide definitions

and several special rules to be used in applying the general rule of section 1234(b).

The Treasury decision makes a technical change to § 1.1234–3(a) of the notice of proposed rulemaking by revising the general rule set forth in that paragraph to follow more closely the statutory language of section 1234(b)(1) of the Code.

The final regulations adopted by this Treasury decision impose no new reporting or recordkeeping requirements. The principal effect of the final regulations is to conform existing regulations under section 1234 of the Code to changes made by the Tax Reform Act of 1976. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Drafting Information

The principal author of this regulation is Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the amendments to 26 CFR Part 1 published as a notice of proposed rulemaking in the Federal Register for April 19, 1979 (44 FR 23262), are hereby adopted as proposed subject to the following change:

Section 1.1234–3(a), as set forth in paragraph 4 of the notice of proposed rulemaking, is revised to read as follows:

§ 1.1234–3 Special rules for the treatment of grantors of certain options granted after September 1, 1976.

(a) *In general.* In the case of the grantor of an option (including an option granted as part of a straddle or multiple option), gain or loss from any closing transaction with respect to, and gain on the lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 1 year (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977).

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: October 18, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

Paragraph 1. Section 1.1234 and the historical note are deleted.

Par. 2. Paragraph (b) of § 1.1234–1 is amended to read as follows:

§ 1.1234–1 Options to buy or sell.

* * * * *

(b) *Failure to exercise option.* If the holder of an option to buy or sell property incurs a loss on failure to exercise the option, the option is deemed to have been sold or exchanged on the date that it expired. Any such loss to the holder of an option is treated under the general rule provided in paragraph (a) of this section. In general, any gain to the grantor of an option arising from the failure of the holder to exercise it, and any gain or loss realized by the grantor of an option as a result of a closing transaction, such as repurchasing the option from the holder, is considered ordinary income or loss. However, for the treatment of gain or loss from a closing transaction with respect to or gain on the lapse of an option granted in stock, securities, commodities or commodity futures, see section 1234(b) and § 1.1234–3. For special rules for grantors of straddles applicable to certain options granted on or before September 1, 1976, see § 1.1234–2.

* * * * *

Par. 3. The heading and paragraph (e) of § 1.1234–2 are amended to read as follows:

§ 1.1234–2 Special rules for grantors of straddles applicable to certain options granted on or before September 1, 1976.

* * * * *

(e) *Effective date*—(1) *In general.* This section, relating to special rules or grantors of straddles, shall apply only with respect to straddle transactions entered into after January 25, 1965, and before September 2, 1976.

* * * * *

Par. 4. A new § 1.1234–3 is added to read as follows:

§ 1.1234–3 Special rules for the treatment of grantors of certain options granted after September 1, 1976.

(a) *In general.* In the case of the grantor of an option (including an option granted as part of a straddle or multiple option), gain of loss from any closing transaction with respect to, and gain on the lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 1 year. (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977).

(b) *Definitions.* The following definitions apply for purposes of this section.

(1) The term "closing transaction" means any termination of a grantor's obligation under an option to buy property (a "call") or an option to sell property (a "put") other than through the exercise or lapse of the option. For example, the grantor of a call may effectively terminate his obligation under the option by either (i) repurchasing the option from the holder or (ii) purchasing from an options exchange a call with terms identical to the original option granted and designating the purchase as a closing transaction. A put or call purchased to make a closing transaction is identical as to striking price and expiration date. Such put or call need not match the granted option in time of creation, date of acquisition, cost of the entire option or units therein, or number of units subject to the option. If such put or call terminates only part of a grantor's obligation under the granted option, a closing transaction is made as to that part.

(2) The term "property" means stocks and securities (including stocks and securities dealt with on a "when issued" basis), commodities, and commodity futures.

(3) The term "grantor" means the writer or issuer of an option.

(4) The term "straddle" means a simultaneously granted combination of an option to buy and an option to sell the means quantity of property at the same price during the same period of time.

(5) The term "multiple option" means a simultaneously granted combination of an option to buy plus an option to sell plus one or more additional options to buy or sell property.

(c) *Nonapplicability to broker-dealers.* The provisions of this section do not apply to any option granted in the ordinary course of the taxpayer's trade or business of granting options. However, the provisions of this section do apply to—

(1) Gain from any closing transaction with respect to an option and gain on lapse of an option if gain on the sale or exchange of the option would be considered capital gain by a dealer in securities under section 1236(a) and the regulations thereunder, and

(2) Loss from any closing transaction with respect to an option if loss on the sale or exchange of the option would not be considered ordinary loss by a dealer

in securities under section 1236(b) and the regulations thereunder.

The preceding sentence shall be applied with respect to dealers in "property" (as defined in paragraph (b)(2) of this section) and without regard to the limitation of the applicability of section 1236 to dealers in securities.

(d) *Nonapplicability to compensatory options.* Section 1234 does not apply to options to purchase stock or other property which are issued as compensation for services, as described in sections 61, 83, and 421 and the regulations thereunder.

(e) *Premium allocation for simultaneously granted options.* The allocation of a premium received for a straddle or multiple option between or among the component options thereof shall be made on the basis of the relative market value of the component options at the time of their issuance or on any other reasonable and consistently applied basis which is acceptable to the Commissioner.

(f) *Effective date.* This section, relating to special rules for the treatment of grantors of certain options, shall apply to options granted after September 1, 1976.

[FR Doc. 79-33552 Filed 10-29-79; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 231

[FR 1348-7]

Denial or Restriction of Disposal Sites; Section 404(c) Procedures

AGENCY: Environmental Protection Agency.

ACTION: Correction to rule.

SUMMARY: Final rules establishing procedures for the use of Section 404(c) of the Clean Water Act were published on October 9, 1979. At that time Appendix A to the Preamble was inadvertently omitted. This appendix, a letter from the Corps of Engineers to EPA, is hereby published in full as a correction to the October 9, 1979, publication.

EFFECTIVE DATE: October 9, 1979.

ADDRESS: Comments submitted on these regulations may be inspected at the Public Information Reference Unit, EPA Headquarters, Room 2922, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, between 8 a.m. and 4 p.m.

FOR FURTHER INFORMATIOIN CONTACT: David G. Davis, Chief, 404 Section, Criteria and Standards Division (WH-585), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone-202-472-3400.

SUPPLEMENTARY INFORMATION: The text of Appendix A reads as follows:

Appendix A

Department of the Army,
Office of the Chief of Engineers,
Washington, D.C., 31 July 1979.

Miss Cathy Weiner,
Environmental Protection Agency,
401 M Street, S.W.,
Washington, D.C.

Dear Miss Weiner: The Corps of Engineers will not issue a permit where notice of an intent to prohibit the discharge under section 404(c) (40 CFR 231.3(a)(1)) has been received by the district engineer. However, it should be noted that the Corps will continue to pursue to a tentative conclusion the evaluation of the application at hand and will notify EPA of that conclusion when it is reached.

Sincerely yours,

Curtis L. Clark,
Chief, Regulatory Functions Branch
Construction-Operations Division.

Dated: October 23, 1979.

Swep T. Davis,
Acting Assistant Administrator.

[FR Doc. 79-33524 Filed 10-29-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 509

[Docket No. 78-56]

Actions To Adjust or Meet Conditions Unfavorable to Shipping in the United States Atlantic and Gulf/European Trades

AGENCY: Federal Maritime Commission.

ACTION: Withdrawal of rule.

SUMMARY: The Federal Maritime Commission is withdrawing its Rule under which tariffs filed by Baltic Shipping Company (Baltic) would be suspended, rejected, or cancelled for failure to provide certain information with respect to its rates and practices. The withdrawal is based on a settlement agreement whereby Baltic has submitted information responsive to the Commission's demands.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Room 11101, 1100 L Street, N.W., Washington, D.C., 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: On February 9, 1979, the Commission published in the **Federal Register** (44 FR 8265-8270) a Rule (46 CFR Part 509) under which the tariffs of Baltic would be suspended, rejected, or cancelled for failure to provide certain information concerning its rates and practices. Subsequent to the publication, Baltic entered into a settlement agreement under which it has supplied the information.

Now therefore, it is ordered, That the submissions of Baltic Shipping Company are found to comply with the demands of the section 21 order issued to Baltic on April 17, 1978;

It is further ordered, That the Rule contained in 46 CFR 509 is withdrawn;

It is further ordered, That this proceeding is hereby discontinued.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 79-33535 Filed 10-29-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 83

[FCC 79-661]

Frequency Allocations and Radio Treaty Matters: General Rules and Regulations; Stations on Shipboard in the Maritime Services; Simplifying Station Identification for Ship Stations Operating Under Temporary Authorizations

AGENCY: Federal Communications Commission

ACTION: Order.

SUMMARY: This item simplifies the procedure for forming the temporary call sign used for ship station identification when operating under a temporary authorization. This action is being taken by the Commission in response to problems raised by the public with the current procedure. This new procedure will simplify the regulatory burden on the public and will allow more effective enforcement of the maritime service.

EFFECTIVE DATE: November 6, 1979.

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

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Order

Adopted: October 16, 1979.
Released: October 24, 1979.

In the matter of Amendment of Parts 2 and 83 of the Commission's rules to simplify station identification for ship stations operating under temporary authorizations.

By the Commission:

Background

1. On January 11, 1979, the Commission released an Order (FCC 78-846) implementing a system of temporary authorizations for ship stations in the Maritime Services. The purpose of this action was to provide a method of "instant" licensing, thereby providing the boating public with more convenient service when applying for a radio license.

2. Under this system, a person wishing to become a ship station licensee would complete FCC Form 506, *Application for Ship Radio Station License*, and mail it to the Commission. The applicant would also complete FCC Form 506-A, *Temporary Operating Authority, Ship Radio Station License and Restricted Radiotelephone Operator Permit*, to determine that he or she meets the requirements for holding a temporary permit. FCC Form 506-A also gives the applicant instructions on how to construct a temporary call sign. This call sign, which is normally determined by the vessel's documentation or state registration number, is used until receipt of the applicant's regular ship station call sign and license.

The Problem

3. While the Commission has received many comments from the marine community applauding simplification of the licensing procedure, there have been some problems regarding the makeup of the temporary call sign.

4. It was originally felt that any temporary call sign used in the Maritime Services had to conform with the international Radio Regulations, specifically Radio Regulation No. 766. This regulation provides that ship stations use call signs consisting of "two or three letters followed by four digits (other than the digits 0 or 1 in cases where they immediately follow a letter)." The basic concept was therefore to modify the boat's documentation or registration number as necessary to obtain the proper format, e.g., a boat with the state registration number of MD 23436 would have a temporary call sign of WMD 2345. Unfortunately, the exceptions (namely, that 0 or 1 could not follow a letter, and that at least one state used only three numerals in their registration number) tended to complicate an otherwise simple procedure. In addition, this system did not permit the assignment of unique call signs. Since only four of the numerals in the documentation or state registration number were used, several boats could have identical temporary call signs.

The Solution

5. In order to solve this problem, we have reviewed the Radio Regulations to determine if a simpler method of forming the temporary call sign is available.

6. Under the Radio Regulations, the United States can form call signs beginning with the letters K, N and W (Radio Regulation No. 747). The Radio Regulations also permit an official registration mark to be used as a call sign (Raido Regulation No. 737 Mar 2). In addition, deviations from the international format are permitted in certain instances (Radio Regulation No. 744). By applying these provisions, we have been able to simplify the procedure of forming the temporary call sign.

7. The basic format we are proposing would consist of the letter "K" followed by the complete state registration number or the letters "KUS" followed by the complete documentation number in the case of documented vessels. For example, a boat with the state registration number of MD 1234 A would have a temporary call sign of KMD 1234A. This simple procedure would apply to most boats. In those few cases where the boat does not have to be registered, identification of the ship radio station shall be made by using the boat's name and the name of the licensee of the ship radio station.

8. Adoption of this procedure simplifies the regulatory burden on the public and will be particularly beneficial to recreational boat operators. In addition, this procedure provides for the assignment of unique call signs which will allow more effective enforcement procedures by FCC field personnel.

9. Regarding questions on matters covered in this document contact Robert H. McNamara, Telephone (202) 632-7175.

10. Accordingly, for the reasons stated above, IT IS ORDERED That Parts 2 and 83 of the Commission's Rules ARE AMENDED as set forth in the attached Appendix effective November 6, 1979.

11. Authority for these amendments appear in Sections 4(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended. In that the amendments adopted herein are editorial and procedural in nature, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553 are not applicable. Further, such notice and public procedure provisions are impracticable, unnecessary and contrary to the public interest since the public convenience requires the implementation of new temporary authorization regulations as soon as possible, and it is unlikely that significant changes would be proposed by comments from the public. In addition, because the subject amendments relieve a rule restriction by permitting ship station applicants to operate their radio stations prior to issuance of their regular station licenses, the effective date requirements of the Administrative Procedure Act are inapplicable and these amendments may, for good cause, become effective immediately.

Secs. 2, 3, 4, 5, 301, 303, 307, 308, 309, 315, 317, 48 Stat., as amended, 1064, 1065, 1066, 1068, 1081, 1082, 1083, 1084, 1085, 1088, 1089; 47 U.S.C. 152, 153, 154, 155, 301, 303, 307, 308, 309, 315, 317.

Federal Communications Commission,

William J. Tricarico,

Secretary.

Appendix

Parts 2 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Section 2.303 is amended by adding a new paragraph (c) to read as follows:

§ 2.303 Other forms of identification of stations.

* * * * *

(c) Ship stations operating under a temporary operating authority shall identify by a call sign consisting of the letter "K" followed by the vessel's Federal or State registration number, or a call sign consisting of the letters "KUS" followed by the vessel's documentation number. However, if the vessel has no registration number or documentation number, the call sign shall consist of the name of the vessel and the name of the licensee as they appear on the station application form.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

In § 83.38, paragraph (d) is amended and footnote [1] deleted, to read as follows:

§ 83.38 Assignment of call signs.

* * * * *

(d) Ship stations, except those in (c) above, operating under temporary operating authority shall have call signs consisting of the letter "K" followed by the vessel's Federal or State registration number, or the letters "KUS" followed by the vessel's documentation number. However, if the vessel has no registration number or documentation number, the call sign shall consist of the name of the vessel and the name of the

licensee as they appear on the station application form.

[FR Doc. 79-33521 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 79-150; RM-3344]

Radio Broadcast Services; FM Channel Assignment to Murfreesboro, Ark.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Murfreesboro, Arkansas, in response to a petition filed by Ball Broadcasting Company. The channel can be used to bring a first local aural broadcast service to the community.

EFFECTIVE DATE: December 4, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: October 19, 1979.

Released: October 24, 1979.

In the matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Murfreesboro, Arkansas), BC Docket No. 79-150, RM-3344.

By the Acting Chief, Policy and Rules Division.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, adopted June 7, 1979, 44 FR 34981, proposing the assignment of FM Channel 237A to Murfreesboro, Arkansas, as a first FM assignment. The *Notice* was issued in response to a petition filed by Ball Broadcasting Company ("petitioner"). Petitioner filed supporting comments reaffirming its intention to file for the channel, if assigned. No other responses to the petition were received.

2. Murfreesboro (pop. 1,350)[1], seat of Pike County (pop. 8,711), is located approximately 161 kilometers (100 miles) southwest of Little Rock, Arkansas. There is no local aural broadcast service in Murfreesboro.

3. Petitioner states that, according to the Murfreesboro Chamber of Commerce, the community's population is currently 1,540, an increase since 1970. It points out that there is no local aural broadcast service in Pike County, and notes the proposed station could be used to provide a forum for programs dealing with community problems in the area, in addition to filling a need for coverage of important news items, including storm alerts and nighttime sports.

4. We believe that the public interest would be served by the assignment of Channel 237A to Murfreesboro, Arkansas. An interest has been expressed for its use, and such an assignment could provide the community and Pike County with a first fulltime local aural broadcast service.

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

6. In view of the foregoing, IT IS ORDERED, That effective December 4, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments IS AMENDED to read as follows:

City	Channel No.
Murfreesboro, Arkansas	237A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 79-33515 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

Radio Broadcast Services; FM Channel Assignment to Osage City, Kans.

[BC Docket No. 79-135]

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A FM channel to Osage City, Kansas, in response to a petition filed by William P. Turney. This channel could be used to provide a first local aural broadcast service to the community.

EFFECTIVE DATE: December 4, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: October 18, 1979.

Released: October 24, 1979.

In the matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Osage City, Kansas), BC Docket No. 79-135, RM-3290.

By the Chief, Broadcast Bureau.

1. On May 31, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 33440, proposing the assignment of FM Channel 224A to Osage City, Kansas, as its first FM channel, in response to a petition filed by William P. Turney ("petitioner"). Supporting comments were filed by petitioner in which he stated that he will promptly apply for the channel, if assigned.

2. Osage City (pop. 2,600), in Osage County (pop. 13,352)[1], is located approximately 48 kilometers (30 miles) south of Topeka, Kansas. There is no local aural broadcast service in Osage City.

3. Petitioner states that Osage City is the largest city in Osage County, deriving its main source of income from agriculture, retail businesses, industry and tourism. He has submitted sufficient information with respect to Osage City to demonstrate its need for a first FM assignment.

4. We believe the public interest would be served by the assignment of Channel 224A to Osage City, Kansas. A demand has been shown for its use, and such an assignment could be used to provide the community with a station which would render a first local aural broadcast service. The assignment can be made in conformity with the minimum distance separation requirements.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. Accordingly, IT IS ORDERED, That effective December 4, 1979, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, IS

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

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

AMENDED with regard to the community listed below:

City	Channel No.
Osage City, Kansas	224A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-33518 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79–122]

Radio Broadcast Services; FM Channel Assignment to Duncan, Okla.

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a second Class A FM channel to Duncan, Oklahoma, in response to a petition filed by R & R Broadcasting, Inc. The channel could be used to provide a second fulltime local aural broadcast service to the community.

EFFECTIVE DATE: December 4, 1979.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: October 18, 1979.

Released: October 24, 1979.

In the matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Duncan, Oklahoma), BC Docket No. 79–122, RM–3119.

By the Chief, Broadcast Bureau:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted May 18, 1979, 44 FR 31673, in response to a petition filed by R & R Broadcasting, Inc. ("petitioner"). The *Notice* proposed the assignment of FM Channel 244A to Duncan, Oklahoma, as its second Class A FM assignment. Petitioner filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Duncan (pop. 19,718), seat of Stephens County (pop. 35,902) [1], is located approximately 113 kilometers (70 miles) southwest of Oklahoma City. It is served locally by daytime-only AM Station KRHD, and co-owned Station KRHD–FM.

3. No existing or proposed FM channel assignments would be affected by this proposal. However, in the *Notice* we pointed out that if Channel 243 were assigned to Elk City, Oklahoma, as proposed [2], a station on Channel 244A would have to meet the applicable first-adjacent spacing requirement (168 kilometers (105 miles)). Since Channel 243 was assigned to Elk City and Duncan and Elk City are 167 kilometers (104 miles) apart, Channel 244A can be assigned to Duncan where a site can be selected which meets the minimum distance separation requirements.

4. Preclusion would occur only on Channel 244A. Two communities (Comanche, Okla. and Iowa Park, Tex.) with populations greater than 1,000 and which have no FM assignments or AM stations, are located in the precluded area. Petitioner shows that alternate FM channels are available for assignment to these communities.

5. We have given careful consideration to the proposal in this proceeding and believe that Channel 244A should be assigned to Duncan, Oklahoma. Under our population criteria, Duncan qualifies for a second FM assignment. A demand has been shown for its use and it would provide for a second local FM broadcast service to a growing community.

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

7. In view of the foregoing, IT IS ORDERED, That effective December 4, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, IS AMENDED as it pertains to the community listed below:

City	Channel No.
Duncan, Oklahoma	244A, 272A

8. It is further ordered, that this proceeding is terminated.

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

[2] On September 21, 1979, Channel 243 was assigned to Elk City, Oklahoma, by *Report and Order* in docket No. 78–225.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-33516 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1402]

The Atchison, Topeka and Santa Fe Railway Co. and the Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1402.

SUMMARY: This order authorizes The Atchison, Topeka and Santa Fe Railway Company (ATSF) to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Dodge City, Kansas, due to track embargoes between Dodge City and Bucklin, Kansas, in order to serve industries which would otherwise be deprived of railroad service.

EFFECTIVE DATE: 12:01 a.m., October 23, 1979, and continuing in effect until December 3, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, (202) 275–7840.

Decided October 22, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) between Dodge City and Bucklin, Kansas, is embargoed due to track conditions, depriving shippers at Dodge City of essential railroad service by RI. The Atchison, Topeka and Santa Fe Railway Company (ATSF) serves Dodge City, Kansas, and has consented to operate over the tracks of the RI in Dodge City to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the ATSF.

It is the opinion of the Commission that an emergency exists requiring the operation of ATSF trains over these tracks of the RI in the interest of the public; 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,

§ 1033.1402 The Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Dodge City, Kansas.

(a) The Atchison, Topeka and Santa Fe Railway Company (ATSF) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Company (RI) at Dodge City, Kansas, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the ATSF over the tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the ATSF over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 23, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 3, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

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. Notice of this order shall 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 a copy 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.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33532 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1404]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1404.

SUMMARY: This order authorizes the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) in Washington, Iowa, due to track embargoes east of Columbus Junction, Iowa, between Ainsworth and Washington, Iowa, in order to serve industries which would otherwise be deprived of railroad service.

EFFECTIVE: 12:01 a.m., October 20, 1979, and continuing in effect until December 3, 1979.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter (202) 275–7840.

Decided October 19, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) east of Columbus Junction, Iowa, between Ainsworth and Washington, Iowa, is embargoed due to track conditions depriving shippers located adjacent to these tracks in Washington of essential railroad service by the RI. The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) connects with the RI at Washington and has consented to operate over the tracks of the RI in Washington to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the MILW.

It is the opinion of the Commission that an emergency exists requiring the operation of MILW trains over these tracks of the RI in the interest of the public; 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,

§ 1033.1404 Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company.

(a) The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Company (RI) in Washington, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the MILW over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MILW over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 20, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 3, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126).)

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. Notice of this order shall 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 a copy 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. Robert S. Turkington not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33530 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Service Order No. 1403]

Union Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Beatrice, Nebr.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1403.

SUMMARY: This order authorizes the Union Pacific Railroad Company (UP) to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Beatrice, Nebraska, due to track embargoes between Beatrice and Jansen, Nebraska, in order to serve industries which would otherwise be deprived of railroad service.

EFFECTIVE 12:01 a.m., October 23, 1979, and continuing in effect until December 3, 1979.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, (202) 275–7840.

Decided October 22, 1979.

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) is embargoed due to track conditions between Jansen and Beatrice, Nebraska, depriving RI shippers located adjacent to these tracks in Beatrice of essential railroad service. The Union Pacific Railroad Company (UP) connects with

the RI at Beatrice and has consented to operate over the tracks of the RI in Beatrice to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the UP.

It is the opinion of the Commission that an emergency exists requiring the operation of UP trains over these tracks of the RI in the interest of the public; 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,

§ 1033.1403 Union Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Beatrice, Nebraska.

(a) The Union Pacific Railroad Company (UP) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Company (RI) at Beatrice, Nebraska, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the UP over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the UP over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 23, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 3, 1979, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. (10304–10305 and 11121–11126)).

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. Notice of this order shall 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 a copy 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.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33531 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 44, No. 211
Tuesday, October 30, 1979

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

DEPARTMENT OF ACRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department is issuing proposed amendments to the regulations for the Summer Food Service Program as required by section 13 of the National School Lunch Act, as amended. The proposed rule would amend the regulations by giving State agencies the discretionary authority (with FNS concurrence) to determine "rural" pockets in Standard Metropolitan Statistical Areas. This would enable State agencies to deal with problems encountered with the current definition of "rural". The proposed rule also adopts the optional use of statistical monitoring of feeding sites and changes the Regional Office management evaluation requirements. These changes provide both the State agencies and regional offices with greater flexibility in their management of the Program.

DATE: To be assured of consideration, comments must be received on or before November 26, 1979.

ADDRESS: Written comments should be sent to Mr. Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. Copies of all written comments received will be available for inspection by the public during normal business hours in room 620, 500 12th Street, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Either Mr. Benderly or Ms. Beverly Walstrom at the above address or by telephone at 202–447–6509.

SUPPLEMENTARY INFORMATION: The Summer Food Service Program (SFSP) is authorized by section 13 of the National School Lunch Act, as amended by Public Law 95–166, approved November 10, 1977. That section requires, in part, that the Department issue proposed regulations for the SFSP annually by the first day of November. Final regulations must be issued by January 1 of each year. Based on a year's experience administering the SFSP under regulations issued in January 1979 at 44 FR 8 and on comments and suggestions received from various sources, the Department has determined it appropriate to propose certain changes in Program regulations, many of which are of a technical nature. The following describes the proposed changes.

Definitions

Income accruing to the Program. The current regulations limit income to the Program as an offset to operating costs. Prior to 1978 such income was deducted from gross costs (combined operating and administrative costs). In 1978 the cost definitions in the regulations were revised, and income to the program was inadvertently difined to be deductible only from operating costs. Therefore, the Department is proposing an amendment to the definition of "income accruing to the Program" which will allow for the deduction of Program income from combined operating and administrative costs.

Operating costs. The Department is amending the definition of "operating costs" to be consistent with the proposed change in "income accruing to the Program." In addition, some confusion occurred over the current definition of "operating costs" which includes "transportation costs for rural sponsors." This provision was intended to permit rural sponsors to claim the cost of transporting children to a central feeding location. For the purpose of clarity the Department is proposing an amendment to this definition to ensure that only rural sponsors will be permitted to claim transportation costs of children within rural areas as an operating cost. This provision does not allow for costs incurred to administer the Program, such as mileage to monitor feeding sites. The transportation of children is an operating cost and cannot be claimed as an administrative cost.

Rural. As discussed in the Preamble to the 1979 Progrram regulations (44 FR 8) the Department has considered revisions to the definition of "rural" which would include "pockets" of rurality in counties within Standard Metropolitan Statistical Area. However, the Department has not been able to develop a universally applicable definition based on the varied data collected during the operation of this year's Program; for instance, the problems encountered with the application of the current definition in the New England Region are not the same as those encountered in the Southwest Region. Many of these problems are due to differences in individual State and local divisions and subdivisions of counties, townships, etc. Therefore, the Department is proposing as an option to State agencies an amendment to the definition of "rural" which will allow States, with FNS Regional Office concurrence, the discretion to determine "pockets" of rurality within a Standard Metropolitan Statistical Area.

Statistical Sampling

The Department designated the summer of 1979 as a "training" year to evaluate the effectiveness of statistical monitoring in the Summer Food Service Program (SFSP). State agencies and Regional Offices were encouraged to participate in the test year by using statistical monitoring as an alternate system of fulfilling the monitoring requirements for the summer of 1979.

Washington, D.C., staff visited most Regional Offices to provide a review and orientation on the principles of statistical monitoring. The Department issued guidelines for State agencies when using statistical sampling, and required State agencies to establish a system for corrective action by sponsors. Pilot projects for the summer for 1979 were New York City, Atlanta, Dallas and Louisville.

The Food and Nutrition Service (FNS) Office of Policy, Planning and Evaluation contracted with a private firm to conduct the evaluation of the effectiveness of statistical monitoring in the SFSP. To obtain a context and framework for the study, the Department and the evaluators determined that in addition to the pilot projects, a thorough analysis of the results would necessitate the use of sponsors monitored under regular methods. The evaluation was in the

form of individual case studies based on the pilot and the comparison sponsors. The draft report of the independent evaluation suggested that statistical monitoring could be an effective management tool when implemented on a selective basis. The report indicated that statistical monitoring can be effective when used in monitoring four specific types of sponsors: (1) sponsors new to the SFSP, since a higher degree of monitoring and technical assistance is normally required to aid in successful implementation of the Program; (2) sponsors whose past performance has been poor; (3) sponsors who service a variety of site types, and (4) sponsors whose sites are supervised by personnel not directly employed by the sponsor. The evaluation suggested that the guidelines specified above generally apply to sponsors operating more than 40 or 50 sites since, with this number of sites, statistical sampling will likely be beneficial to the Program.

Therefore, based on the results of the evaluation, and on information received during meetings with Regional Office and State agency representatives, the Department is proposing that statistical monitoring in the SFSP be at the option of the administering agency.

The Department considered mandating statistical monitoring in all States; however, results of the 1979 test year indicate that statistical monitoring may contribute to administrative complexities, increased State administrative costs and cause problems in recruiting sponsors and venders. The Department's major concern was the negative impact that mandated statistical monitoring would have on State administrative expenses as a result of an increased monitoring burden. For example, if a 60-site sponsor were monitored under current regulations (225.5(b)(4)), the administering agency's only review requirement would be to visit nine sites during the first four weeks of Program operations; whereas, under current statistical monitoring procedures, the administering agency would be required to visit 50 sites over the length of the sponsor's operation (usually eight or nine weeks). Nevertheless, despite the possible increased costs, management benefits may accrue from statistical monitoring. Furthermore, if a sponsor has approximately 150 sites, statistical procedures may involve fewer resources since the monitoring requirement is distributed over the entire summer, rather than being concentrated in the first four weeks (as with regular monitoring).

The Department also considered deleting entirely the use of statistical monitoring in the SFSP. However, as stated previously, the evaluation for the 1979 pilot projects and comparison sponsors does indicate that for certain types of sponsors statistical monitoring can be a superior method of monitoring as a management tool, in terms of identification of deficiencies and corrective action.

In view of these possibilities, the Department is proposing to allow States the option of using statistical monitoring, for some or all of its sponsors in lieu of regular monitoring requirements when the State agency determines it to be desirable and effective, thus providing State agencies maximum flexibility. FNS will develop guidance outlining statistical monitoring procedures; States should use the procedures provided by FNS, or develop alternate procedures which FNS must approve prior to implementation. If the State agency determines that the quality of the data permits, it will be used for management purposes and may be used as one factor in the settlement of claims. As in the past, the Office of the Inspector General will continue to use statistical sampling in their audits of the SFSP. The findings will be used for management purposes and may be used for claims determination.

Standards for Auditors

Subsequent to publication of the 1979 Summer Program regulations, an inconsistency surfaced with requirements in Appendix I of the *Standards for Audit of Government Organization, Programs, Activities and Functions* Printed by the General Accounting Office. These standards allow audits of Federal programs to be performed by Certified Public Accountants and accountants employed by State and local government. In addition, they include a "grandfather" clause establishing eligibility for public accountants licensed by a State (or other political subdivision of the United States) prior to December 31, 1970.

Section 225.5(q)(2) of the 1979 regulations inappropriately included all State licensed public accountants regardless of the date on which they were licensed, while Section 225.9(k) omitted licensed public accountants altogether. The proposed regulations correct these discrepancies and establish consistency with the General Accounting Office standards.

Payment and Use of State Administrative Funds

The Department currently requires that two assessments of State agency operations be conducted annually by Regional Offices to determine the need for Program funds and State administrative funds. Based on past experience, the Department is concerned that both funding assessments occur too early in the Program to be of any real value. The current initial assessment does not reflect true Program participation levels because it is conducted before the sponsor applications are approved; and the current aid-program assessment does not provide claims data because it is conducted in July before actual data from claims is available. The Department is convinced that collecting this data in these timeframes is ineffective. Therefore, the Department is proposing that the current assessments be eliminated. They will be replaced by one management evaluation and a subsequent data collection effort. The management evaluation will encompass all aspects of the State's planned procedures for the coming summer. Its purpose is to determine areas of potential Program weakness at a point in time early enough to allow for the implementation of corrective action. Therefore, the management evaluation must be conducted prior to the commencement of Program operations.

The data collection phase is necessary to determine funding needs. It is the Department's intention to base this phase on the Program participation levels as approved by the States in the application approval process. The data will be collected during the period of Program operations after the application approval process has been completed, but no later than August 1.

These changes do not diminish in any way the responsibilities of the Regional Offices to provide assistance and monitoring throughout the operations of the Program.

Studies of Administrative and Operating Costs

During the summer of 1977 the Department conducted a study of administrative and operating costs incurred by sponsors participating in the Summer Food Service Program. This study was based on available records provided by the States and Regional Offices. Due to the inadequacies of available data, another study was conducted in the 1978 Summer Program using primary data collected directly in the field from sponsors, sites, State agencies and Regional Offices. Stratified random samples of ten percent of vended sponsors and five percent of on-site sponsors were selected from a complete listing of those approved as of June 30, 1978. Based on the analysis of

the administrative costs of sponsors and sites as well as public comments on proposed regulations, two categories of sponsors (those operating rural and self-preparation sites) were allowed to earn higher administrative payments during the summer of 1979 than were other sponsors. The Department is expecting to continue this administrative rate differential.

The 1978 study also collected data on operating costs of various categories of sponsors (e.g. vended vs. Self-preparation, urban vs. rural). Unlike the comprisons of administrative costs, where statistically significant differences in costs among the various categories of sponsors were found, no statistically significant differences in operating costs were found in analyzing operating cost data for the various categories of sponsors. Therefore, the Department is not proposing any changes in the reimbursement structure for operating costs, other than those brought about by adjustment of rates due to changes in the Consumer Price Index Series for Food Away From Home for All Urban Consumers.

Meal Patterns

Bread Alternates. The proposed regulations expand the list of creditable bread alternates to include the serving of rice, pasta, or other cereal grains, such as bulgur and corn grits. To ensure nutritional value, rice must be enriched or whole-grain, and noodles, macaroni, or other pasta products must be made from enriched or whole-grain flour. Allowing rice and pasta as creditable food items should permit menus to incorporate greater variety and increased flexibility, especially in areas of the nation where rice or pasta is culturally or ethnically a staple component of the diet. Further, it is believed this flexibility will be helpful in decreasing plate waste and reducing excess calories in meals which have been providing both bread and a bread alternate in the same menu.

In addition to the above changes, the Department is also differentiating between portion sizes of hot and cold cereal to maintain nutritional equivalency. Accordingly, portion sizes are adjusted to require ¾ cup of cold dry cereal and ½ cup hot cooked cereal. The need for this change became apparent as a result of the addition of new creditable cereal items.

Program Payment Procedures

In the January 2, 1979, revision of the SFSP regulations, one of the criteria for determining the total Program payment paid to a sponsor for administrative costs was inadvertently omitted. In section 225.13(f), "the approved administrative budget and any amendments thereto" is reinserted.

Comment Period

The Department is providing a 25-day comment period on these regulations. It is recognized that this period of time is shorter than that normally allotted, but legislation mandates that final regulations be published by January 1. Administering agencies at all levels must have an adequate amount of time to plan and prepare for the Summer Program. A delay in the issuance of regulations would violate Pub. L 95–166 and result in severe timing problems. Hence the Department believes this it is in the best interest of the Program and that the public will not be adversely affected by this shortened period. This determination has been made by Robert Greenstein, Administrator, Food and Nutrition Service, USDA.

Accordingly, the Department is issuing proposed amendments to Part 225 as follows:

1. In § 225.2, a new sentence is added to paragraph (n) and paragraphs (s) and (x) are amended to read as follows:

§ 225.2 Definitions.

* * * * *

(n) * * * Income accuring to the Program will be deducted from combined operating and administrative costs.

* * * * *

(s) "Operating costs" means the cost of operating a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, (4) rental and use allowances of equipment and space and (5) costs for transporting children is rural areas to feeding sites in rural areas, but excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing building, (iii) interest costs, (iv) the value of in-kind donations, and (v) administrative costs.

* * * * *

(x) "Rural" means (1) any county which is not a part of a Standard Metropolitan Statistical Area as defined by the Office of Management and Budget and (2) any "pockets" within the Standard Metropolitan Statistical Area which are geographically isolated from an urban area, and approved by the State agency, with FNSRO concurrence.

* * * * *

2. In § 225.5 paragraph (q)(6) is deleted, a new paragraph (b)(11) is added and the last sentence of paragraph (q)(2) is amended to read as follows:

§ 225.5 Responsibilities of State agencies.

* * * * *

(b) * * *

(11) State agencies may use statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraphs (b) (4), (5) and (6) of this section to accomplish the monitoring and technical assistance aspects of the Program. FNS will develop guidance outlining statistical monitoring procedures. States should use the statistical procedures provided by FNS, or develop alternate procedures obtaining FNS approval prior to implementation. Statistical monitoring may be used for some or all of a State's sponsors. Use of statistical monitoring does not eliminate the sponsor administrative review requirements in paragraphs (b) (4) and (6).

* * * * *

(q) * * *

(2) * * * Audits shall be conducted by: State agency internal auditors; State Auditors General; State Comptroller's Office; other comparable State or local audit groups; Certified Public Accountants; or public accountants licensed on or before December 31, 1970, and currently certified or licensed by the regulatory authority of the State or other political subdivision of the United States.

* * * * *

3. In § 225.7 paragraphs (e) and (g) are revised to read as follows:

§ 225.7 Payment and use of State administrative funds.

* * * * *

(e) The balance of State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the funding evaluation provided for in paragraph (g) of this section, and shall be in an amount equal to that obtained by applying the formula set forth in paragraph (a) of this section to the State's actual program size as determined by information obtained during the funding evaluation, less the amounts paid under paragraphs (c) and (d) of this section. As provided for in paragraph (g) of this section, further adjustments in the levels of State administrative funding paid or payable to a State may be made.

* * * * *

(g) FNSRO shall conduct an annual evaluation of program operations within each State agency, for management purposes, to determine program needs and identify potential problem areas. Based on information obtained during

this assessment, FNSRO may provide training or technical assistance to the State agency. This management evaluation shall be conducted prior to the initiation of program operations. In addition, FNSRO shall collect data on the need for Program and State administrative funding within each State agency. Based on this data FNS may make adjustments in the level of State administrative funding paid or payable to the State agency to reflect changes in the size of the State's Program as compared to that contained in its Management and Administration Plan. The data shall be based on approved Program participation levels and collected during the period of Program operations, but no later than August 1. Immediately following such data collection, payment of State administrative funds shall be made to the State agency. Such payment may reflect adjustments in the level of State administrative funding, based on the information collected. FNS shall not decrease the amount of a State's administrative funds unless the State did not make reasonable efforts to administer the Program as it proposed in its Management and Administration Plan, or unless the State incurred expenses that were not necessary.

* * * * *

4. In § 225.9 the first sentence of paragraph (k) is amended to read as follows:

§ 225.9 Requirements for participation.

* * * * *

(k) * * * by an independent State or local government accountant, an independent Certified Public Accountant, or an independent public accountant licensed on or before December 31, 1970, and currently certified or licensed by the regulatory authority of the State or other political subdivision of the United States * * *

* * * * *

5. In § 225.10 paragraphs (a)(1)(iii), (a)(2)(iv) and (a)(3)(iv) are amended to read as follows:

§ 225.10 Food service requirements.

(a) * * *

(1) * * *

(iii) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or ¾ cup (volume) or 1 ounce (weight), whichever is less, of whole-grain or enriched or fortified cold dry cereal; or ½ cup of cooked whole-grain or enriched rice, macaroni, noodles, other whole-grain or enriched pasta products, or other cereals or cereal grains such as cooked rolled oats, bulgur, or corn grits.

(2) * * *

(iv) One slice of whole-grain or enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or ½ cup of cooked whole-grain or enriched rice, macaroni, noodles, other whole-grain or enriched pasta products, or other cereal grains such as bulgur or corn grits.

(3) * * *

(iv) One slice of whole-grain enriched bread; or an equivalent quantity of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour; or three-fourths cup (volume) or one ounce (weight), whichever is less, of whole-grain or enriched or fortified cold dry cereal; or ½ cup of cooked enriched or whole-grain rice, macaroni, noodles, other enriched or whole-grain pasta products, or other cereals or cereal grains such as cooked rolled oats, bulgur, or corn grits.

* * * * *

6. In § 225.13 the last sentence of paragraph (f) is amended to read as follows:

§ 225.13 Program payment procedures.

* * * * *

(f) * * * The total Program payment paid to a sponsor for administrative costs shall not exceed the lesser of: (1) The approved administrative budget and any amendments thereto or (2) actual expenditures incurred for administrative costs or (3) the per-meal administrative rates contained in § 225.8(c) times meals by type actually served to eligible children.

* * * * *

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Jordan Benderly.

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-33708 Filed 10-29-79; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Price-Undercutting of Domestic Cheese by Quota Cheeses

AGENCY: Office of the Secretary.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: It is proposed that the procedures set forth herein shall be applicable to a the determination by the Secretary of Agriculture as to whether the price at which any article of quota cheese is being offered for sale in the United States on a duty-paid wholesale basis is less than the domestic wholesale market price of similar articles produced in the United States as provided in section 702 of the Trade Agreements Act of 1979 (P.L. 96-39, 93 Stat. 144, 19 U.S.C. 1202 note), hereinafter referred to as the Act. The Act requires the issuance of regulations pursuant to which determinations as to the "domestic wholesale market", "domestic wholesale market price", and the "duty-paid wholesale price" shall be made.

DATE: In order to assure consideration, written comments on the proposed rule must be received by December 31, 1979.

ADDRESSES: Comments should be addressed to: Head, Dairy and Import Group, U.S. Department of Agriculture, Room 6616, South Building, 14th & Independence Avenue, S.W., Washington, D.C. 20250. Copies of all written comments received will be available for examination by interested persons in Room 6622, South Agriculture Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Carol M. Harvey, Head, Dairy and Import Group Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service, Room 6616, South Agricultural Building, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-5270.

SUPPLEMENTARY INFORMATION: Section 702 of the Act requires the President to prohibit, in whole or in part, the entry of or to impose a fee on any article of quota cheese with respect to which it has been determined (1) by the Secretary of the Treasury that a foreign government has been providing a subsidy and (2) by the Secretary of Agriculture that the duty-paid wholesale price of such cheese is less than the domestice wholesale price of a similar article produced in the United States. The proposed Treasury regulations governing the making of determinations

with respect to the providing of subsidies are set forth at 44 FR 57044, 57057 (Federal Register for Wednesday, October 3, 1979).

Accordingly, it is proposed to amend Part 6 of Title 7 of the Code of Federal Regulations by adding a new Subpart—*Price-Undercutting of Domestic Cheese by Quota Cheeses* as follows:

Subpart—Price-Undercutting of Domestic Cheese by Quota Cheeses

§ 6.40 General.
§ 6.41 Definitions.
§ 6.42 Complaints of Price-Undercutting.
§ 6.43 Determinations.

Authority: Sec. 702, P.L. 96–39, 93 Stat. 144 (19 U.S.C. 1202 note).

§ 6.40 General.

This subpart sets forth the procedures applicable to the determination by the Secretary of Agriculture as to whether the price at which any article of quota cheese is being offered for sale in the United States on a duty-paid wholesale basis is less than the domestic wholesale market price of similar articles produced in the United States (i.e., price-undercutting) in accordance with Section 702 of the Trade Agreements Act of 1979 (P.L. 96–39, 93 Stat. 144, 19 U.S.C. 1202 note), hereinafter referred to as the Act.

§ 6.41 Definitions.

(a) "Complainant" means the person who has filed with the Investigating Authority, in accordance with the procedures set forth in this Subpart, a written complaint alleging that price-undercutting is occurring.

(b) "Country of origin" means the country, as defined in 17 CFR 134.1(b), in which the quota article subject to this regulation was produced or manufactured.

(c) "Foreign government" means the government of the country of origin or, for purposes of determining whether a subsidy has been provided, the subsidy granting bodies of the European Economic Community.

(d) "Investigating Authority" means the Director, Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service.

(e) "Quota cheese" means the articles provided for in the following items of the Tariff Schedules of the United States:

117.00 (except Stilton produced in the United Kingdom);
117.05 (except Stilton produced in the United Kingdom);
117.15;
117.20;
117.25;
117.42;
117.44;
117.55;
117.60 (except Gammelost and Nokkelost);
117.75 (except goat's milk cheeses and soft-ripened cow's milk cheese);
117.81;
117.86;
117.88 (except goat's milk cheese and soft-ripened cow's milk cheeses).

(f) "Secretary" means the Secretary of Agiculture.

(g) "Subsidy" has the same meaning as in Section 303 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. 1677(5)).

(h) "United States" means the Customs Territory of the United States, which is limited to the United States, District of Columbia and Puerto Rico.

§ 6.42 Complaints of price-undercutting.

(a) Submission of Complaint. Any person who has reason to believe that the price at which any article of quota cheese is offered for sale in the United States on a duty-paid wholesale basis is less than the domestic wholesale market price of similar articles produced in the United States and that a foreign government is providing a subsidy with respect to such article of quota cheese may file with the Investigating Authority a written complaint making such allegation.

(b) Contents of Complaint. Such complaint shall contain, or be accompanied by, information to substantiate complainant's allegations, in substantially the following form:

(1) The name and address of the complainant.

(2) The location of and designation of the domestic wholesale market in which price-undercutting is alleged to be occurring.

(3) The article of quota cheese involved in the alleged price-undercutting.

(4) The country of origin of such article of quota cheese.

(5) The similar domestic article which the complainent believes is being undercut.

(6) The month and year that the complainant first concluded that the price-undercutting was taking place.

(7) To extent known to the complainant, all pertinent facts with regard to the alleged subsidy and, if known, the statutory or other authority under which it is paid, the manner in which it is paid, and the value of such subsidy when received and used by producers or sellers of such quota cheese.

(8) The names and addresses of enterprises believed to be benefitting from the subsidy and exporting the merchandise to the United States.

(9) All other information which the complainant believes substantiates the allegation of price-undercutting, including the complainant's estimate of the domestic wholesale market price of the similar article produced in the United States and the duty-paid wholesale price of the quota cheese involved. If available, samples of the domestic and imported cheese products should be submitted.

(c) Notice of Complaint. A notice that a complaint has been filed and that an investigation will be conducted to determine the validity of the price-undercutting allegation shall be published in the Federal Register.

§ 6.43 Determinations.

(a) Making Determinations. Not later than 30 days after receiving an acceptable complaint alleging price-undercutting, the Secretary shall make a determination as to the validity of the allegation. In making such determination, the following shall apply.

(1) The "duty-paid wholesale price" determined by the Investigating Authority shall be the average of prices at which wholesalers have sold or offered for sale the article of quota cheese alleged to be involved in price-undercutting, as obtained in a survey made by the Investigating Authority during the investigation.

(2) The "domestic wholesale market price" determined by the Investigating Authority for a similar article produced in the United States to that article of quota cheese which is alleged to be involved in price-undercutting shall be the average of prices at which wholesalers have sold or offered for sale the similar article produced in the United States in the designated domestic wholesale market, as obtained in a survey made by the Investgating Authority during the investigation.

(3) The "domestic wholesale market" shall be one or more of the three major U.S. market areas, viz., New York City, Chicago, and San Francisco, and any other market area within the Customs Territory of the United States. Prices in these three major marketing areas shall be used as a guide for calculating representative prices in other market areas, taking due account of special factors which may be affecting prices in the other market areas.

(4) "Similar article produced in the United States" shall be an article of cheese, cheese product, or substitute for cheese produced in the United States and marketed in the domestic wholesale market, which is determined by the Investigating Authority, based upon available information to be most like the imported article of quota cheese alleged

to be involved in price-undercutting, in terms of its physical properties and end use. In making this determination first consideration shall be given to the normal end uses of the article produced in the United States in comparison with the end use of the article of quota cheese alleged to be involved in price-undercutting. If the end use of both articles is determined to be the same (e.g., processing or retail sale), the physical characteristics of the two articles shall be considered. If the common end use of the two articles is processing, the representative samples of the two articles shall be examined in terms of processing quality, taking special note of processing yields. If the common end use of the two articles is retail sale, representative samples of the two articles shall be examined in terms of substitutability by consumers, taking special note of similarities of taste, texture, and general appearance.

(b) Reporting Determinations. Determinations by the Secretary as to the validity of allegations of price-undercutting made under this Subpart shall be published in the **Federal Register** not later than 5 days after the date the determination is made.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Carol M. Harvey, in Room 6622, South Agriculture Building, 14th and Independence, S.W., Washington, D.C. 20250.

Signed this 26th of October 1979.

Thomas R. Hughes,

Administrator, Foreign Agricultural Service.

[FR Doc. 79-33688 Filed 10-29-79; 8:45 am]

BILLING CODE 3410-10-M

Food Safety and Quality Service

7 CFR Part 2853

Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards) Uniforms—Federal Meat Graders

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would add a requirement to the Department's meat grading regulations that Federal meat graders and their supervisory personnel wear clean, white, well-maintained outer frocks at all times while performing any duties involving contact with meat and meat products. This action would help assure the maintenance of the sanitary standards employed by meat graders and their supervisory personnel when working with meat and meat food products and would help maintain the professional appearance deemed appropriate for performing these functions.

DATE: Comments must be received on or before December 31, 1979.

ADDRESSES: Written comments to: Executive Secretariat, Attn: Annie Johnson, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3807, South Agriculture Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: David K. Hallett, Chief, Meat Grading Branch, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, First Floor Mezzanine, Annex Building, Washington, DC 20250, (202) 447-2210.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent, in duplicate, to the Executive Secretariat. Since the comments will be an important consideration in the resolution of this proposal, they should include definitive information which explains and supports the sender's views. Comments should bear a reference to the date and page number of this issue of the **Federal Register.** All comments made pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

The duties of Federal meat graders and their supervisors regularly involve the handling of meat and meat food products in packing and processing plants. For several years, most of these employees have purchased and worn, at their own expense, clean, white frocks in order to maintain an acceptable appearance during working hours and to contribute to the sanitary handling of meat and meat products.

In order to assure the continued wearing of these frocks and to make sure that all meat graders and their supervisors do so, the Department is proposing a regulation to require that all meat graders and supervisory personnel wear clean, white frocks while performing duties involving contact with meat and meat products. Adoption of this proposal would result in a slight increase in costs of grading and accepting services which would be reflected in fees to users of the service. Implementation of specific measures necessary to accomplish the intent of this proposal would be the subject of negotiations between the National Meat Graders' Council, American Federation of Government Employees (AFGE), and the Department.

In view of the foregoing, it is proposed that the meat grading regulations (7 CFR Part 2853) be amended by adding the title of a new § 2853.31 in the Table of Contents and adding a new § 2853.31 to read as follows:

§ 2853.31 Uniforms.

All meat graders and their supervisory personnel are required to wear clean, white, well-maintained outer frocks while performing any function under these regulations involving contact with or the handling of any meat or meat product.

(Agricultural Marketing Act of 1946, Sections 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from Mr. David K. Hallett, Chief, Meat Grading Branch, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, First Floor Mezzanine, Annex Building, Washington, DC 20250.

Done at Washington, D.C., on October 24, 1979.

Thomas P. Grumby,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 79-33526 Filed 10-29-79; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 145

[Docket No. 78N-0354]

Canned Mandarin Oranges; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Notice of Termination of Consideration.

SUMMARY: This notice terminates the review by the United States of the Codex Alimentarius Commission (Codex) "Recommended International

Standard for Canned Mandarin Oranges." The response to the Food and Drug Administration's (FDA's) request for comments on the provisions of the Codex standard and on the desirability of establishing U.S. standards for canned mandarin oranges indicates there is neither sufficient interest nor need to warrant proposing U.S. standards for this food. FDA, therefore, has terminated consideration of developing U.S. standards for canned mandarin oranges based on the Codex standard.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 23, 1979 (44 FR 10721), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex "Recommended International Standard for Canned Mandarin Oranges" and to comment on the desirability and need for U.S. standards for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Two letters were received, one each from the United States Department of Agriculture (USDA), and a canner's association, in response to the advance notice of proposed rulemaking. Only the latter was responsive to the question concerning the need for standards.

The canner's association stated that there is no need for U.S. standards for canned mandarin oranges. The USDA advanced no position on whether U.S. standards for this food are necessary, but, instead, spoke to other considerations.

Having considered the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant proposing U.S. standards at this time for canned mandarin oranges under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedure in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards for canned mandarin oranges based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards for canned mandarin oranges upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard for canned mandarin oranges may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: October 23, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-33331 Filed 10-29-79; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8–R]

Implementation of the Civilian Health and Medical Program of the Uniformed Services; Proposed Amendment No. 3

AGENCY: Office of the Secretary of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed amendment expands benefits under the Civilian Health and Medical Program of the Uniformed Services for computerized axial tomography scanning (CAT scanning) diagnostic services. It adds benefits for whole body CAT scans, and proposes general criteria for determining quality of care and medical necessity for CAT scans.

DATES: It is proposed to make the amendment effective retroactively on or after October 1, 1978. Written public comments must be received on or before November 29, 1979.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Health Resources and Programs), The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: LTC L. Rowlette, Special Assistant for CHAMPUS, telephone 202–695–6281.

SUPPLEMENTARY INFORMATION: In FR Doc. 77–7834, appearing in the Federal Register on April 4, 1977 (42 FR 17972), the Office of the Secretary of Defense published the regulation, DoD 6010.8–R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). It contains the following provisions regarding Computer-Assisted Tomography Scanning (CAT Scanning) diagnostic services:

§ 199.10(b)(5)(x). *Computer-assisted tomography scanning (CAT scanning) diagnostic services.* Use of both the 'general purpose' whole (full) body, and the 'dedicated' head (brain) CAT scanners to examine the head, may be covered. Use of computerized tomography on other parts of the body other than the head is not covered. (a) CAT scanner procedures must be consistant with the diagnosis and symptoms, and performed after other appropriate noninvasive and less costly means of diagnosis have been exhausted. (b) Further, benefits shall be extended only for those scanning procedures performed on a CAT scanner located in an acute general hospital, owned by such hospital and operated by the hospital staff, and, if applicable, to the jurisdiction where located, approved by the regional health planning agency.

At the time of publication, the rationale for limiting CHAMPUS coverage to head scans was that body CAT scans were a relatively new development and not widely accepted. The requirement regarding hospital-based equipment and regional health planning agency approval was aimed at avoiding overutilization of CAT scanning diagnostic services and to avoid encouraging proliferation of this expensive equipment.

Public comments received since publication of the regulation have protested two issues: (a) That CAT scans were the only service or supply within the entire CHAMPUS benefit package for which Health Systems Agency approval was involved, and (b) that the requirement for hospital-based equipment unreasonably prevented patients from access to a medically necessary diagnostic procedure.

Protests regarding the limitation of coverage to scans of the head only have also surfaced.

The regulation provisions concerning CAT scans have now been reexamined from the aspects of reasonableness, beneficiary service, and effectiveness. Additionally, CHAMPUS policy has been compared with other third party programs.

It is agreed that reasonableness of the current regulation language is questionable. The provisions require beneficiaries and providers to be aware of the location, ownership, and operation of a specific piece of diagnostic equipment. Further, the provision requires a beneficiary to question the ordering physician's judgment in referring to a specific scanner and to attempt to modify the physician's orders or forfeit benefit payment. Some beneficiaries and providers consider these provisions as too bureaucratic and some providers as a direct interference in the practice of their profession. It could be claimed that

in some cases, the provisions endanger the health of the patient, if the ordering physician must ignore an acceptable and trusted source of care and send the patient to a more distant scanner to avoid financial hardship to the patient.

The effectiveness of the provisions is also questionable. The implied intent of the provision is cost-containment. They are effective in containing costs in that an entire group of providers is eliminated from benefit consideration. However, the real problem with the cost of CAT scanning is the inappropriate use of the procedure for routine screening or for questionable clinical indications. It would seem that the costs of CAT scanning could be contained more effectively not by limiting the providers who may perform the service, but by specifying those diagnoses and conditions for which the program will make payment. The intent is to do this by revising the language of § 199.10(b)(5).

In August 1978, the Medicare program extended coverage to body scans. It seems appropriate that CHAMPUS does likewise. Consideration of these issues and the conclusions reached have resulted in the recommended regulation amendment. The major changes in this proposed amendment are: (a) Removal of CAT scan provisions from § 199.10(b)(5), *"Extent of institutional benefits,"* and their placement in § 199.10(e), *"Special benefit information."* The reason for this shift is that OCHAMPUS recommends that CAT scans no longer be limited to hospital-based procedures, see (c) below. (b) Addition of coverage for body scans. As discussed earlier, body scans are now sufficiently accepted to warrant CHAMPUS coverage. (c) A complete revision of the criteria for coverage of CAT scans, removing all requirements for hospital-based equipment.

This proposed amendment solves the beneficiary access program; provides coverage for an appropriate diagnostic procedure, and brings the CHAMPUS policy into line with other major health benefits plans.

Accordingly, it is proposed to amend 32 CFR, CHAPTER I, Part 199, reading as follows:

1. Section 199.10 is amended as follows:

a. By deleting the entire paragraph (b)(5)(x) and redesignating (b)(5)(xi) as (b)(5)(x).

b. By deleting the last sentence in paragraph (c)(2)(ix).

c. By adding a new paragraph (e)(14) as set forth below:

§ 199.10 Basic program benefits.

* * * * *

(e) *Special Benefit Information.* * * *

(14) *Computerized Axial Tomography (CAT) Scanning.*

(i) *Approved CAT Scan Services.* Benefits may be extended for medically necessary CAT scans of the head or whole body scans when each of the following conditions are met:

(A) The patient is referred for the diagnostic procedure by a physician; and

(B) The CAT scan procedure is consistent with the diagnosis or symptoms; and

(C) Other noninvasive and less costly means of diagnosis have been attempted or are not appropriate; and

(D) The CAT scan equipment is licensed or registered by the appropriate State agency responsible for licensing or registering medical equipment which emits ionizing radiation; and

(E) The CAT scan equipment is operated under the general supervision and direction of a physician; and

(F) The results of the CAT scan diagnostic procedure are interpreted by a physician.

(ii) *Review Guidelines and Criteria.* The Director, OCHAMPUS, or designee, will issue specific guidelines and criteria for CHAMPUS coverage of medically necessary head and body CAT scans.

* * * * *

d. By deleting paragraph (g)(4) and redesignating existing paragraphs (g)(5) through (78) as (g)(4) through (77).

(10 U.S.C. 1079, 1086, 5 U.S.C. 301)

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

October 24, 1979.

[FR Doc. 79-33592 Filed 10-29-79; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1348-6]

Approval and Promulgation of Implementation Plans; Revision of Maricopa County Urban Planning Area, Nonattainment Area Plan for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On June 11, 1979 (44 FR 33433) EPA published a Notice of Proposed Rulemaking (NPR) for the Maricopa County Urban Planning Area (Phoenix) Nonattainment Area Plan (NAP). A revision to Maricopa County's NAP has been submitted to the EPA by the Governor's designee. The intended effect of this revision is to supplement and supersede portions of the previously submitted Maricopa County NAP in order to meet the requirements of Part D of the Clean Air Act, as amended in 1977, "Plan Requirements for Nonattainment Areas." The June 11, 1979 **Federal Register** notice should be used as a reference in reviewing this notice.

This notice provides a description of the proposed SIP revision, summarizes the applicable Part D requirements, compares the revision to these requirements, identifies major issues in the proposed revision, and suggests corrections. The EPA invites public comments on this revision, the identified issues, suggested corrections, and whether the revision or certain portions of the revision should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: Comments may be submitted on or before November 29, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the Proposed Revision, the Nonattainment Area Plan, and EPA's associated Evaluation Reports are contained in document file NAP-AZ-1 and are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Maricopa Assocation of Governments, 1820 West Washington, Phoenix, AZ 85007.
Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007.
Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

New provisions of the Clean Air, enacted in August 1977, Public Law No. 95-95, require states to revise their SIPs for all areas that do not attain the National Ambient Air Quality Standards (NAAQS). As described in the March 3, 1978 **Federal Register** notice (43 FR 8962), the Maricopa County area has been designated nonattainment for

carbon monoxide, total suspended particulates, and photochemical oxidants (ozone). The national standard for photochemical oxidants of 0.08 ppm was revised on February 8, 1979 (44 FR 8202) by the promulgation of a revised standard for ozone of 0.12 ppm. On February 23, 1979, the Governor's designee submitted the Nonattainment Area Plan for Carbon Monoxide and Photochemical Oxidants for the Maricopa County Urban Planning Area to EPA as a revision to the SIP.

EPA evaluated the submitted plan with respect to the Clean Air Act requirements and published a notice of proposed rulemaking in the Federal Register on June 11, 1979. That notice provided a description of the Maricopa County plan, summarized the Clean Air Act requirements, compared the plan to those requirements, identified major issues and suggested corrections.

On July 2, 1979 (44 FR 38471), EPA published an interpretative ruling regarding the statutory restriction on the construction of new or modified sources under certain circumstances for nonattainment areas. The statutory restriction prohibits the construction of major new sources and/or major modifications for permits applied for after June 30, 1979 if a state plan does not satisfy the requirements of Part D of the Clean Air Act.

On July 3, 1979 the Governor's designee submitted an additional revision to the SIP which supplements and supersedes portions of the plan submitted on February 23, 1979. The intended effect of this revision is to make needed additions and update the ozone portion of the Maricopa County plan.

In this notice and in the June 11, 1979 notice, EPA has specified portions of the plan which are considered deficient with respect to the Part D requirements. As discussed in the July 2, 1979 supplement to the General Preamble (44 FR 38583), EPA may conditionally approve (under Part D) a plan containing minor deficiencies if the State provides assurances that it will submit corrections to the deficient items by a specified deadline negotiated with EPA. A conditional approval (under Part D) will mean that the restriction on new sources will no longer apply unless the state fails to submit corrections by the specified date, or unless the corrections are ultimately determined to be inadequate. Conditional approval will not be granted without strong assurances by the appropriate state officials that the deficiencies will be corrected on schedule.

Description

The July 3, 1979 submittal revises the following elements of the Nonattainment Area Plan for ozone for the Maricopa County Urban Planning Area:

As a result of the new ozone standard, the attainment date has been recalculated and is now expected to occur by 1981 rather than 1985,

The Stage II Vapor Recovery control tactic has been deleted since the State has demonstrated that it is no longer required to attain the revised ozone standard, and

The previous request for an extension of the attainment date for ozone beyond December 31, 1982 has been deleted since it is no longer needed.

Issues

This section addresses the Clean Air Act requirements which are relevant only to the July 3, 1979 revision, identifies major issues in the revision, and suggests corrections. The *Criteria for Approval* that apply to this revision precede each paragraph below. Detailed information about EPA's Criteria for Approval and the Part D requirements for the overall Maricopa County Urban Planning Area Nonattainment Area Plan may be obtained from the June 11, 1979 Federal Register notice.

A. *A provision for expeditious attainment of the standards.* The plan revision addresses the national ambient air quality standard for ozone of 0.12 ppm (44 FR 8202). Changes in control tactics and the attainment date were made possible by the change of the national standard for photochemical oxidants of 0.08 ppm to the standard for ozone of 0.12 ppm. The design value used in the revised plan for control strategy evaluation is acceptable and conforms to EPA's statistical methods (40 CFR 50, Appendix H, 44 FR 8220). The plan revision indicates attainment of the ozone standard by 1981 through a control strategy consisting of vehicular inspection/maintenance, gasoline vapor recovery (Stage I) regulations, voluntary carpooling and voluntary modified work schedules.

B. *A determination of the level of control needed to attain by 1982 and, in the case of an extension request, by 1987.* The reductions needed to attain the ozone standard have been calculated by linear rollback modeling. The rollback model is currently an acceptable technique for the evaluation of control strategies necessary to demonstrate attainment of the ozone NAAQS for the 1979 plan revision.

C. *Adoption in legally enforceable form of all measures necessary to provide for attainment or, where adoption by 1979 is not possible, a schedule for development, adoption, submittal, and implementation of these measures.* The NAP revision as well as the initial NAP submitted on February 23, 1979 does not yet indicate that all necessary control measures have been adopted at the State or local level, as required by Sections 172(b)(2), 172(b)(8), and 172(b)(10). Specifically, the plan fails to show adoption of legally enforceable regulations that provide for reasonable available control technology (RACT) for major sources of volatile organic compounds (VOC). This EPA requirement is discussed in more detail in item F below.

D. *Provision for reasonable further progress as defined in Section 171 of the Clean Air Act.* The showing of planned emission reductions for hydrocarbons (ozone precursor) appears to be consistent with the requirements of Section 172(b)(3) and the definition of reasonable further progress in Section 171(1). The schedule represents regular incremental reductions needed for attainment of the 0.12 ppm ozone standard by 1982 with the application of new control regulations on four stationary source categories of VOC.

E. *For carbon monoxide and photochemical oxidants (ozone), SIP revisions that provide for attainment of the primary standards later than 1982:*

a. A permit program for major new or modified sources requiring and evaluation of alternative sites and consideration of environmental and social costs.

b. In addition, in urbanized areas:

(1) An Inspection/Maintenance program or schedule for development, adoption, and implementation of such a program.

(2) A provision for implementation of reasonably available control measures for mobile sources.

(3) A commitment to establish, expand, or improve public transportation measures.

Since the SIP revision represents a reanalysis of the adopted Nonattainment Area Plan which demonstrates ozone attainment by 1982, the State no longer requests an extension and the plan is no longer required to meet all the above requirements. However, it should be noted that Arizona's Inspection/Maintenance program which has been implemented, is an essential control tactic for meeting the ozone standard prior to 1982.

F. *For photochemical oxidants (ozone) nonattainment areas requiring an extension beyond 1982, the revision must provide for adoption of legally enforceable regulations to reflect the*

application of RACT to those stationary sources for which EPA has published a Control Techniques Guideline by January, 1978 and a commitment to adopt RACT regulations for additional sources to be covered by future guidelines. For rural areas, only large sources (more than 100 tons/year potential emissions) must be so regulated.

Even though the plan demonstrates attainment of the ozone standard by 1982 without all of the RACT regulations for VOC sources, EPA policy is that the Act still requires RACT in this situation. Attainment is demonstrated by rollback modeling, which is less comprehensive and less accurate than photochemical dispersion modeling. Therefore, to insure the adequacy of the control strategy demonstration and to insure attainment as expeditiously as practicable, the plan must include adopted, legally enforceable regulations reflecting RACT for at least all *major* stationary source (100 tons/year potential) categories for which EPA had published a Control Techniques Guideline (CTG) document by January 1978.

EPA's Notice of Propsed Rulemaking, dated June 11, 1979 (44 FR 33437) discusses the approvability of the RACT regulations received and describes the categories for which neither the Arizona Department of Health Services nor the Maricopa County Bureau of Air Pollution Control has submitted RACT regulations for inclusion into the SIP. Since the plan revision reanalysis indicates ozone attainment by 1981, the RACT regulations need only apply to *major* stationary sources. Since a CTG for Stage II gasoline vapor recovery has not yet been published, a RACT regulation for this category is not required as part of the 1979 revision.

Public Comments

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the revisions described above as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Since EPA may conditionally approve plans, comments are especially invited on whether a plan should be conditionally approved and, if so, what is considered a reasonable timetable for submitting corrections. Comments received within 30 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX office and at the locations listed in the Addressees Section of this notice. EPA believes the available period for comments is adequate because:

(1) The SIP revision has been available for inspection and comment since August 1, 1979.

(2) EPA's Notice of Receipt/Availability, published in the August 1, 1979 **Federal Register**, indicated the possibility that the comment period may be less than 60 days, and

(3) EPA has a responsibility under the Act to take final action as soon as possible after July 1, 1979 on that portion of the SIP that addresses the requirements of Part D.

The Administrator's decision to approve, conditionally approve, or disapprove the proposed revisions will be based on the comments received and on a determination whether the revisions meet the requirements of Section 110, and Part D of the Clean Air Act, and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

(Section 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410, 7429, 7501 to 7508, and 7601(a)))

Dated: October 4, 1979.

Sheila M. Prindiville,

Acting Regional Administrator.

[FR Doc. 79-33525 Filed 10-29-79; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Office of Human Resources and Organization

41 CFR Part 101-6

Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Financial Assistance

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: This rule sets forth guidelines for the implementation of section 504 of the Rehabilitation Act of 1973 in programs receiving Federal assistance through the General Services Administration (GSA). Section 504 of the Vocational Rehabilitation Act of 1973 prohibits discrimination against handicapped persons in federally assisted programs. These guidelines are intended to interpret and define the requirements of the law as they relate to GSA Federal assistance programs and to establish policy and standards for effecting the requirements in the program.

DATE: Comments must be received on or before December 31, 1979.

ADDRESS: Written comments should be sent to the General Services Administration (HO), Washington, DC 20405. Visually impaired persons may obtain a copy of the proposed rule by writing to the Acting Director, Office of Civil Rights, at the same address.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Goodwin, Office of Civil Rights (202) 566-1096.

SUPPLEMENTARY INFORMATION: Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. On April 26, 1976, the President issued Executive Order 11914 under which the Department of Health, Education and Welfare, as lead agency, is required to coordinate Government-wide enforcement of section 504. In accordance with Executive Order 11914, HEW issued, on January 13, 1978, final standards, procedures, and guidelines to be followed be each Federal agency in issuing section 504 regulations. (See 45 CFR Part 85.) The rule proposed by GSA is intended to be consistent with the HEW standards and guidelines.

On November 6, 1978, the Congress amended section 504 to include "any program or activity conducted by an executive agency or by the United States Postal Service," and to require these agencies to "promulgate such regulations as may be necessary to carry out the amendments made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978." If it is determined by GSA that such a regulation is needed for the programs it directly administers, one will be developed and issued at a future date.

Therefore, it is proposed to amend Part 101-6 by adding Subpart 101-6.3 as follows:

Subpart 101-6.3—Nondiscrimination Against Handicapped Persons in Federally Assisted Programs and Activities

Sec.

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101-6.311 Employment practices.
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101-6.313 Procedures for enforcement.

Authority.—Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101-6.3—Nondiscrimination Against Handicapped Persons in Federally Assisted Programs and Activities

§ 101-6.300 Scope of subpart.

This Subpart 101-6.3 provides GSA's regulations for implementing section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, concerning nondiscrimination against handicapped persons in federally assisted programs and activities, with respect to Federal financial assistance extended under laws that GSA administers in whole or in part.

§ 101-6.301 Purpose.

The purpose of this Subpart 101-6.3 is to effect the provisions of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended (hereinafter referred to as the "act"), to the end that no handicapped person in the United States shall, on the grounds of handicap, be denied the benefits of or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from GSA.

§ 101-6.302 Applicability.

This part applies to each recipient of Federal financial assistance from the General Services Administration and to each program or activity that receives or benefits from this assistance.

§ 101-6.303 Definitions.

As used in this Subpart 101-6.3, the term:

(a) "Executive Order" means Executive Order 11914, titled "Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs," issued on April 28, 1976.

(b) "The act" means the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(c) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 29 U.S.C. 794.

(d) "Education of the Handicapped Act" means that the statute as amended by the Education for all Handicapped Children Act of 1975, Pub. L. 94-142, 20 U.S.C. 1401 et seq.

(e) "GSA" means the General Services Administration.

(f) "Administrator" means the Administrator of General Services or any officer or employee of GSA to whom the Administrator has heretofore delegated, or to whom the Administrator may hereafter delegate, the authority to act under the regulations in this part.

(g) "Director" means the Director, Office of Civil Rights, General Services Administration.

(h) "Recipient" means any State or its political subdivision; any instrumentality of a State or its political subdivision; any public or private agency, institution, organization, or other entity; or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(i) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a GSA official or by a recipient as a condition to becoming a recipient.

(j) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), assurance agreement, or any other arrangement by which GSA provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of this property, including:

(i) Transfers or leases of this property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of this property if the Federal share of its fair market value is not returned to the Federal Government.

(k) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in this property.

(l) "Handicapped person." (1) "Handicapped person" means any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment. (2) As used in paragraph (1)(1) of this section, the phrase: (i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal; special sense organs, respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism. (on November 6, 1978, the Congress amended the term "handicapped individual" as it relates to employment under section 504 to not include "any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.")

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having such an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as

constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward this impairment; or (C) has none of the impairments defined in paragraph (m)(2)(i) of this section but is treated by a recipient as having such an impairment.

Note.—The definition of "handicapped person" does not supersede or interfere with the narrower definitions of the term established by statute for specific purposes.

(m) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool, elementary, secondary, or adult education services, a handicapped person (i) of any age during which nonhandicapped persons are provided these services; (ii) of any age during which it is mandatory under State law to provide these services to handicapped persons; or (iii) to whom a State is required to provide a free appropriate public education under section 612 of the Education of the Handicapped Act;

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity; or

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of these services.

(n) "Handicapped" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (1) of this section.

(o) "Building" means any edifice or facility (other than a privately owned residential structure not leased by the Government for subsidized housing programs and any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel) the intended use for which will require either that the building or facility be accessible to the public or may result in the employment therein of physically handicapped persons, which is to be:

(1) Constructed or altered by or on behalf of the United States after September 2, 1979;

(2) Leased in whole or in part by the United States between August 12, 1968, and December 31, 1976, if it is constructed or altered in accordance with plans and specifications of the United States;

(3) Financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if the building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such a grant or loan;

(4) Constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact; or

(5) Leased in whole or in part by the United States after January 1, 1977, including any renewal, succeeding, or superseding lease.

(i) "Alteration" means repairing, improving, remodeling, extending, or otherwise changing a building.

(ii) The terms "bid" and "bidder" shall be construed to include "offer" and "offeror."

(p) "Accessible" means a method or condition of approach, admittance, and use intended for use by the handicapped.

(q) "User" means an employee or visitor to a building or facility which houses a federally assisted program.

(r) "Barriers" means physical or functional obstructions to the intended use of space.

(s) "Disability or disabilities" means physical impairments that limit an individual's access to and use of the environment.

(t) "Public conveniences" means facilities for public use such as rest rooms, telephones, and drinking fountains.

(u) "Usable" means convenient and practical for use by physically handicapped persons.

(v) "Donated property" means surplus real and personal property under ownership or control of the Federal Government that is donated to a service (military) educational activity; a State, political subdivision, municipality, or tax-supported institution acting on behalf of a public airport; a public agency using surplus property in carrying out or promoting for the residents of a given political area one or more public purposes such as conservation, economic development, education, parks and recreation, public health, and public safety, acting by and through a State agency; an eligible nonprofit educational or public health institution or organization, acting by and through a State agency; the American National Red Cross; a public body; or an eleemosynary institution.

(w) "Local government" means a government or administration of a locality within a State or a possession of the United States.

(x) "Public agency" means any State or political subdivision thereof, including any unit of local government or economic development district; any department, agency, or instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions; multijurisdictional substate districts established by or under State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation.

(y) "Public body" means any State, territory, or possession of the United States; any political subdivision thereof; the District of Columbia; the Commonwealth of Puerto Rico; any agency or instrumentality of any of the foregoing; any Indian tribe; or any agency of the Federal Government.

(z) "Service educational activity" means any educational activity designated by the Secretary of Defense as being of special interest to the armed services; e.g., maritime academies or military, naval, Air Force, or Coast Guard preparatory schools.

(aa) "State" means one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(bb) "Local government" means (1) any county, city, village, town, district, or other political subdivision of any State; any Indian tribe or authorized tribal organization; or an Alaskan native village or organization or (2) any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(cc) "State agency" means the agency in each State designated under State law as responsible for the fair and equitable distribution within the State of all donations of surplus property to public agencies to be used for one or more public purposes such as conservation, economic development, education, parks and recreation, public health, and public safety, and to eligible nonprofit educational and public health institutions and organizations for educational and public health purposes, including research for any of these purposes. The State agency, defined herein, is generally titled or designated as the State Agency for Federal Property Assistance and may be identified as such.

(dd) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the

Federal Government, including the United States Postal Service, but does not include the American National Red Cross.

(ee) "Motor vehicle" means a self-propelled or mechanically powered conveyance that is designed to be principally operated on the streets and highways in the transportation of property or passengers.

§ 101-6.304 Discrimination prohibited.

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.

(b) *Discriminatory action prohibited.* (1) A recipient, in providing any aid, benefit, or service directly or through contractual, licensing, or other arrangements, shall not, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons that is provided to others unless this action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) Aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but they must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated settings appropriate to the persons' needs.

(3) Despite the existence of separate or different programs or activities provided in accordance with this Subpart 101–6.3, a recipient may not deny a qualified handicapped person the opportunity to participate in these programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration that (i) have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) have the purpose or effect of defeating or substantially impairing accomplishment of the recipient's program objectives with respect to handicapped persons, or (iii) perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections that (i) have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance or (ii) have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(6) As used in this § 101–6.304, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this Subpart 101–6.3.

(d) *Integrated settings.* Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) *Availability of communications.* Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 101-6.305 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this Subpart 101–6.3 applies shall submit an assurance, on a form specified by the Director, that the program will be operated in compliance with this Subpart 101–6.3. An applicant may incorporate these assurances by reference in subsequent applications to GSA.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which the recipient retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from GSA, the instrument effecting or recording the transfer shall contain a covenant running with the land to ensure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (b)(2) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from GSA, the covenant shall also include a condition

coupled with a right to be reserved by GSA to revert title of the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Administrator may, upon request of the transferee, and if necessary to accomplish this financing, and upon such conditions as he or she deems appropriate, agree to forbear the exercise of this right to revert title for as long as the lien of this mortgage or other encumbrance remains effective.

§ 101-6.306 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Administrator finds that a recipient has discriminated against a person on the basis of handicap in violation of section 504 or this Subpart 101-6.3, the recipient shall take the remedial action that the Administrator considers necessary to overcome the effects of discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this Subpart 101-6.3 and where another recipient exercises control over the recipient that has discriminated, the Administrator, where appropriate, may require either or both recipients to take remedial action.

(3) The Administrator, where necessary to overcome the effects of discrimination in violation of section 504 or this Subpart 101-6.3, may require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when the discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this Subpart 101-6.3, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) A recipient shall, within 1 year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this Subpart 101-6.3;

(ii) Modify, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, any policies and practices that do not meet the requirements of this Subpart 101-6.3; and

(iii) Take, after consultation with interested persons, including handicapped persons or organizations representing handicapped persons, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs 15 or more persons shall, for at least 3 years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) A list of the interested persons consulted; (ii) a description of areas examined and any problems identified; and (iii) a description of any modifications made and of any remedial steps taken.

§ 101-6.307 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with this Subpart 101-6.3. The designated person shall also assist handicapped applicants, beneficiaries, and employees of the program with problems they encounter with the recipient as a result of their handicaps.

(b) *Adoption of grievance procedures.* A recipient that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this Subpart 101-6.3. These procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

§ 101-6.308 Notification of policy.

(a) A recipient that employs 15 or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this Subpart 101-6.3. The notification shall state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated under § 101-6.307(a). A recipient shall make the initial notification required by this paragraph within 90 calendar days of the effective date of this Subpart 101-6.3. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memorandums or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

§ 101-6.309 Administrative requirements for small recipients.

The Administrator may require any recipient with fewer than 15 employees, or any class of these recipients, to comply with §§ 101-6.307 and 101-6.308, in whole or in part, when the Administrator finds a violation of this Subpart 101-6.3 or finds that this compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 101-6.310 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this Subpart 101-6.3 is not affected by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this Subpart 101-6.3 is not affected if employment opportunities in any occupation or profession are or may be more limited for handicapped pesons than for nonhandicapped persons.

§ 101-6.311 Employment practices.

§ 101-6.311-1 Background.

When the Congress enacted section 504 as part of the Rehabilitation Act of

1973 (Public Law 93–112), it defined the term "handicapped individual" solely with relationship to employment; section 7(6) of the 1973 act defined the term "handicapped individual" as "any individual who (a) has a physical or mental disability which for such individual constitutes or results in substantial handicap to employment and (b) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services * * *." However, the following year, in section 111(a) of the Rehabilitation Act Amendments of 1974 (Public Law 93–516), the Congress amended the definition of "handicapped individual" for purposes of section 504 and the other provisions of titles IV and V of the Rehabilitation Act so that the definition is no longer limited to the dimension of employability. For purposes of section 504 of the act, a "handicapped individual" is defined as "any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment." With the amended definition, section 504 is intended to forbid discrimination against all handicapped individuals, regardless of their need for or ability to benefit from vocational rehabilitation services.

§ 101–6.311–2 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this Subpart 101–6.3 applies.

(2) A recipient that receives assistance under the Education of the Handicapped Act shall take positive steps to employ and advance in employment qualified handicapped persons in programs assisted under that act.

(3) A recipient shall make all decisions concerning employment under any program or activity to which this Subpart 101–6.3 applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(4) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this Subpart 101–6.3. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The provisions of this Subpart 101–6.3 apply to:

(1) Recruiting, advertising, and processing applications for employment;

(2) Hiring, upgrading, promoting, awarding tenure, demoting, transferring, laying off, terminating, exercising the right to return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leave of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not they are administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities and selection for leave of absence to pursue training;

(8) Employer-sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) *Effect of collective bargaining agreements.* A recipient's obligation to comply with this Subpart 101–6.3 is not affected by any inconsistent term of any collective bargaining agreement to which the recipient is a party.

§ 101–6.311–3 Reasonable accommodation.

(a) A recipient shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its programs.

(b) Reasonable accommodations may include: (1) Making facilities used by employees readily accessible to and usable by handicapped persons and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to the number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 101–6.311–4 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped persons or any class of handicapped persons unless: (1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question, and (2) alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped persons are shown by the Director to be unavailable.

(b) A recipient shall select and administer tests concerning employment to ensure that, when administered to an applicant or employee who has a handicap that impairs senory, manual, or speaking skills, the test results accurately reflect the applicant's or employee's job skills, aptitude, or other factors the test measures, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test measures).

§ 101–6.311–5 Preemployment inquiries.

(a) Except as provided in paragraph (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make a preemployment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination under §§ 101–6.306(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity under §§ 101–6.306(b), or when a recipient is taking affirmative action under section 503 of the act, the recipient may invite applicants for employment to indicate

whether and to what extent they are handicapped, that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this Subpart 101–6.3.

(c) Nothing in this § 101–6.311–5 prohibits a recipient from conditioning an offer of employment on the results of a medical examination conducted before the employee's entrance on duty, that: (1) All entering employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this Subpart 101–6.3.

(d) Information obtained in accordance with this § 101–6.311–5 as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentially as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate if the condition might require emergency treatment; and

(3) Government officials investigating compliance with the act shall be provided relevant information upon request.

§ 101–6.312 Program accessibility.

§ 101–6.312–1 Discrimination prohibited.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this Subpart 101–6.3 applies.

§ 101–6.312–2 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this Subpart 101–6.3 applies so that the program or activity when viewed in its entirety, is readily accessible to handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) *Methods.* A recipient may comply with the requirement of paragraph (a) of this section through such means as redesign of equipment; reassignment of classes or other services to accessible buildings; assignment of aides to beneficiaries; home visits; delivery of health, welfare, or other social services at alternate accessible sites; alteration of existing facilities and construction of new facilities in conformance with the requirements of § 101–6.312–3; or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, each recipient shall give priority to methods that offer programs and activities to handicapped persons in the most integrated setting ppropriate.

(c) *Small health, welfare, or social service providers.* If a recipient with fewer than 15 employees that provides health, welfare, or other social services finds, after consultation with a handicapped person seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

(d) *Time period.* Each recipient shall comply with the requirement of paragraph (a) of this section within 60 calendar days of the effective date of this Subpart 101–6.3, except that where structural changes in facilities are necessary, the changes shall be made within 3 years of the effective date of this Subpart 101–6.3, but as expeditiously as possible.

(e) *Transition plan.* If structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, the recipient shall develop, within 6 months of the effective date of this Subpart 101–6.3, a transition plan setting forth the steps necessary to complete the changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

§ 101–6.312–3 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by handicapped persons, if the construction was begun after the effective date of this Subpart 101–6.3.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this Subpart 101–6.3 in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible and usable by handicapped persons.

(c) *American National Standards Institute accessibility standards.* Design, construction, or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.7–1961(R1971)),[1] shall constitute compliance with paragraph (a) and (b) of this section. Departures from particular requirements of these standards by the use of other methods is permitted when it is clearly evident that

[1] Copies are available from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

equivalent access to the facility or part of the facility is thereby provided.

§ 101-6.313 Procedures for enforcement.

The procedural rules for enforcement of section 504 and this Subpart 101-6.3 are those GSA uses for the enforcement of Title VI of the Civil Rights Act of 1964. These procedures are in §§ 101-6.210 through 101-6.211.4.

Dated: October 5, 1979.

W. M. Paz,

Assistant Administrator, for Human Resources and Organization.

[FR Doc. 79-33579 Filed 10-29-79; 8:45 am]

BILLING CODE 6820-30

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[Gen. Docket No. 79-263; FCC 79-625]

Modifying Fees for Record Searches

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: FCC proposes amendment of Freedom of Information rules to update the search fee for salary increases since 1975, to provide for a variable fee based on the salary level of the employee making the search, and to provide for advance payment of the fee if an extensive search is required. FCC Also invites comment on the standard for waiving the fee.

DATES: Comments must be received on or before December 6, 1979, and reply comments must be received on or before December 21, 1979.

ADDRESSES: Send comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Upton Guthery, Office of General Counsel, (202) 632-6990.

Adopted: October 10, 1979.

Released: October 24, 1979.

In the matter of Amendment of Section 0.466 Freedom of Information Rules, To Modify Fees for Record Searches, Gen. Docket No. 79-263.

By the Commission: Commissioner Jones absent.

1. The Commission has recently completed a review of the fees it imposes when Commission employees search for records requested under the Freedom of Information Act (see Section 0.466 of the Rules). The present $5.00 hourly fee was intended to recover the cost of searches by clerical personnel and was based on 1975 salary scales. Salaries have increased since 1975. Moreover, requests have varied considerably, and searches have, on occasion, demanded the services of professional, and even senior professional, personnel, since only they had the backgrounds needed to locate and identify the materials requested. We, therefore, propose to establish a fee schedule based on the salary levels of the employees required for a particular search. In the future, fees would be assessed as follows:

Grade and Hourly Fee

GS-2, $3.91
GS-3, $4.30
GS-4, $4.83
GS-5, $5.41
GS-6, $6.02
GS-7, $6.69
GS-8, $7.41
GS-9, $8.19
GS-10, $9.02
GS-11, $9.91
GS-12, $11.88
GS-13, $14.12
GS-14, $16.69
GS-15, $19.63

These amounts were computed by dividing the annual salary at the first level in each grade by 2080 (the number of manhours in one work year).

2. In addition, we propose to establish a system for advance payment of search fees where the estimated time of search exceeds 16 hours or the estimated fee exceeds $100.00. Under the proposed rule, when this system is invoked, the advance payment must be tendered within 3 business days; if it is not tendered, the search will be halted and the request denied. As the search progresses, additional payments may be required if expenses exceed the original advance payment. If the total payments received should exceed the expense of search, the difference will be refunded.

3. Section 0.466(c) of the rules provides that the search fee will be waived or reduced by the General Counsel upon a showing that waiver or reduction is in the public interest. The Freedom of Information Act provides for waiver of the fee if the agency determines that furnishing the information will primarily benefit the general public. The Attorney General has suggested that the following factors be considered: the size of the public to be benefited, the significance of the benefit, the private interest of the requester which the release may further, the usefulness of the material to be released, and the likelihood that tangible public good will be realized. Attorney General's Manual on the 1974 Amendments to the Freedom of Information Act, February 1975, at pp. 15-16. The legislative history of the FOIA also suggests that waiver would be appropriate in certain specific situations even though the primary beneficiary of furnishing the materials may be the requester rather than the general public. Conference Report on H.R. 12471 (No. 93-1200), 93d Cong., 2d Sess., October 1, 1974. In addition to those exempted from a fee by Section 0.466(b) of the rules (the records are not located or are not made available, or the search does not exceed one hour in duration), the report mentions the situation in which the requester is indigent. We propose to retain the present general public interest standard, which we believe is broad enough to support actions based on the various criteria that have been suggested. However, we invite comment concerning any preferred alternative statement of a standard for action on waiver requests.

4. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and 5 U.S.C. 552(a)(4)(A). Pursuant to procedures set out in Section 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before December 6, 1979 and reply comments on or before December 21, 1979. Comments and reply comments will be available for inspection in the Commission's Dockets Reference Room at its headquarters in Washington, D.C. All relevant and timely comments and reply comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided the nature and source of such information, and the fact of the Commission's reliance on it, are noted in the Docket. Formal participants shall file an original and 5 copies of the comments, reply comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments may file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration regardless of the number of copies submitted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

In Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, Section 0.466(a) is revised, Section 0.466(e) is

redesignated 0.466(e)(1), and Section 0.466(e)(2) is added, to read as follows:

§ 0.466 Search fee.

(a) Subject to the provisions of this section, an hourly fee is charged for recovery of the direct costs of searching for records requested under § 0.460(d) or § 0.461. The fee is based on the grade level of the employee(s) who makes the search, as specified in the following schedule:

Grade and Hourly Fee

GS–2, $3.91
GS–3, $4.30
GS–4, $4.83
GS–5, $5.41
GS–6, $6.02
GS–7, $6.69
GS–8, $7.41
GS–9, $8.19
GS–10, $9.02
GS–11, $9.91
GS–12, $11.88
GS–13, $14.12
GS–14, $16.69
GS–15, $19.63

In selecting employees to make the search, consideration will be given to the skills and backgrounds required to locate the records and identify those which have been requested. Subject to this constraint, employees will be selected so as to minimize the total fee.

* * * * *

(e)(1) [Redesignated.] [formerly paragraph (e)]

(2) If the time of search will exceed 16 hours or the fee will exceed $100 (as estimated by the custodian(s) of the records), a substantial advance payment or deposit may be required. If the advance payment is not tendered within 3 business days after notice that advance payment is required, the search will be halted and the request will be denied. As the search progresses, additional payments may be required if expenses exceed the original advance payment. If the payment(s) should exceed the expense of searching for the materials, the difference will be refunded.

[FR Doc. 79-33522 Filed 10-29-79; 8:45 am]
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47 CFR Part 73

[BC Docket No. 79-268]

FM Channel Assignment to Ticonderoga, N.Y.

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first Class A FM channel to Ticonderoga, New York, in response to a petition filed by Motsinger Communications, Inc. The proposed channel could be used to provide a first fulltime local aural broadcast to the community.

DATES: Comments must be filed on or before December 18, 1979. Reply comments must be filed on or before January 7, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 19, 1979.

Released: October 24, 1979.

In the matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Ticonderoga, New York), BC Docket No. 79–268, RM–3418.

By the Acting Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) as it relates to Ticonderoga, New York.

(b) A petition for rule making[1] was filed by Motsinger Communications, Inc. ("petitioner"), licensee of daytime-only AM Station WIPS, Ticonderoga, seeking the assignment of FM Channel 280A to Ticonderoga, New York, as that community's first FM assignment. No responses to the petition were filed.

(c) Channel 280A can be assigned to Ticonderoga in compliance with the minimum distance separation requirements.

(d) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Ticonderoga, in Essex County, is located approximately 134 kilometers (83 miles) north of Albany, New York.

(b) *Population:* Ticonderoga—5,839;[2] Essex County—34,631.

(c) *Local Aural Broadcast Service:* Ticonderoga is served locally by daytime-only AM Station WIPS, licensed to petitioner.

3. *Economic Data:* Petitioner states that Ticonderoga is the largest community in Essex County. It asserts that much of the economy of the area is based on tourism, recreation, and paper manufacturing as well as other industry. Petitioner has submitted demographic data in order to show the need for the assignment of a first FM channel to Ticonderoga. It claims the channel could be used to provide the community and surrounding rural area with a much needed nighttime service.

4. Since Ticonderoga is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 280A to Ticonderoga, New York, requires coordination with the Canadian Government before it can be adopted.

5. In view of the fact that the proposed FM station could provide the community with a first fulltime local aural broadcast service, the Commission proposes to amend the FM Table of Assignments (Section 73.202(b) of the Rules), with regard to Ticonderoga, New York, as follows:

City	Channel No.	
	Present	Proposed
Ticonderoga, New York		280A

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

8. Interested parties may file comments on or before December 18, 1979, and reply comments on or before January 7, 1980.

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division, 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 Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] Population figures are taken from the 1970 U.S. Census.

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making 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 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 rule making 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 Sections 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 Rule Making* 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 Section 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. 79-33519 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-178; RM-3160; RM-3357]

FM Broadcast Stations in Granbury and Burkburnett, Tex.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving the proposed assignment of FM channels to Granbury and Burkburnett, Texas.

DATE: Reply comments must be filed on or before November 2, 1979.

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

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Reply Comments

Adopted: October 19, 1979.

Released: October 23, 1979.

In the matter of Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Granbury and Burkburnett, Texas), BC Docket No. 79-178, RM-3160, RM-3357.

By the Acting Chief, Policy and Rules Division:

1. The Commission has before it a motion requesting an extension of time for filing reply comments regarding the *Notice of Proposed Rule Making* in the above-captioned matter, adopted July 18, 1979, 44 FR 44192. Granbury Radio Company ("GRC") requests that the date for filing reply comments be extended from October 19, 1979, to and including November 2, 1979.

2. In an *Order* released October 9, 1979, the Commission granted GRC a two-week extension to October 19, 1979, for filing reply comments. At the same time it consolidated a counterproposal by Ted Hill to assign a Class C FM channel to Burkburnett. GRC states that when it requested this extension it could not have anticipated the consolidation of the Burkburnett counterproposal in this proceeding. It asserts that as a result of this action, further engineering review of the proposals is necessary, and since its consulting engineer is located in Texas it will not be able to coordinate efforts in time to meet the filing deadline.

3. We are of the view that the additional time is warranted in order to take into account the Burkburnett counterproposal and to assure development of a sound and comprehensive record on which to base a decision in this proceeding.

4. Accordingly, IT IS ORDERED, That the date for filing reply comments in BC Docket No. 79-178 IS EXTENDED to and including November 2, 1979.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Acting Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 79-33517 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-265; RM-2023; RM-2255; Rm-3228; FCC 79-660]

Nighttime Power Limitations and Antenna Systems for Class IV AM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: Federal Communications Commission issues an Inquiry concerning nighttime power limitations and antenna systems for Class IV AM broadcast stations. Petitions received from Community Broadcasters Association, Inc., Mr. Paul Dean Ford, and Douglas Broadcasting Corporation, requests Commission to take action that would permit increased nighttime power of Class IV stations and less restrictive use of electrically higher antenna systems. The inquiry is being instituted in order to solicit comments to assist the Commission in evaluating the merits of the proposals, as well as developing recommendations for the U.S. position at the Region 2 Administrative Radio Conference for AM Broadcasting.

DATES: Comments must be received on or before November 29, 1979, and reply comments on or before December 14, 1979.

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

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Nighttime Power Limitations and Antenna Systems for Class IV AM Broadcast Stations. BC Docket No. 79-265, RM-2023 RM-3228, RM-2255.

Notice of Inquiry

Adopted: October 16, 1979.
Released: October 18, 1979.

In the Matter of Nighttime Power Limitations and Antenna Systems for Class IV AM Broadcast Stations.

By the Commission:

Introduction and Summary of Petitions

1. The Commission has before it for consideration three related petitions for rule making: (1) RM–2023, filed on July 27, 1972, by Community Broadcasters Association, Inc., ("CBA") proposing and across-the-board increase of nighttime power for Class IV stations on local channels from 250 watts to one kilowatt (the daytime power ceiling for such stations); (2) RM–2255, filed on September 21, 1973, by Paul Dean Ford ("Ford"), a broadcast engineering consultant, proposing changes in the Rules to allow all Class IV stations to increase antenna tower heights up to ⅝ wavelength with 250 watts antenna input power during nighttime, which would generate a signal in excess of that currently permitted during daytime; (3) RM–3228, filed on October 4, 1978, by Douglas Broadcasting Corporation ("Douglas"), licensee of radio station KSEK, also proposing, among other things, raising the nighttime power ceiling of Class IV stations to one kilowatt and use of ⅝ wavelength antenna structures.

Background

2. CBA has previously filed several petitions with the Commission proposing to increase nighttime power of Class IV stations to one kilowatt. These petitions were denied primarily as a result of three findings.[1] First, the Commission found that these proposals were inconsistent with our international regional AM broadcasting agreements.[2] Secondly, the Commission found that there was no reasonable basis for concluding that these proposals could be accomplished without deleterious impact on a substantial number of Class IV stations which did not yet have the capability of operating with one kilowatt daytime power. Lastly, the Commission held that there was no technical data supporting CBA's claim of the pressing need by local stations for stronger signals within their nighttime service areas.

3. CBA's instant petition was first submitted to the Commission in March, 1972 (RM–1955). It was denied by the Commission on the basis that the requested action was still precluded by provisions of applicable regional broadcasting agreements. After reconsideration however, CBA's petition was reinstated by the Commissioin. The Commission's expressed basis for this action was ". . . to the extent the CBA petition may serve as a record and reminder of the interest of Class IV stations in increased nighttime power at such time as new treaty negotiations are in prospect, its acceptance and retention in our files, together with the responses of interested parties, may serve some useful purpose." (RM–1955, *Order*, FCC 72–640, released July 25, 1972.)

4. The Ford and Douglas petitions propose the use of ⅝ wavelength antennas as an alternative for improving the nighttime service of Class IV stations. Additionally, Douglas also proposes increases for nighttime power. Therefore, these petitions are associated with CBA's petition and considered in this proceeding.

5. The Commission is currently in the process of preparing for a Region 2 Administrative Radio Conference for AM Broadcasting.[3] It is expected that the Regional Agreement resulting from the Conference will affect, in varying degrees, existing bilateral and multilateral broadcasting agreements, and play an important part in such matters as establishing permissible interference levels, classification of AM broadcasting channels, channel spacing and the priority of their use, power levels, technical innovations, etc. Therefore, this *Inquiry* is being instituted in order to solicit comments to develop a record which will assist the Commission in evaluating the merits of these proposals, as well as developing recommendations for the U.S. position at the Conference.

Discussion of Proposals

6. As noted above, CBA submits that the Commission's Rules should be revised to permit Class IV AM broadcast stations to broadcast with nighttime power of one kilowatt. We agreed with CBA in our 1965, *Order* (RM–683),[4] that if all Class IV stations were to concurrently increase power from 250 watts nighttime to one kilowatt there would be no decrease in the nighttime service area of any of the Class IV stations. We were not convinced, however, that enough Class IV stations would increase power to one kilowatt nighttime so as to effect a concurrent increase. As a result, there was concern that those Class IV stations electing not to immediately increase their nighttime power would lose a substantial portion of their nighttime service area. In response to this concern CBA advises that it has conducted a number of surveys and studies relative to Class IV stations, particularly with regard to those which have increased daytime power to one kilowatt.

7. At the time of filing its petition, CBA submitted that out of approximately 1,000 Class IV stations operating on local channels, only about 54 were either then operating with a daytime power of less than one kilowatt or had no application on file for one kilowatt daytime power. Furthermore, most of these 54 stations indicated in response to the survey that they intended to increase their operating power. Thus, approximately 94.6 percent of the Class IV stations were authorized or had applied for one kilowatt daytime as opposed to approximately 80 percent in 1965—the time of the Commission's earlier denial. Consequently, CBA concluded that virtually every Class IV station will be prepared to operate with increased nighttime power if it is authorized. It is thus argued that no serious adverse impact upon the nighttime service of Class IV stations would result.

8. CBA contends that such a concurrent nighttime power increase by all Class IV stations on local channels would provide no gain or loss in the nighttime service areas of individual stations involved. It is contended, however, that a stronger interference-free signal within the current nighttime service areas of each station would result. CBA expects this increase in nighttime signal to provide improved radio reception at those locations within a station's current nighttime service area where signals are presently degraded by atmospheric noise and man-made noise arising from such sources as neon signs, fluorescent lights, and harmonics generated by the scanning circuits of television receivers. CBA claims that the existence of these noisy locations within the nighttime interference-free contour of Class IV stations are confirmed by reports received from its member stations.

9. CBA believes that although it can be argued that it is difficult to measure the degree of improved signal in terms of better service to the public, there would, indeed, be improved service. CBA submits that many of the Class IV

[1] See *Memorandum Opinion and Order*, 45 FCC 2446 (1965).

[2] The North American Regional Broadcasting Agreement ("NARBA") and the Agreement Between The United States of America and The United Mexican States Concerning Radio Broadcasting in the Standard (AM) Broadcasting Band.

[3] Region 2 delineates an area including all of the Americas (North, Central and South America and the Caribbean area) as well as Hawaii and Greenland.

[4] See footnote 1.

stations are centrally located in the city of license in order to provide minimum 25 mV/m coverage to the central business district, as specified by Section 73.188(b)(1) of the Commission's Rules. As a result of decentralization of the business areas and suburban, urban growth in recent years, CBA believes that a field strength of 25 mV/m may not be provided over these suburban business areas in all instances. Thus, CBA expects that a nighttime power increase would reduce or overcome interference received from man-made noise sources in these areas.

10. Ford does not propose higher nighttime power for Class IV stations, but rather, the use of ⅝ wavelength antennas. He contends that because of the high level of co-channel nighttime interference and low transmitter power, many Class IV stations do not provide an interference-free signal over the community of license at night. Consequently, if there is a reduction of nighttime co-channel interference, all stations would benefit with expanded coverage area at night. Ford points out that the high nighttime interference levels on Class IV channels is the result of the large number of co-channel stations in operation and the high radiation occurring at pertinent vertical angles from many of these stations antenna systems. Thus, he argues that if the radiation at pertinent angles is lowered from each station, less signal reflection from the ionosphere would occur, resulting in reduced overall nighttime interference. Therefore, Ford proposes that all Class IV stations be allowed to erect and use an antenna up to five-eights (⅝) wavelength in height with 250 watts power for nighttime operation. He further proposes that if a ⅝ wavelength antenna will cause prohibited daytime contour overlap with co-channel stations, the transmitter power is to be reduced to a value which would prevent such overlap or to the value of field presently authorized, whichever is higher. Finally, he proposes that any applicants for use of the ⅝ wavelength antenna should not be required to calculate the nighttime interference free contour.

11. Ford contends that the level of nighttime interference caused would generally be reduced by increasing Class IV stations' antenna tower heights to (⅝) wavelength. He notes that Section 73.182(a)(4) establishes the nighttime limitation for a Class IV station by taking the "root-sum-square" ("RSS") addition of all interfering signals from co-channel stations out to 500 miles from the subject station. Ford states that in computing the nighttime interference level to any Class IV station, he finds the limitation is almost entirely determined by those approximately 20 to 25 co-channel stations within 350 miles of the subject station. The remaining 15 to 20 interfering limits from stations 350 to 500 miles from the subject station would have a negligible effect on the final computation due to diminishing levels of interference.

12. Ford further contends that if the "RSS 50% Exclusion Method," as also set forth in the Commission's Rules, were used for computing nighttime interference levels, only seven or eight interfering signals from stations within 250 miles of the subject station would be considered. In referring to Section 73.190, Figure 6a of the Commission's Rules, Ford finds that the maximum vertical angles of departure from 100 miles to 250 miles would vary from approximately 58 degrees to 15.4 degrees. In referring to the curves shown in Figure 5 of Section 73.190 of the rules, he notes that the radiated field from a ⅝ wavelength antenna is, at these vertical angles of radiation, generally less than that encountered from shorter towers. Consequently, Ford suggests that use of ⅝ wavelength antennas at Class IV stations with 250 watts could increase the strength of its local signal at night and decrease the amount of nighttime interference caused to other Class IV stations. He avers that as stations gradually utilize taller towers, the level of nighttime interference on local channels will decrease, and the service area of each station will increase.

13. Douglas seeks both an increase in nighttime power of Class IV stations to one kilowatt and the use of antennas up to ⅝ wavelength in height. Douglas also contends that the greatest need of Class IV stations is improved nighttime signal coverage over the city of license and the suburban and rural areas contiguous thereto. Douglas avers that there are over 1,000 Class IV full-time stations currently operating on the six designated local channels that critically need improved coverage at night to meet the needs of their local communities and immediate environs. In support of its proposal, Douglas advanced some arguments similar to those presented by CBA and Ford. Douglas also suggests that use of taller towers with greater efficiency to improve nighttime coverage would reduce radiation above the horizontal, resulting in a reduction in co-channel skywave interference. Douglas, therefore, proposes that the protection required for daytime contours not be imposed for nighttime service as currently required by Section 73.182(a)(4) of the Commission's Rules.

14. Douglas further notes that use of the "approximate method," as set forth in Section 73.182(a)(4), to determine nighttime skywave interference received by Class IV stations does not take into consideration the use of electrically taller towers. (This method assumes that all Class IV stations have an electrical height of ¼ wavelength.) Douglas contends that use of the "approximate method" requires that an average of 40 interfering stations be entered into determining the nighttime limit for Class IV stations, resulting in an interference-free limit of about 17.1 mV/m. Douglas claims that only four stations enter into determining the nighttime limit if the more accurate "50% RSS Exclusion Method" is used, resulting in an interference-free limit of about 6.4 mV/m. This indicates that nighttime service areas extend further than show by the "approximate method." Furthermore, Douglas contends that it would be ideal if all Class IV stations operated with a ⅝ wavelength antenna at night. Douglas, therefore, recommends that all Class IV stations be encouraged to increase their antenna height up to a maximum of ⅝ wavelength for their nighttime operation with their daytime radiation being maintained as required under the current Section 73.37(c) of the Commission's Rules.

15. Douglas also proposes, subsequent to international agreement, that Section 73.21(c) and (c)(1) of the rules be modified to permit any Class IV station electing to increase tower height to ⅝ wavelength to increase power to one kilowatt nighttime. Similarly, any Class IV station electing to increase tower height to ½ wavelength would be permitted to increase power to 0.5 kilowatt nighttime. Douglas recognizes that in some cases existing Class IV stations would find it difficult to increase tower height up to a full ⅝ wavelength due to air and ground space limitations, etc. For such cases, Douglas proposes an intermediate power level of 0.5 kilowatt regardless of antenna height. Douglas emphasizes, however, that a general increase in nighttime power, as requested by CBA, without concurrent changes in antenna heights would not result in an increase in coverage. Thus, the use of the ⅝ wavelength antennas is strongly recommended. Also, in recognizing the power limitations contained in NARBA and US/Mexico broadcasting agreements, Douglas proposes as an interim measure that the Commission's Rules be amended to allow Class IV stations to operate with one kilowatt

nighttime power at distances greater than 500 miles from the United States borders with Canada and Mexico.

Summary

16. The Commission received approximately 30 statements regarding these petitions. Twenty-five of the statements, from Class IV station licensees, were in support of CBA's proposal. However, opposition to CBA's proposed one kilowatt nighttime power ceiling was expressed by the Association for Broadcast Engineering Standards, Inc. ("ABES"). ABES opposes CBA's proposal mainly because of concern over potential adjacent channel interference. We note, however, that this matter was considered by the Commission in the previous proceeding which concluded that Class IV stations operating with one kilowatt nighttime would not be able to radiate a signal sufficient to cause adjacent channel interference.[5]

17. While there was some support for the Ford and Douglas petitions concerning use of antennas having greater electrical height, most expressed concern about the cost and physical space requirement. Along with a few Class IV licensees, both CBA (through its engineering consultant, A. D. Ring & Associates) and ABES note that major obstacles to wide-spread use of ½ and ⅝ wavelength antennas as a prerequisite for increasing nighttime power are the costs of the taller tower and associated land[6] as well as the difficulty, in many instances of obtaining aeronautical approval for additional antenna height. Consequently, it is argued that the inability of many Class IV stations to employ higher antennas could prevent the desired overall effect of reduction in skywave interference. Agreeing that a reduction in skywave interference can be accomplished by increasing antenna height, A. D. Ring & Associates contends, however, that the reduction is not enough to maintain the value of the present RSS nighttime limits if higher power is also used. Thus, they conclude that after considering the costs and other complications involved, the ⅝ wavelength antenna proposed is much less attractive than a simpler nighttime power increase without concurrent increased tower height.

The Inquiry

18. In order to assist the Commission in establishing the merits of the proposals discussed above, comments on the following questions are invited. The record thus established will also assist the U.S. in establishing an international position concerning increased nighttime power for Class IV stations.[7]

A. What are the potential advantages and disadvantages of an across-the-board power increase for all Class IV stations?

B. Assuming that the advantages of increasing power outweigh the disadvantages, what are the prospects that most Class IV stations would increase their nighttime power?

C. What is the feasibility and desirability of using antennas having greater electrical height (such as ½ and ⅝ wavelength) for providing improved service?

D. Recognizing that there may be obstacles in constructing taller towers due to site restrictions and other factors, what other techniques (such as top-loading) could be used to achieve similar results?

E. Considering the vertical radiation patterns of ½ and ⅝ wavelength or top loaded antennas, what changes to the nighttime limits of Class IV stations can be expected through use of such antennas with 250 watts? Similarly, what changes can be expected with 1 kilowatt,

F. Assuming daytime protection standards will be maintained, what changes in nighttime standards—for example, Section 73.182(a)(4)—should be applied to stations increasing the effective height of their antennas in order to prevent potential interference?

G. Assuming a significant increase in the number of Class IV antennas exceeding ¼ wavelength in height, what changes, if any, would be desirable to the method presently used for estimating nighttime skywave limits?

H. Should increased antenna input power be permitted only for those stations having ½ or ⅝ wavelength antenna? If so, what power increases are desirable? What would be the effects on stations not increasing their power?

I. Comparison of the vertical radiation patterns of the ⅝ wavelength antenna and that of shorter radiators reveals that an increase in radiation occurs at angles above 60 degrees and below about 17 degrees. Would these increased vertical radiation levels conceivably increase the skywave interference to those stations affected by radiation at those angles?

19. In addition to the matters that have been specifically addressed in this Notice, any other comments related to nighttime power limitations and antenna systems for Class IV stations which have not been addressed by questions herein are welcome.

20. Pursuant to applicable procedures set forth in Section 1.415 of the FCC's Rules, interested persons may file comments on or before November 29, 1979, and reply comments on or before December 14, 1979. All relevant and timely comments and reply comments will be considered by the FCC before further action is taken in this proceeding. It is essential that all issues relevant to this *Notice* be addressed during this comment period. In view of the limited time for preparing a U.S. position for the March 10, 1980, Region 2 Administrative Radio Conference, no extensions of the indicated comment and reply comment periods should be anticipated.

21. In accordance with the provisions of Section 1.419 of the FCC's Rules and Regulations, an original and 5 copies of all comments, replies, or other documents filed in this proceeding shall be furnished to the Commission. Additionally, because this proceeding will cross several Bureau and Office lines of responsiblity, as well as involve extensive coordination with the Executive Branch, an additional thirteen copies will be required of all formal comments. Members of the general public who wish to express their interest by participating informally in this proceeding may do so by submitting one copy of their comments, without regard to form, provided that the Docket Number of this *Inquiry* is specified in the heading. Such informal participants who desire that responsible members of the staff receive a personal copy and to have an extra copy available for the Commissioners may file an additional 5 copies. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M Street, N.W.). Further information concerning this proceeding may be obtained from Bernard Gorden and Gary Stanford, Broadcast Bureau, (202) 632-9660.

[5] *Memorandum Opinion and Order* 45 FCC 2446 (1965).

[6] Most AM broadcast towers are guyed structures. For taller towers the distances from the tower base to the actual guy anchors must be increased to provide proper guy support for the taller structures.

[7] This is important not only for the Region 2 Conference, but also for possible discussions involving NARBA and the U.S./Mexican AM broadcasting Agreements.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 79-33520 Filed 10-29-79; 8:45 am]
BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 45

Federal Acquisition Regulation Project

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation (FAR) regarding Government Property. Availability of additional segments for comment will be announced on later dates. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before January 30, 1980.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Deputy Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Placed NW., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist or Strat Valakis (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulations are available upon request for public and Government agency review and comment.

Part 45—Government Property

This Part prescribes policies and procedures for providing Government property to contractors and contractors use, management, and record keeping related to such property. It does not apply to providing property under any statutory leasing authority, property acquired by the Government solely because of partial, advance or progress payments. Also, this Part does not apply to disposal of real property.

The material contained in DAR Section XIII and XXIV, DAR Appendices B and C, and FPR 1-8.5 have been reorganized, rewritten and consolidated as FAR Part 45.

The Material in DAR Supplement No. 3, Property Administration, which contains guidance for Department of Defense personnel, is nonregulatory and procedural in nature and therefore, is not included in the FAR. At a later date, consideration will be given to including Property Administration procedural guidance in the FAR System.

§ *45.1 General.*

This Subpart porovides special definitions as they apply to this part of the FAR. Also, it provides general policy regarding agencies responsibility to minimize or eliminate competitive advantages that might arise from the use of Government property by a contractor and assure that adequate records and controls are maintained on such property to ensure maximum reutilization of such property within the Government. This subpart also establishes responsibility and liability for government property under various types of contracts and subcontracts. It also provides guidance on the use of Government Property Clauses. The $25,000 limitation on use of the Government-Furnished Property (Short Form) clause at FAR 52.245-3 has been raised to $50,000 in keeping with the policy of simplified procedures.

§ *45.2* Competitive Advantage.

This subpart provides specific guidance regarding the elimination of competitive advantages accruing to a contractor in possession of Government production and research property.

§ *45.3* Providing Facilities.

This subpart provides policy and guidance regarding the furnishing of facilities, materials, motor vehicles, special tooling or test equipment, and production and research property.

§ *45.4* Contractor Use and Rental of Government Property.

This subpart prescribes policies and procedures for contractor use and rental of Government production and research property.

§ *45.5* Management of Government Property in the Possession of Contractors.

This subpart prescribes the minimum requirements contractors must meet in establishing and maintaining control over government property. It applies to contractors organized for profit, and with some exception, to non-profit organizations.

DAR Appendices B and C, which contain requirements to be observed by contractors (profit and nonprofit) in the management of Government property in their possession, have been combined and included in this subpart. The differences in property management requirements applicable to profit and nonprofit contractors have been retained.

§ *45.6* Reporting, Redistribution, and Disposal of Contractor Inventory.

This subpart establishes policies and procedures for reporting, redistribution, and disposal of government property excess to contractors and of property that forms the basis of a claim against the Government.

DAR and FPR coverage concerning contractor sales of surplus inventory has been rewritten in this subpart to be consistent with the FPMR, 41 CFR, Part 101-45. The cited FPMR provides for the sale of surplus inventory by GSA. Sales of surplus contractor inventory under the control of DOD are accomplished under an exemption to the FPMR, as provided for in FPMR 101-45.105-3.

The specimen formats in FPR 1-8.803 and related DOD Forms 542 through 545 and DD Form 832 will be issued as standard forms. The DD ASPR Form 1115, Instructions in Preparing Inventory Schedules of Contractor Inventory, as revised, also becomes a standard form.

DD Form 1636 (Inventory Disposal Report) and DD Form 1642 (Inventory Verification Survey) are converted into standard forms. Agency use, however, is optional.

The remaining forms cited above are not generally applicable for Government-wide use. Many of the DD Forms have application to sales of surplus property, which are accomplished by DOD under an exemption from the FPMR.

Proposed clauses and forms are also included for review and comment.

Significant changes in clauses are as follows:

Most of the mandatory facilities clauses (DAR 7-702, 7-703, and 7-704) have been combined into three clauses; one for consolidated facilities contracts, one for facilities acquisition contracts, and one for facilities use contracts. These changes, which consolidate related terms and conditions, will

simplify the clauses and enhance their application by the Government and contractors.

The 90-day response period in the Disposition of the Facilities paragraph (in the Government property clauses for facilities contracts) has been increased to 120 days. This change recognizes the standard screening period of 90 days and adds a reasonable response period after screening completion.

Several of the related clauses with almost verbatim language have been combined. The DAR uses narrative instructions (in Section VII) for substituting language under particular circumstances. The FAR simplifies this approach by using free-standing alternate clauses to cover the same situation.

Dated: October 25, 1979.

LeRoy J. Haugh,

Associate Administrator for Regulations and Procedures.

[FR Doc. 79-33571 Filed 10-29-79; 2:05 pm]

BILLING CODE 3110-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201 and 1241

[No. 37203]

Class I Railroads; Adopting a Cost Center Accounting and Reporting System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is instituting a rulemaking proceeding to consider adopting a cost center accounting and reporting system for Class I railroads. The proposed system would require Class I railroads to accumulate certain cost and statistical data at a more detailed level than the current Uniform System of Accounts for Railroads (49 CFR 1201, Subpart A) prescribes. Railroad cost data would be recorded by costs centers defined as road line segments, terminal switching districts, equipment types and specific specialized services. Cost data collected by cost centers would then be aggregated into certain categories for reporting purposes. In most causes, routine reporting requirements would not be as specific as the level of accounting. This proposed system will meet specific data requirements mandated by Section 202 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4–R Act) (49 U.S.C. 10701, 10707, 10709, 10727, 10728). This proposal would provide more relevant and valid cost data for regulatory purposes while protecting the confidentiality of specific proprietary information. Persons desiring a copy of the regulatory text may obtain it from the Commission by calling the Office of the Secretary, using the special Toll-free telephone number listed below.

DATES: Comments should be filed on or before December 31, 1979.

ADDRESSES: Send comments with 10 copies, if possible, to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR COMPLETE COPIES OF THIS NOTICE CALL: 800–424–5403.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr. (202) 275–7448.

SUPPLEMENTARY INFORMATION:

Background

By Report and Order served under Docket No. 36367 on June 24, 1977, the Commission revised the Uniform System of Accounts for Railroads (USOA) (49 CFR 1201, Subpart A) to meet the requirements of Section 307 of the Railroad Revitalization and Regulatory Reform Act of 1976 (4–R Act) (49 U.S.C. 11142). This Report and Order was published in the **Federal Register** on July 7, 1977 (42 FR 35016).

Section 307 of the 4–R Act required the Commision to revise the uniform accounting and reporting system for railroads no later than June 30, 1977, with an effective date of January 1, 1978. The Commission met this mandate.

In its Report and Order, the Commission recognized that cost center accounting and reporting by railroads would be necessary to meet Commission data needs and certain 4–R Act requirements in addition to Section 307. As an interim measure, Instruction 1–3(e) of the USOA requires railroads to maintain cost centers for purposes of cost assignment and defines these cost centers as the railroads' existing responsibility centers.

On August 31, 1978, the Commission engaged the accounting and consulting firm of Deloitte Haskins & Sells and its subcontractor, Reebie Associates, (Contractor) to develop a cost center accounting and reporting system for Class I railroads. This project is funded by the Commission and the U.S. Department of Transportation.

The Contractor's work included visiting certain Class I railroads to determine how cost centers are defined in a railroad's management responsibility accounting system and what expenses and statistics are collected by these cost centers. In developing a cost accounting and reporting system, the Contractor's study of both Commission requirements and railroads' existing accounting systems provided input for the cost center accounting and reporting system proposed in this Notice.

The Contractor's *Final Task Reports*, dated July 1979, describes in detail the contract's project tasks, the contractor's methodology used in developing the system, and the cost center accounting and reporting requirements of the proposed system. Railroads and interested parties may request a copy of this report from the Bureau of Accounts.

In the sections that follow, we will review the current cost data input and present Commission needs and 4–R Act requirements that we believe support the submission of additional cost detail from the railroads. We will relate various cost center alternatives and discuss the reasons for selecting the cost centers proposed in this Notice.

Currently Available Cost Information

Currently available cost information includes the USOA and certain reports. These reports include: OS–A, Train and Yard Service Report; QCS, Quarterly Report of Freight Commodity Statistics; and the R–1 Annual Report.

The USOA provides operating expense data by type of expense (labor, material, purchased services, insurance, general expenses) and function. The USOA defines functions at two levels: a general level called "Activity/Subactivity" and a detail level called "Function." The USOA provides further breakdown of certain expenses by type of equipment and type of service.

Class I railroads report the USOA detail in the R–1 report. Carriers provide statgistical data on the OS–A quarterly report, which includes detail on car, train, and locomotive movements as well as yard activity. They report other statistical data such as the QCS report from which the Commission develops performance factors for apportioning expenses to line-haul and switching services.

The Commission also conducts special costing studies to be used with the current data. Many of these studies have their results incorporated in existing costing methodologies used to convert accounting and statistical data into unit costs.

Most specific data, however, is now largely based on special studies performed by carriers, and introduced in rate proceedings in response to individual needs. This data is not available on a systematic basis.

This cost information is to be used in the new Uniform Railroad Costing System (URCS) which will replace the Rail Form A costing formula. Like Rail

Form A, the URCS can be used for both individual carrier or aggregated regional data.

The URCS, using regression equations, separates variable costs from fixed costs and computes unit costs. The URCS is limited by the relevancy of the data used in the development of costs and the assumptions made in the processing of this data. Since the USOA produces carrier expenses within activities and functions, variations within a functional area cannot be routinely introduced. Naturally, any refinement of this system-average data would improve the process of cost analysis. Both the USOA and the URCS have the flexibility to accommodate modification so that more specific data may be introduced.

Commission Needs and 4–R Act Requirements

The Commission's ratemaking function would be the primary beneficiary of improved cost data. Costs are a major input to the Commission's rate-review process including general rate increases, specific commodity rate cases, and investigation of charges for localized distinct services. The cost analysis in a rate case can take the form of evaluation of submitted cost evidence, restatement of submissions to correct errors or the development of independent cost estimates.

In recent general rate increase cases, the Rail Form A costing formula and resulting unit costs have been used to evaluate the relative profitability of different traffic groups. This information has been used to guide the Commission in its attempts to have the railroads concentrate on the performance of individual traffic segments rather than relying on across-the-board rate increases.

In Ex Parte 290 (351 I.C.C. 544 *et seq*), *Procedures Governing Rail General Increase Proceedings*, the Commission called for commodity specific comparative cost and revenue data in support of requests for general rate increases. The Commission also stated its intention to place more reliance on selective rate adjustments.

In specific rate increase proceedings, the Commission as well as railroads and shippers adjust submitted cost data in an attempt to modify the average costs in those areas where actual operations are clearly different than those implied by system-average costs. The Commission has also indicated in certain individual rate cases that cost evidence presented in proceedings should reflect costs associated with the specific movement under review. Further, Rail Form A provides that specific cost data may be used in lieu of system averages; specific cost data is always preferable to system averages.

The need of more specific costing data is supported by Section 202 of the 4–R Act which addresses specific ratemaking situations that require the Commission to use more specific cost data than functional system-average cost input. Section 202 limits the Commission's ability to declare rates excessive by introducing the concept of market dominance (49 U.S.C. 10709). The Commission has adopted three rebuttable presumptions of market dominance. One involves a cost test; a rebuttable presumption of market dominance exists if the rate exceeds 160 percent of the variable cost (Ex Parte No. 320, *Special Procedures for Making Findings of Market Dominance as Required by the Railroad Revitalization and Regulatory Reform Act of 1976*, 353 I.C.C. 874 and 355 I.C.C. 12, decided February 5, 1979). The cost presumption has proved to be a helpful tool in aiding our market dominance decisions. Obviously, better and more precise data would be extremely helpful in making these determinations.

Further evidence of the concern with individual circumstances is contained in the portion of Section 202 that separates the pricing of distinct services from rates charged for basic transportation service (49 U.S.C. 10728). This enables "shippers and receivers to evaluate all transportation and related charges."

In the rate-review context, the primary focus is on the relationship of the proposed rate to the corresponding variable cost and the going concern value of the carrier. The intent is to focus on specific traffic segments and local services.

Improved cost information should result in better decision making, thus benefiting carriers and shippers as well as the general public. This additional cost information should provide, on an industry-wide basis, comprehensive, consistent and timely data. Cost center data will allow the cost methodology to incorporate intra-system variations within a functional area utilizing a uniformly defined and auditable data base.

Railroads' Managerial Responsibility Cost Centers and Commission Regulatory Needs

In general, data generated by railroad managerial responsibility accounting systems (MRAS) is incompatible with the costing requirements of the Commission. A railroad's MRAS typically defines cost centers for responsibility accounting and control purposes. The aggregation of discrete cost centers based on management responsibility does not accumulate expense and statistical requirements for costing purposes.

Internally, many railroads develop sources of expense data for costing purposes outside of their MRAS, although some MRAS data may be used on a limited basis. Naturally, accumulation of expenses for managerial control requires different accounting approaches than accumulation of expenses for service or product costing.

The existing cost center data base of a railroad's MRAS, however, can be aggregated to produce cost information more relevant to service costing purposes. For example, a railroad may identify an expense by specific location of incurrence and by specific management center. For managerial responsibility accounting purposes, the railroad would aggregate by management center. However, the data could be aggregated by specific location for costing purposes.

Railroads currently produce expense detail for the Commission as prescribed by the USOA. This is an indication that a railroad's MRAS has the flexibility to incorporate additional information directly into its accounting data base and reporting system in a usable format with minimal system modifications.

Cost Center Accounting and Reporting Requirements

Proposed in This Notice

The proposed accounting and reporting requirements (Appendix A) involve the following USOA subactivities:

Way and structures—Running
Way and structures—Switching
Way and structures—Other (Limited to specialized service function)
Equipment—Locomotives
Equipment—Other (Limited to specialized service functions)
Transportation—Train (Limited to train crew and engine crew)
Transportation—Yard
Transportation—Specialized services

The cost center accounting and reporting requirements in this Notice were selected from basically three cost segmentation approaches: geographical location, type of asset, and type of service. The geographical approach to segmenting rail operations implies that meaningful and identifiable cost differences exist between geographical areas. An asset approach isolates cost differences among types of assets. And the service approach divides operations into individual services or service types.

In the sections that follow, we will review why we propose a particular cost center approach for each of the above subactivities. The selected cost center approaches form the basis for the proposed cost center accounting and reporting system detailed in Appendix A.

For each subactivity, railroads would be required to keep expense records by the proposed cost centers. The expense information by cost centers would *not* be reported to the Commission routinely; however, the cost center records would be made available when needed by the Commission. For reporting purposes, railroads would aggregate cost center expenses into the proposed categories.

We propose that expenses incurred by a cost center be directly captured within the cost center to minimize arbitrary cost allocations. This principle is reflected in proposed Special Instruction 1–1, Appendix A.

Way and Structures—Running

We propose that Class I railroads accumulate and record way and structures—running subactivity expenses and statistics by line segments. The railroads would then aggregate these expenses by traffic density and report them in Form R–1. We recommend this approach because traffic density is the primary casual factor of track maintenance expenses. Consequently, it provides the ability to closely approximate detailed track maintenance costs.

We propose four traffic density categories based on million gross ton miles per mile (MGTM/M):

I. 20, MGTM/M or above
II. 5–20, MGTM/M
III. 0–5, MGTM/M
IV. Track subject to abandonment

These segments are consistent with density standards for classification of rail lines adopted by the U.S. Department of Transportation. Further, these density categories are similar to current Commission reporting requirements of the R–1 report (Schedules 720–728).

We believe this approach would allow the Commission to reasonably approximate more detailed costs in the roadway—running area without overburdening class I railroads. The expense accounts included for cost centers in this Notice should vary by line segment and/or density group.

For this category, we have not selected cost centers based on train service or geographical location. The train service approach does not present mutually exclusive cost centers for track maintenance expenses since a specific track may accommodate more than one traffic lane of train service. While sophisticated allocation procedures or complex definitions of traffic lanes could eliminate this problem, this still would not create distinct cost centers based on casual factors.

The segmentation of way and structures—running costs by geographical area does create mutually exlusive cost centers. However, we believe costs reported geographically would either provide too much cost detail or average costs too broadly to be meaningful for costing purposes. Geographically, costs can range from system-average running costs to mile post costs by line segments. We could disaggregate average running costs by segmenting these costs by operating division or by roadmaster territory. For costing purposes, cost-related factors would still be averaged yielding no more homogeneous data than system-average.

Way and Structures—Switching

For certain functions associated with the way and structures—switching subactivity, we propose that railroads accumulate and record expenses by terminal switching districts (TSD).

Railroads would then aggregate these expenses by size of TSD for the purpose of filing Form R–1. We have defined such districts as a single unit and use the term to emphasize the switching orientation of the "terminal district." Further, the term "terminal switching district" should eliminate confusion with "switching district," a term used to identify yard engine crew jurisdictional boundaries.

We propose the following volume criteria:

I. TSD switching fewer than 100 cars per day
II. TSD switching from 100 to 499 cars per day
III. TSD switching from 500 to 999 cars per day
IV. TSD switching 1,000 or more cars per day

To assign a terminal switching district to a particular yard classification, railroads would annually compute the average daily number of cars switched in the previous year.

We have proposed this asset segmentation approach to isolate cost differences in yard maintenance. Generally, very small yards tend to be relatively high cost operations while the large yard complexes have greater operating efficiency. All other factors being equal, one can assume that for many components of yard activity unit costs decrease as volume increases.

The proposed volume levels attempt to first isolate the smallest and largest terminal switching districts. The remaining two groups should provide reasonable differentiation without creating an unnecessarily large number of groups.

We believe the cost centered accounts proposed in this Notice can be identified with individual terminal switching districts and expect the accounts to vary among cost centers. We have rejected the geographical and service segmentation approaches for reasons already discussed under Way and structures—running.

Way and Structures—Other

We propose that railroads accumulate and record by specific facility certain accounts and statistics associated with specialized service facilities of the way and structures—other subactivity. The Commission currently requires Class I railroads to account and report specialized service repair and maintenance expenses by type of terminal or facility. The proposal continues the routine reporting requirement; however, it ensures the availability of specific—facility data.

The proposed accounting requirements would ensure that costs of a particular specialized facility are imposed only on the traffic using the design and condition, and traffic volume influence repair and maintenance costs. These intra-facility cost factors contribute to the difficulty of making generalizations about specialized service costs by type of facility.

From the accounting standpoint, cost centers by specific facility can be aggregated by type of asset, geographical location or type of service. We believe the current aggregation by asset-service type is appropriate for routine reporting requirements. At the summary level, since this approach would at best identify in very broad terms cost differences due to work rules, land value and facility design. Because the Commission is more concerned with service costs, the geographical summary aggregation would be irrelevant.

Equipment—Locomotives

We propose an asset-service segmentation approach for equipment—locomotive subactivity. Railroads would maintain and report by seven locomotive groups certain accounts associated with this subactivity. These locomotive groups are:

I. Diesel Locomotive, Road—4 axles
II. Diesel Locomotive, Road—6 or more axles
III. Diesel Locomotive, Road/Switch
IV. Other Locomotive, Road

V. Other Locomotive, Road/Switch
VI. Diesel Locomotive, Yard
VII. Other Locomotive, Yard

Currently Class I railroads report locomotive expenses on Schedules 410 and 415 of the R–1 report. Schedule 410 contains the expense accounts associated with the locomotive subactivity; this is the highest summary level. Schedule 415 shows four expense areas: net repairs, depreciation, retirements and net lease/rentals. This is reported separately by four general locomotive types:

Diesel locomotive—road
Other locomotive—road
Diesel locomotive—yard
Other locomotive—yard

Thus, the proposed seven locomotive groups would require railroads to divide the current "Diesel locomotive-road" into the proposed groups, I, II, and III and the current "Other locomotive-road" into groups IV and V. The yard locomotives groups remain unchanged.

Dividing diesel locomotives into road, road/switching, and yard should distinguish major differences in unit, size, age, and price as well as in utilization patterns. This contention is supported by the Contractor and a U.S. Railway Administration study (Preliminary System Plan, Volume I, 1975). Additional significant cost variations (particularly in ownership cost) and differences in assignment practices are measured between four and six-axle road locomotives.

In order to fully utilize cost center data by the indicated locomotive groups, it would be necessary to determine for each groups the portion of its total usage in each major train service (unit, intermodal, other through, and way) and switching. These statistics should allow the Commission to translate locomotive costs by type of locomotive to locomotive costs by type of train. It is expected that the 4/6 axle distinction would be valuable in determing differences in locomotive costs for unit, intermodal, and other through trains.

We have not selected the geographical segmentation approach since locomotives generally are not assigned to particular operating territories or repair shops for all related activities. Further, this approach would not differentiate major variations in expense and utilization data.

Equipment—Freight Cars

As currently required by Schedule 415, Form R–1, Class I railroads would continue to accumulate and report freight car repair and maintenance expenses by car types. Each type of car would be defined as a cost center for both accounting and reporting purposes. The Commission is considering a separate rulemaking proposal that will provide more specific guidelines for accounting and reporting equipment repair costs.

Equipment—Other

We propose that Class I railroads segregate by specific facility the repair and maintenance costs associated with floating equipment of the equipment—other subactivity. Current routine reporting requirements would remain unchanged.

The rationale for this proposal is included in our discussion of the way and structures—other subactivity.

Transportation—Train

We propose that Class I railroads accumulate and record both engine crew and train crew expenses and statistics of the transportation—train subactivity by train types:

I. Unit train
II. Way train
III. Intermodal train
IV. Other through train

Current accounting requirements designate train crew expenses as train crew and engine crew. The URCS uses relevant statistics (train miles—through, unit, way; and train hours—switching) to develop line haul costs by train types (through, way, unit).

The proposed cost centers should provide more relevant costs since carriers would report train crew expenses by type of train. Train type III segregates intermodal train operations from unit and other through trains. As a group, intermodal trains operates with fewer cars and proportionally more power than other through trains based on the greater need for speed and on-time performance. Unit trains, on the other hand, typically exceed normal train lengths, but also have more or heavier locomotives than would be assigned to the average through train. Because of the formulae upon which engine and train crew compensation are based, these differences can be reflected in the wage costs of the train.

Additionally, intermodal trains and unit trains have the potential of incurring significantly lower non-line haul operational costs (arbitraries), since they are not as prone to yard and terminal delays. This is due to the combined effects of operating out of segregated facilities (in the case of unit trains, the shipper's location) and of frequently receiving priority handling en route.

We have not selected geographical segmentation since statistics tend to be accumulated on a train basis rather than a geographical basis. Further, a geographical orientation would require substantive changes in how costs are applied to a train movement.

Transportation—Yard

We propose that carriers accumulate and record certain costs and statistics of the transportation—yard subactivity by terminal switching districts, and aggregate these expenses by size of TSD for Form R–1 reporting purposes. This segregates costs in the same manner as we propose for the way and structures—subactivity. The proposed volume criteria must be viewed as best estimates, subject to future modification.

In developing the volume criteria, the Contractor's placed heavy reliance on two sources: an FRA sponsores study [1] of yard classification technology which included an inventory of all U.S. railroad yards along with a partial estimate of activity levels, and an AAR Staff Studies Group Memorandum [2] which included a distribution of yards by level of activity. The studies provide a reasonable indication of the effects of various volume criteria on the distribution of terminal switching districts and switching activity by grouping.

The following table indicates the estimated distribution of terminal switching districts and car switched based on the proposed volume criteria:

Volume level	Terminal switching districts (percent)	Cars switched (percent)
Under 100 cars per day ...	49	10
100–499 cars per day.....	31	30
500–999 cars per day.....	12	25
1,000 or more cars per day	8	35

The volume limit of 100 cars per day for the first group was set in order to segregate yards operating less than one full shift per day and those operating a full shift, but with very low throughput. The estimated impact will be to consolidate nearly half of the terminal switching districts into this group, while accounting for only 10% of all switching volume.

An analysis was also made of the impact of setting an upper limit of 200 cars per day on this group. Under those circumstances, it was estimated that up to 70% of the terminal switching districts

[1] Stanford Research Institute, *Railroad Classification Yard Technology*, Federal Railroad Administration, 1977.

[2] AAR Staff Studies Group, Staff Memorandum 76–1, "An Estimate of the Number of Switches Per Carload Cycle," June 21, 1976.

and 25% of the volume might have been included in the group. It appeared that the incremental terminal switching districts (those with volumes from 100 to 199 cars per day) included were distinctly different than those under 100 cars per day, having over twice the average daily volume. This indicated that the higher limit might well result in the consolidation of two types of terminal switching districts with distinctly different cost profiles into a single grouping. As a result, the lower limit of 100 cars per day was selected.

Transportation—Specialized Service

We propose that carriers segregate certain expense and statistical data of the transportation—specialized service subactivity by specific specialized service operations. Routine reporting requirements by type of operation would remain unchanged.

The rationale for this is presented to our discussion of way and structures—other.

Reports and Schedules Proposed in This Notice

Certain revisions to existing reports and schedules would be necessary to accommodate the proposed cost objects that would be routinely reported. We have included the proposed revised reports in Appendix B; interested parties may obtain a complete copy of the proposed revision by using the special toll-free telephone number.

Other reports and schedules currently required by the Commission would remain unchanged.

Further Consideration

We believe the proposed cost center accounting and reporting system would provide more accurate and more relevant costing information which could be applied to a wide range of proceedings within the Commission. We invite all interested parties to respond to this proposal. Specifically, we solicit comments on such issues as implementation costs, compatibility with existing railroad internal accounting systems, and data confidentiality.

We will conduct further studies which will include solicitation of specific cost data capabilities from all class I railroads. We will also conduct field visits to certain class I railroads to further assess the feasibility and costs involved to implement and maintain a cost center accounting system such as the proposed system. From these studies, we will be able to further evaluate the impact of this proposal in the implementation and compatibility areas.

We believe the proposed cost center system protects the confidentiality of more specific cost data. The data that would be routinely reported would not involve any greater degree of confidentiality than information already reported. The proposed accounting requirements are very specific. However, this information would be used only when relevant to a specific regulatory function.

If this system is adopted, we propose an effective date of January 1, 1980. This would involve scheduling staggered implementation dates for certain subactivities to provide a class I railroads adequate lead time. Field study results and evaluation of respondents' issues raised in this proceeding will form the basis for an implementation plan.

This decision does not appear to affect significantly the quality of the human environment or energy consumption.

We propose to adopt the rules set forth in Appendix A and to adopt the reports and schedules set forth in Appendix B which are available from the Office of the Secretary.

The Commission will serve this NPR on all Class I railroads and interested parties, the Governor of every State, and all State agencies having jurisdiction over transportation.

These rules are proposed under the authority of 5 U.S.C. § 553 and 49 U.S.C. § 10321, 11142, 11144, and 11145.

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

Decided: October 4, 1979.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33587 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

29 CFR Part 2550

Proposed Regulation Relating to the Statutory Exemption for Certain Acquisitions, Sales, or Leases of Property; Reopening of Comment Period

AGENCY: Department of Labor.

ACTION: Notice of Reopening of Comment Period.

SUMMARY: The Department of Labor (the Department) is extending the comment period on the proposed regulation relating to certain acquisitions, sales or leases of property by an employee benefit plan under the Employee Retirement Income Security Act of 1974 (the Act) and provisions of the Act which exempt such transactions if certain conditions are met. The proposed regulation was set forth in the notice of rulemaking published in the **Federal Register** at 44 FR 50367 (August 28, 1979).

DATE: The comment period is reopened through November 30, 1979.

ADDRESS: Interested persons are invited to submit written comments to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Proposed Regulation § 2550.408e. All submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jay S. Neuman, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216, telephone (202) 523-9141. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On August 28, 1979 the Department issued a notice of proposed rulemaking concerning a statutory provision which exempts certain acquisitions, sales, and leases of property which would otherwise be prohibited under other provisions of the Act. In that notice the Department invited all interested persons to submit written data, views or arguments concerning the proposed regulations by October 29, 1979. The Department has received a request from a member of the public for additional time to prepare comments because of the complexity of the issues involved in the proposed regulation, and the Department believes that it is appropriate to grant such additional time. Accordingly, this notice reopens the comment period during which comments on the proposed regulation will be received until November 30, 1979.

Notice of Extension of Comment Period

Notice is hereby given that the period of time for the submission of public comments on the proposed regulation relating to the exemption set forth in section 408(e) of the Act for certain acquisitions, sales and leases of property (proposed at 44 FR 50367, August 28, 1979), is hereby reopened through November 30, 1979.

All interested persons are invited to submit written data, views or arguments concerning the regulation proposed at 44 FR 50367 (August 28, 1979) on or before November 30, 1979. These data, views or arguments (preferably six copies) should be submitted to the address set forth above.

Signed at Washington, D.C. this 29th day of October, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefits Programs, Labor-Management Services Administration, United States Department of Labor.

[FR Doc. 79-33780 Filed 10-29-79; 11:20 am]

BILLING CODE 4510-29-M

Notices

Federal Register
Vol. 44, No. 211
Tuesday, October 30, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

Notice is hereby given pursuant to Section 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on Wednesday, November 14, 1979, at 7:00 p.m., a public information meeting will be held at the City Hall Auditorium, Alexandria, Louisiana, located on 3rd Street between Murry and Main Streets. The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed construction of the North-South Expressway, I–49 through Alexandria, an undertaking assisted by the Federal Highway Administration that will adversely affect the Missouri Pacific-Texas Pacific Railroad Station, a property that is eligible for the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register and eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meeting:

I. An explanation of the procedures and purposes of the meeting by a representative of the Executive Director of the Council.
II. A description of the undertaking and an evaluation of its effects on the property by Federal Highway Administration.
III. Statements from local officials, private organizations and the public on the effects of the undertaking on the property.
IV. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, P.O. Box 25085, Denver, Colorado 80225, 303/234–4946.

Robert M. Utley,
Deputy Executive Director.

[FR Doc. 79–32995 Filed 10–29–79; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Kootenai National Forest Plan, Lincoln, Sanders, and Flathead Counties, Mont.; Bonner and Boundary Counties, Idaho; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, Kootenai National Forest, will prepare an Environmental Impact Statement for the development of an Integrated Forest Plan for the Kootenai National Forest. The development of this Forest Plan is in compliance with the National Forest Management Act of 1976.

In formulating the Forest Plan, information from other government agencies, industry, and private individuals will be solicited. The Plan will be responsive to public issues and public involvement is critical to the planning and decisionmaking process.

Public workshop sessions are scheduled for:

October 29 at Eureka High School, Eureka, MT.
October 30 at Asa Wood School, Libby, MT.
November 1 at Trout Creek Elementary School, Trout Creek, Mt.
November 5 at Methodist Church, Troy, MT.

All sessions will begin at 7:30 p.m.

The Forest planning steps include identifying public issues and management concerns; development planning and decisionmaking criteria; collecting and storing needed information; analyzing the existing forest management situation; formulating alternatives; estimating the consequences of each alternative; evaluating and selecting the preferred alternative; and implementing the Plan.

Tom Coston, Regional Forester, is the responsible official.

The Draft Environmental Impact Statement for the Forest Plan is scheduled for completion by January 1981. The Final Environmental Impact Statement is scheduled for filing with the Environmental Protection Agency in mid-1981.

Comments on the Notice of Intent or on management proposals for the Forest Plan should be sent to Forest Supervisor, Kootenai National Forest, P.O. Box AS, Libby, Montana 59923.

Alfred H. Troutt,
Acting Regional Forester.

October 17, 1979.

[FR Doc. 79–33320 Filed 10–29–79; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Fourche Creek Watershed, Arkansas and Missouri

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: Mr. M. J. Spears, State Conservationist, Soil Conservation Service, Post Office Box 2323, Little Rock, Arkansas 72203, telephone number (501) 378–5445.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Fourche Creek Watershed, Randolph County, Arkansas, and Ripley County, Missouri.

The project was authorized for operations in April 1969. At present, one multiple-purpose recreation structure, seven floodwater retarding structures, and 71 percent of the planned land treatment measures have been installed. Project measures to be installed in the future include remaining land treatment, 30.1 miles of channel work on existing

manmade ditches, and 16 floodwater retarding structures. Major purposes of the project include increased water-based recreational opportunities, greater agricultural production through improved drainage and flood damage reduction, lessening of erosion rates, and minimization of impacts to the environment.

The environmental evaluation of this federally-assisted action indicates that completion of this project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. M. J. Spears, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed before further project construction is initiated.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in preparation of this statement. The draft environmental impact statement will be developed by Mr. M. J. Spears, State Conservationist, Soil Conservation Service, Post Office Box 2323, Little Rock, Arkansas 72203.

Dated: October 22, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83–566, 16 U.S.C. 1001–1008.)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-33323 Filed 10-29-79; 8:45 am]

BILLING CODE 3410-16-M

Rainy Mountain Creek Watershed Project, Oklahoma

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the remaining work in the Rainy Mountain Creek Watershed project, Kiowa, Comanche, and Washita Counties, Oklahoma.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant impacts to human environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for the remaining works in this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement include land treatment and seven single-purpose floodwater retarding structures.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The environmental assessment is on file and may be reviewed by the interested parties at the Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, telephone number (405) 624–4360. The finding of no significant impact has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the finding of no significant impact is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication.

Dated: October 22, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act, Public Law 78–534, 58 Stat. 905)

Joseph W. Haas,

Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-33324 Filed 10-29-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Docket 36595]

Competitive Marketing of Air Transportation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 12, 1979, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge William H. Dapper.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and three 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 Domestic Aviation will circulate its material on or before November 14, 1979, and the other parties on or before November 28, 1979. The submissions of the other parties shall be limited and confined to points on which they differ with the Bureau of Domestic Aviation, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., October 24, 1979.

William H. Dapper,

Administrative Law Judge.

[FR Doc. 79-33501 Filed 10-29-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

[Transmittal No. 266; Order No. 42–1; D.O.O. Reference 10–3, 40–1]

Deputy Assistant Secretary for Administrative and Legislative Policy; Organization and Function; Order

Effective Date: September 10, 1978.

Section 1. Effect on Other Orders

This order supersedes ITA Organization and Function Order 42–1 of December 4, 1977, as amended. (43 FR 9184; 43 FR 36670; 43 FR 51826; 44 FR 23271; and 44 FR 23553).

Sec. 2. Purpose

This order delegates authority to the Deputy Assistant Secretary for Administrative and Legislative Policy and prescribes the organization and assignment of functions within the organizational elements reporting to the Deputy Assistant Secretary for Administrative and Legislative Policy. This revision reflects the transfer of the Office of International Commercial Representation from the Deputy Assistant Secretary for Administrative and Legislative Policy to the Bureau of Export Development and incorporates previous amendments.

Sec. 3. Delegation of Authority

.01 Subject to such policies, directives, and delegations of authority as may be issued by the Secretary of Commerce and by the Assistant Secretary for Industry and Trade, and in accordance with applicable Department Organization Orders and Department Administrative Orders, the Deputy

Assistant Secretary for Administrative and Legislative Policy is hereby delegated the authorities of the Assistant Secretary as necessary to provide for all administrative management, public affairs, and congressional activities and direct such activities for all organizational elements in the Industry and Trade Administration.

.02 The Deputy Assistant Secretary for Administrative and Legislative Policy may redelegate authorities to any employee subject to such conditions in the exercise of such authority as may be prescribed.

Sec. 4. Organization and Line of Authority

.01 The Office of the Deputy Assistant Secretary for Administrative and Legislative Policy shall consist of the following organizational elements:

Congressional Relations Staff
Office of Personnel
Office of Management and Systems
Office of Administrative Support
Office of Budget
Office of Public Affairs

.02 The organizational structure and line of authority shall be as depicted in the attached organization chart.[1]

Sec. 5. Office of the Deputy Assistant Secretary

.01 The *Deputy Assistant Secretary for Administrative and Legislative Policy* shall be the principal advisor to the Assistant Secretary for Industry and Trade on legislative and management policy. In this respect, the Deputy Assistant Secretary shall enhance ITA's effectiveness in carrying out its mission of domestic business development and export expansion through securing the necessary legislative and interagency support for ITA programs, as well as through effecting the necessary syntheses of program policy development among the bureaus of ITA.

.02 The Deputy Assistant Secretary shall coordinate and monitor politically sensitive legislative issues regarding domestic and international business; provide the Assistant Secretary with detailed evaluations of the potential or actual impact of legislative matters and confidential recommendations as to alternative means of furthering support of beneficial proposals; and coordinate ITA administrative matters with the Assistant Secretary for Administration and other Department officials. The Deputy Assistant Secretary shall direct the following organizational components:

[1] Filed as part of the original document.

Sec. 6. The Congressional Relations Staff

.01 The Congressional Relations Staff shall be headed by a *Director* who shall be responsible for coordinating congressional matters within the Industry and Trade Administration, and serve as liaison with the Department's Office of Congressional Affairs.

.02 The Congressional Relations Staff shall provide timely and effective reporting on Congressional activities (committee hearings, markup sessions, conferences, etc.) and serve as a focal point for coordinating requests for testimony, Congressional inquiries and correspondence, legislative initiatives and related support. The staff shall provide support to the individual ITA Bureaus.

Sec. 7. Office of Personnel

.01 The Office of Personnel shall be headed by a *Director* who shall plan, coordinate and conduct the Personnel Management Program for the Industry and Trade Administration; interpret personnel policies and procedures established by higher authority; and act as liaison with the Department's Office of Personnel. The Director shall direct the following Divisions:

.02 The *Compensation Division* shall administer a position classification program for all organizational components of ITA; classify positions through grade GS–15; recommend to the Department and Civil Service Commission the classification of supergrade positions; conduct classification maintenance review surveys; conduct annual review of positions required by the Whitten Amendment; provide advice to management regarding classification implications of proposed new organizations and of realignment of functions within existing organizations; and in cooperation with the Industry and Trade Administration's Office of Management and Systems and Office of Budget, operate the position management program.

.03 The *Staffing and Employee Relations Division* shall plan, develop, and execute a complete program of staffing, placement and employee relations services for the Industry and Trade Administration, which includes recruitment, merit promotion, equal employment opportunity, and affirmative action programs; provide interpretation and advice to management, employees, and applicants on employment and employee relations policy and procedures; establish and maintain custody of official personnel folders and records; monitor utilization of assigned ceiling plan and coordinate ITA-wide programs in the areas of employee performance evaluations, employee recognition and incentives, employee benefits and welfare, and labor-management relations; advise supervisors on methods of dealing with poor work performance or behavior problems and inform them of regulatory and other requirements in effecting satisfactory resolutions either through administrative or disciplinary actions; conduct inquiries and implement actions leading to resolution of employee complaints, grievances and appeals, and process proposed adverse actions; keep employees informed of their rights, privileges, obligations and responsibilities; administer program for disclosure of outside employment and financial interests of employees in order to prevent conflicts of interests; coordinate the Alcoholism and Drug Abuse Program; and process requests for security clearance of employees.

.04 The *Employee Development Division* shall have responsibility for all functions related to training and career development which includes development and implementation of ITA sponsored programs for Executives, First-Level Supervisors, Management Interns, Upward Mobility Candidates, professional and clerical employees; coordination of employee training at non-Commerce facilities, such as the Office of Personnel Management and local universities; and counseling of employees on training opportunities and career planning.

Sec. 8. Office of Management and Systems

.01 The *Office of Management and Systems* shall be headed by a *Director* who shall plan, coordinate and direct all management and systems programs for the Industry and Trade Administration and act as liaison with the Department's Office of Organization and Management Systems and the Office of ADP Management. The Office of the Director shall be the liaison for GAO and Departmental audit reports, surveys, and inquiries and plan and coordinate ITA's emergency readiness functions. The Director shall direct the following Divisions:

.02 The *Systems Management Division* shall coordinate and direct planning, analysis, development, design and evaluation of Industry and Trade Administration systems; conduct or coordinate feasibility studies of proposed ADP systems; provide management coordination and control, technical guidance, assistance and support to all ITA elements with regard to systems, data communications, data

processing and data retrieval; design, evaluate, develop and install the application of all systems to ITA operations; and develop an integrated ITA data base. The Divisions shall be responsible for establishment of production schedules for and maintenance of operational automated systems, and for the maintenance of systems documentation and support for all new existing automated systems; be responsible for the preparation and submission of ADP planning, budgeting and evaluation information as required by ITA, the Department and by other Federal agencies; and be the point-of-contact within the Industry and Trade Administration for all ADP and systems questions and consultations.

.03 The *Management Analysis Division* shall conduct studies and surveys to effect improved management practices, manpower distribution, organization alignments, procedures and work methods; review and coordinate all proposed organizational changes; administer the forms management program and reports management program; perform the committee management function and records management function; in cooperation with the Industry and Trade Administration's Office of Personnel and Office of Budget operate the position management program; maintain a system for the issuance of all Announcements, Administrative Instructions, Organization and Function Orders, Delegations of Authority and other issuances prepared for the administration of the Industry and Trade Administration; coordinate the administration of the Freedom of Information Act and the Privacy Act; maintain boycott reports for public inspection; conduct or coordinate feasibility studies of microform applications and equipment needs and usage; and review, evaluate, approve and coordinate the acquisition and use of ADP word processing and microfilm equipment and support services.

Sec. 9. Office of Administrative Support

.01 The *Office of Administrative Support* shall be headed by a *Director* who shall plan and direct all admistrative support services for the Industry and Trade Administration. The Direct shall serve as the Department's member of the NSC/SCC Working Group on Terrorism and shall be provided staff support by the Bureau of Domestic Business Development. The Director shall maintain liaison with and shall be responsible for monitoring the quantity and quality of services provided through the working capital fund by the Department's Office of Administrative Services, Office of Publications, Office of Investigations and Security and the Office of Procurement and ADP Management.

.02 The *Travel Staff* within the Office of the Director shall provide comprehensive travel services which shall include itinerary plans, modes of travel, reservations for transportation, security clearances, tickets, travel advances, passports and visas, and hotel accommodations for international travel. The Travel Staff shall pre-audit all travel vouchers.

.03 The *Property Management Division* shall receive and process all procurement requests for furniture, furnishings, office equipment, office supplies, subscriptions, publications and printing; arrange for the repair and renovation of office equipment and furniture; voucher all transactions to insure that the terms of purchases and contracts are fully met; maintain current inventories of office equipment and other property as appropriate; monitor the use of office equipment and furniture, insure its use is maximized and review requests for procurement of new items to insure that unused items are not otherwise available. The Division shall also maintain a current inventory of ITA assigned office and special use space; monitor GSA SLUC billings to insure that charges are accurate and inaccuracies are corrected; perform ongoing review and analysis of office space utilization to insure conformity to Department and GSA guidelines; develop short and long range plans for space assignments in anticipation of increases and decreases in the requirements of ITA organizational elements; prepare work specifications for renovations, alteration and telephone and electrical services within ITA; monitor all contract work to insure that standards of quality are met, work is performed within agreed timeframes, and costs do not exceed estimates; provide within the capability of the Division, office design services for ITA organizations and monitor, as contracting office, all office design and layout work performed by private design firms; and conduct reviews of office space and recommend approaches to improving the physical surroundings and working environment of ITA employees.

.04 The *Support Services Division* shall provide mail management, secretariat, time and attendance reporting, security and safety services for ITA personnel and organizational elements. The Division shall receive, sort and distribute correspondence; receive, post, control and distribute classified and registered documents; provide for the distribution of bulk materials and special messenger service; monitor ITA mailing practices to insure that appropriate laws, rules, regulations and guidelines are adhered to; receive, review and assign for appropriate action all Secretarial, White House and Congressional correspondence directed to ITA; follow-up to insure timely response; provide assistance on correspondence procedures; and review all replies for proper format and compliance with established procedures. The Division shall also provide physical and document security orientation for employees and security briefings; maintain NATO sub-registry for Commerce; review and evaluate the ITA security program; and control credentials, building passes and keys; perform the safety function including reviewing and evaluating the physical working condition with ITA and taking necessary actions to correct conditions that are or may be injurious to the health and safety of employees; and advise and assist ITA personnel on matters pertaining to payroll and provide paymaster services.

Sec. 10. Office of Budget

.01 The *Office of Budget* shall be headed by a *Director* who shall be the ITA Budget Officer and who shall plan, coordinate and direct the budget and program planning functions of the Industry and Trade Administration including the obligation and expenditure of ITA appropriations and funds; the collection of contributions and receipts, approval of reimbursable agreements and agreements for special statistical studies; establish standards, criteria and procedures for the preparation of budget estimates; interpret budgetary and financial procedures established by higher authority and maintain liaison with counterpart budget, program evaluation and fiscal offices in the Office of the Secretary, the Office of Management and Budget, and, as necessary, other Federal agencies. The Director shall direct the following Divisions:

.02 The *Program Planning and Analysis Division* shall analyze and evaluate ITA programs and program plans; assist ITA organizational elements to develop and improve program plans, including statements of objectives, descriptions of projects and indicators of outputs, results or workload and accomplishments; coordinate and oversee the MBO process and the development of long-range goals and objectives; coordinate or prepare program issue and evaluation studies and analyses, assist the Budget Formulation and Operations Division in

the identification of major issues and problems to be addressed in program proposals and budget requests; and maintain a tracking system for legislative proposals which may have budgetary impact.

.03 The *Budget Formulation and Operations Division* shall provide continuous liaison with ITA program managers and technical assistance to organizational units on all budget matters; participate in the identification of major issues and problems to be addressed in program proposals and budget requests; participate in the review of legislative proposals affecting ITA's plans and programs; examine and analyze all budget proposals in terms of effective allocation of ITA resources, conformance to policies, adequacy of justification and appropriation language, existence of statutory authorization, feasibility and economy of operations and accuracy and consistency of budget and accomplishment schedules; prepare Preview Estimates and the Secretarial, OMB, and Congressional budget justifications; prepare witnesses to testify on budget requests and complete materials for hearing transcripts; analyze fiscal and program plans and reprogramming proposals for conformance to Departmental and ITA policies and commitments, and maintain a continuous review of the status of obligations, expenditures and program progress by organization and budget structure; review and evaluate ITA program structure and recommend modifications as necessary; develop and maintain instructions governing the operations of ITA's budgetary processes; prepare technical and other supporting schedules and review such schedules, as well as budget justifications for conformance with Departmental and OMB instructions governing submission of budget estimates; assure administrative control over the obligation and expenditure of ITA appropriations and other funds; assure validity of planned and actual data included in financial reports; prepare special reports or briefings for the Office of the Secretary, the Assistant Secretary for Industry and Trade and ITA program managers regarding significant fiscal budget and program execution related problems, incorporating materials provided by other Divisions of the Office of Budget; prepare overseas direct project budget authorizations and advices of fund availability, and collect and deposit contributions and receipts; negotiate and prepare reimbursable agreements and billings related thereto; maintain liaison with the Central Accounting Division of the Department of Commerce's Office of Financial Management Services; coordinate the Office of Budget's participation in ITA's Program Management Information System; and maintain ITA's budget history.

Sec. 11. The Office of Public Affairs

.01 The *Office of Public Affairs* shall be headed by a *Director* who shall be responsible for furnishing public affairs and information services to the Industry and Trade Administration. The *Business America Staff* within the Office of the Director shall prepare and publish *Business America*. The Director shall direct the following Divisions:

.02 The *Public Information Division* shall develop long-range plans, programs and goals; develop, prepare, clear and release press releases; develop and produce audio visual information material intended for public consumption including slide presentations, motion pictures, and television production, audio (cassette) presentation, exhibit displays, advertising material (radio-TV-print), and scripts and record material for distribution; draft speeches, public statements, and messages for the President and Secretary of Commerce; write articles, often for signature by Department officials, for publication in national press and journals; develop questions and answers and briefing papers for Presidential and Secretarial news conferences and other purposes; arrange news conferences for Departmental officials; develop speaking forums for ITA officials designed to support Departmental and Administration objectives; perform editorial services including research and editorial assistance in the preparation and publication of technical articles; and maintain mailing lists, biographical data, business information and other reference material.

.03 The *Publications Division* shall assist in the development of Industry and Trade Administration publications for internal as well as public consumption, including gathering of material, writing, and preparation for printing; promote ITA publications; prepare and arrange for placement of display and advertising for ITA promotional events in the U.S. and abroad; maintain liaison with the Department's Office of Publications and the Government Printing Office and with other Government agencies concerned with ITA reports and publications.

Stanley J. Marcuss,

Acting Assistant Secretary for Industry and Trade.

[FR Doc. 79-33508 Filed 10-29-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel Meeting; November 13–14, 1979

Holiday Inn (Corner Broad and Hull Streets) Athens, Georgia (across the street from the University).

Tentative Agenda

November 13, 1979—8:30 a.m. to 5:00 p.m.

8:30 a.m.–11:30 a.m.

Georgia Sea Grant Program Presentation.

1:00 p.m.–4:15 p.m.

Open Panel Business Metting to discuss: A. Budget progress and program strategy; B. Highlights of Program Reviews completed since previous meeting; C. Panel Member suggestions for new initiatives.

4:15 p.m.

D. Applications for Sea Grant College designation.

4:30 p.m.

E. Closed Session regarding Agenda Item D.

5:00 p.m.

Recess.

November 14, 1969—8:00 a.m. to 5:00 p.m.

8:00 a.m.–4:30 p.m.

Joint Meeting—Panel Members with Council of Sea Grant Directors to discuss: F. NOAA Tenth Anniversary Events; G. Proposed Tenth Sea Grant Anniversary Symposium; H. University Industry Relations.

4:30 p.m.

Adjourn.

All agenda items except D will be open to public attendance. Approximately 30 seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant College Program, 6010 Executive Boulevard, Rockville, Maryland 20852.

For further information, contact Mr. Arthur G. Alexiou, Executive Secretary of the Sea Grant Review Panel, at the above address. Telephone: (301) 443–8894.

The Assistant Secretary of Commerce for Administration has approved the closure of these meetings for Item E.

Dated: October 23, 1979.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Management and Budget, National Oceanic and Atmospheric Administration.

[FR Doc. 79-33507 Filed 10-29-79; 8:45 am]

BILLING CODE 3510-12-M

Notification of Intent To File an Environmental Impact Statement

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), intends to prepare a draft environmental impact statement (DEIS) on a proposed marine sanctuary at Looe Key off the coast of Florida in accordance with rules and regulations for the designation and management of marine sanctuaries (FR, Vol. 44, No. 148, Tuesday, July 31, 1979).

The marine sanctuary proposal is currently being developed in consultation with local government, State and Federal agencies and affected public groups. The action would protect and manage the coral reef area in ocean waters approximately 7 miles off the coast at Looe Key.

The Environmental Impact Statement (EIS) will be prepared in compliance with the Council on Environmental Quality (CEQ) regulations (FR, Vol. 43, November 29, 1978). Interested parties who wish to submit suggestions, comments, or substantive information concerning the scope or content of this proposed environmental impact statement should do so prior to November 15, 1979. Comments may be submitted in writing or by telephone to: Mr. Edward Lindelof, Acting Gulf/Caribbean Project Manager, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235, Telephone: (202) 634–4236.

Dated: October 25, 1979.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 79-33597 Filed 10-29-79; 8:45 am]

BILLING CODE 3510-08-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name: Dr. David C. Schneider and Ms. Ann F. Mason, Manomet Bird Observatory (P225)
   b. Address: Box 936, Manomet, Massachusetts 02345
2. Type of Permit: Scientific Research
3. Name and Number of Animals: Harbor Seals (*Phoca vitulina*)—200
4. Type of Take: To mark harbor seals with bleach, dye or paint in order to estimate residence time in a local population.
5. Location of Activity: Stage Point, MA
6. Permit of Activity: 2 years

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statement and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: October 24, 1979.

Richard B. Roe,

Deputy Director, Office of Marine Mammals/Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-33329 Filed 10-29-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 22, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Automatic Test Equipment will meet on November 28 and 29, 1979 at Wright-Patterson AFB, Ohio, from 8:30 a.m. to 5:00 p.m. each day.

The Committee will review and study the status of automatic test equipment in Air Force electronic equipment and related components. The meeting will be closed to the public in accordance with Section 552b(c), Title 5, United States Code, specifically subparagraph (4).

For further information contact the Scientific Advisory Board Secretariat at (202) 697–8404.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-33325 Filed 10-29-79; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Fort Gibson Powerhouse Extension, Fort Gibson Lake, Wagoner and Cherokee Counties, Okla.

AGENCY: U.S. Army Corps of Engineers, DOD, Tulsa District.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The primary purpose of this project is to add additional hydropower units to Fort Gibson Dam and address other national and local needs such as water supply, flood control, fish and wildlife resources, recreation, and cultural resources.

2. Reasonable Alternatives: Evaluation included various alternatives to change the lake level and to add different numbers and sizes of generators and no action.

3. Scoping Process:

a. Public Involvement: A comprehensive public involvement program was developed as a means of disseminating information and soliciting public views. A variety of techniques including formal public meetings, public workshops, and the local news media were employed to involve Federal, State, and local agencies, citizen committees, organizations, and the interested public in the planning studies.

b. Significant Issues Requiring In-Depth Analysis: None.

c. Assignments: US Fish and Wildlife Service is preparing a fish and Wildlife Coordination Act Report.

d. Environmental Review and Consultation Requirements: The draft environmental impact statement will be circulated for review and all comments will be incorporated into the final environmental impact statement.

4. Scoping meeting will not be held.

5. Estimated date when the DEIS will be available: February 1980.

ADDRESS: Mr. Buell O. Atkins, Chief, Environmental Resources Branch, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121, (918) 581-7857, FTS 736-7857.

Dated: October 22, 1979.

Robert G. Bening,

Colonel, CE, District Engineer.

[FR Doc. 79-33326 Filed 10-29-79; 8:45 am]

BILLING CODE 3710-39-M

DEPARTMENT OF ENERGY

National Petroleum Council; Coordinating Subcommittee, and the Main Committee on Refinery Flexibility; Meetings

Notice is hereby given that both the National Petroleum Council's Committee on Refinery Flexibility and the Coordinating Subcommittee will meet on Wednesday, November 21, 1979, in the Mount Vernon Room of the Madison Hotel, 15th and M Streets, N.W., Washington, D.C. The Main Committee Meeting will begin at 10:00 a.m. with the Coordinating Subcommittee Meeting tentatively scheduled to follow.

The National Petroleum Council provides technical advice and information to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries. Accordingly, the Committee on Refinery Flexibility has been requested by the Secretary to undertake an analysis of the factors affecting crude oil quality and availability and the ability of the refining industry to process such crudes into marketable products. This analysis will be based on information and data to be gathered by the Oil Supply, Demand, and Logistics Task Group and the Refinery Capability Task Group, whose efforts will be coordinated by the Coordinating Subcommittee. The tentative agenda of the Main Committee session is as follows:

1. Review and discuss the draft Interim Report.
2. Discuss the outline for the final phase of the study.
3. Discuss the schedule for completion of the study.
4. Discuss any other matters pertinent to the overall assignment of the Committee.

There is no formal agenda for the Coordinating Subcommittee meeting other than to address those issues raised by the Main Committee which require action by the Coordinating group or the Task Groups to ensure resolution.

All meetings are open to the public. The chairmen of the Committee and Subcommittee are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with either the Committee or Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Mr. Marshall Nichols, National Petroleum Council, (202) 393-6100, prior to the meeting, and provision will be made for their appearance on the agenda.

Transcripts of both meetings will be available for public review at the Freedom of Information public Reading Room, Room GA-152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on October 24, 1979.

C. William Fischer,

Acting Assistant Secretary, Policy and Evaluation.

[FR Doc. 79-33487 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

[DOE/EIS-0050-DS]

Availability of Draft Facility Location Supplement to Proposed Fiscal Year 1979 Program EIS (Buckley-Summer Lake 500-kV Line)

Notice is hereby given that the Bonneville Power Administration (BPA), Department of Energy (DOE), has issued a Draft Facility Location Supplement to BPA's Final Fiscal Year 1979 Proposed Program Environmental Statement. This Draft Facility Location Supplement is issued pursuant to DOE's implementation of the National Environmental Policy Act of 1969. Entitled "Buckley-Summer Lake 500-kV Line," this supplement assesses the environmental impacts of a 156 mile, 500-kV transmission line between Buckley and Summer Lake, Oregon. The supplement expands upon the information contained in a previous EIS supplementing BPA's Fiscal Year 1979 Program EIS, Southwest Oregon Area Service (DOE/EIS-000 5-FS-2). That previous EIS was made available to the Environmental Protection Agency (EPA) and the public on September 24, 1979.

Copies of the Buckley-Summer Lake 500-kV Line Draft Facility Location Supplement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, OR 97208) and at DOE public document rooms located at:

Library, FOI—Public Reading Room GA-152, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

BPA, Washington, D.C., Office, Federal Building, Room 3352, 12th & Pennsylvania Avenue NW., Washington, D.C.

Library, BPA Headquarters, 1002 NE. Holladay Street, Portland, Oregon

And in the following BPA Area and District Offices:

Eugene District Office, U.S. Federal Building, 211 East 7th Street, Room 206, Eugene, Oregon

Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho

Kalispell District Office, Highway 2 (East of Kalispell), Kalispell, Montana

Portland Area Office, 919 NE. 19th Avenue, Room 210, Portland, Oregon

Seattle Area Office, 415 First Avenue North, Room 250, Seattle Washington

Spokane Area Office, U.S. Court House, Room 561, W. 920 Riverside Avenue, Spokane, Washington

Walla Walla Area Office, West 101 Poplar, Walla Walla, Washington

Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, Washington

Single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, or the BPA Area and District Offices mentioned above.

Dated at Portland, Oregon, this 10 day of October 1979.

Sterling Munro,

Administrator.

[FR Doc. 79-33585 Filed 10-30-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of September 1979. These Consent Orders concern prices charged by retail motor gasoline dealers in excess of the maximum lawful selling price for motor gasoline since August 1, 1979, failure to properly post the maximum lawful selling price or certification, and engaging in business practices which are either discriminatory with respect to purchasers of motor gasoline, resulting in a higher price than permitted, or tied the sale of gasoline to the purchase of another service. The purpose and effect of these Consent Orders is to bring the consenting firms into compliance with the Mandatory Petroleum Allocation and Pricing Regulations from August 1, 1979, and they do not address or limit any liability with respect to consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

A. With respect to selling prices:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Roll back prices to achieve refund of overcharges;

3. Properly maintain records required under the aforementioned regulations.

B. With respect to business practices:

1. Cease and desist from employing any form of discriminatory practice;

2. Cease and desist from employing any practice designed to obtain a price higher than is permitted by the regulations;

3. Cease and desist from employing any practice making the sale of gasoline contingent upon the purchase of another service, charging for services by means of a fee computed on a cents per gallon basis, or charging a fee to dispense gasoline.

C. With respect to posting requirements:

1. Properly post the maximum lawful selling price or certification;

2. Rollback the maximum lawful selling price for failure to post.

For further information regarding these consent Orders, please contact Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, telephone number 214/767–7745.

Firm's Name, Address, and Date of Consent Order

D. N. Passmore, Jr., d.b.a. Pint's Exxon 11038 Westheimer, Houston, Tex. 77042; Aug. 28, 1979.

Sam Tilotta, d.b.a. Tilotta's Exxon Service Station, 5602 Fulton, Houston, Tex. 77009; Aug. 28, 1979.

Dimitrios Isihill, d.b.a. Dimitrios Exxon, 1344 Almeda, Houston, Tex. 77053; Aug. 30, 1979.

Wilson B. Weaver Texaco, 401 Richmond, Wharton, Tex. 77484; Aug. 30, 1979.

Robert Ripple Exxon, 1622 N. Richmond, Wharton, Tex. 77488; Aug. 30, 1979.

John McGregger Exxon, 709 N. Richmond, Wharton, Tex. 77488; Aug. 30, 1979.

David Slavinski, d.b.a. Max's Exxon, 200 H'way 59–A, Richmond, Tex. 77469; Sept. 4, 1979.

Glenn Koteras, d.b.a. Glenn's Exxon, 604 Jackson, Richmond, Tex. 77469; Sept. 4, 1979.

L. L. Roby, d.b.a. West Belt Mobile Service, 12860 Kimberly, Houston, Tex. 77024; Sept. 6, 1979.

W. P. Phillips, d.b.a. Phillip's Exxon Service, 909 Walnut at Rt. 90, Columbus, Tex. 78934; Sept. 11, 1979.

Benton L. Finch, d.b.a. Stafford Texaco, 3403 S. Main, Stafford, Tex. 77477; Sept. 11, 1979.

White Oil Company, Inc. 2803 Adline Bender, P.O. Box 1168, Houston, Tex. 77032; Sept. 13, 1979.

George C. Kohler and Nick Petrou, d.b.a. Harwin Texaco, 5803 Fondren, Houston, Tex. 77032; Sept. 14, 1979.

Don Hartman, d.b.a. Hartman's Texaco, 3425 Eastex Freeway, Houston, Tex. 77026; Sept. 14, 1979.

Tony Emmanovil, d.b.a. Tony's Texaco, 12859 Kimberly, Houston, Tex.; Sept. 17, 1979.

Cecil Ferguson, d.b.a. Ferguson's Food Mart, 3722 Reveille, Houston, Tex. Sept. 12, 1979.

Ken Hunt, d.b.a. Days Inn Motel, 720 S. MacArthur, Oklahoma City, Okla. 73128; Sept. 13, 1979.

Doy Gatlin, d.b.a. El Paso Auto Truck Stop Inc., 1301 North Horizon Blvd., El Paso, Tex. 79927; Aug. 28, 1979.

Norman Bumbers, d.b.a. Bumpers Post Office Texaco, 301 W. Broadway, Andrews, Tex. Aug. 29, 1979.

W. L. West, d.b.a. Sonny & Johnnie's Texaco, P.O. Box 79, Orla, Tex. 79770; Aug. 28, 1979.

John Mitchell Chevron, P.O. Box 68, Orla, Tex. 79770; Aug. 28, 1979.

Billy Ray Green, d.b.a. Notrees Shell Service Sta., P.O. Box E, Notrees, Tex. 79759; Aug. 28, 1979.

William Exxon Service, 101 N. Main, Seminole, Tex. 79360; Aug. 30, 1979.

B. D. March Banks, 210 West Ave. A, Seminole, Tex. 79360; Aug. 30, 1979.

Jim's 66, 701 N. Main, Andrews, Tex. 79714; Aug. 31, 1979.

Grad R. Gipson, d.b.a. Gipson Exxon, 2031 Wyoming, El Paso, Tex.; Aug. 31, 1979.

Bob Huston, d.b.a. Bob's Chevron, 600 North Mesa, El Paso, Tex. 79901; Aug. 31, 1979.

M. G. Cavillo, Jr., d.b.a. Pernell Chevron Service, 2625 North Mesa, El Paso, Tex. 79902; Aug. 31. 1979.

Liphan Gulf, 911 N. Main & Avenue I, Andrews, Tex; Sept. 6, 1979.

Dale Kidd's Service Sta., Box 846, Lamesa, Tex. 79331; Sept. 6, 1979.

Charles Woodward, d.b.a. Koontz Gulf, 910 Gaston Ave., Crane, Tex.; Sept. 10, 1979.

Mike Dee's Whaley's Marina, H'way 136 East Fritch, Tex.; Sept. 6, 1979.

Jack Minor Gulf, P.O. Box 725, Seagraves, Tex. 79359; Sept. 12, 1979.

Keith McConal, d.b.a. Keith's Exxon, P.O. Box 915, Loop, Tex. 79342; Sept. 10, 1979.

William's Exxon, 101 N. Main, Seminole, Tex. 79360; Sept. 10, 1979.

Jim Christian, d.b.a. Christian Shell, 615 E. Austin, Kermit, Tex. 79745; Sept. 12, 1979.

Jerry Smith, d.b.a. Rio Grande Dist., Inc., 3500 Andrews H'way, Odessa, Tex. 79760; Sept. 13, 1979.

J. C. McPhail, d.b.a. McPhail Exxon, 2510 North Dixie, Odessa, Tex. 79760; Sept. 13, 1979.

Gossett Exxon Service, Box 232, Rankin, Tex.; Sept. 12, 1979.

Saul Garcia, d.b.a. Airport Groceries, 7601 Andrews H'way, Odessa, Tex. 79762; Sept. 13, 1979.

J. D. Ward, d.b.a. J. D. Ward & Sons, Inc., 4801 Andrews H'way, Odessa, Tex. 79760; Sept. 13, 1979.

Jackson Street Shell, 424 E. Tucumcari Blvd., Tucumcari, N. Mex. 88401; Aug. 27, 1979.

Darrell Johnson, d.b.a. Johnson Exxon & U Haul, 1819 E. Tucumcari Blvd., Tucumcari, N. Mex. 88401; Aug. 27, 1979.

Aragon Conoco, 803 E. Tucumcari Blvd., Tucumcari, N. Mex. 88401; Aug. 27, 1979.

Food Systems, Inc., d.b.a. Albuquerque Auto/Truck Stop Plaza, 2501 University, N.E., Albuquerque, N. Mex. 87107; Aug. 27, 1979.

Lee Howard d.b.a. Interstate 10–25 Truck Stop, P.O. Box 280, Anthony, N. Mex. 88021; Aug. 27, 1979.

Roger E. Armitage, d.b.a. Armitage Service, 2001 South Main, Las Cruces, N. Mex. 88001; Aug. 27, 1979.

H. L. Tipton, d.b.a. Tipton Chevron, R.R. #4, Box 501, Las Cruces, N. Mex. 88001; Aug. 28, 1979.

Reid Ford, d.b.a. Reid Ford Chevron, H'way 70 & Elks Rd., (P.O. Box 512), Las Cruces, N. Mex. 88001; Aug. 30, 1979.

Circle K Corporation, 7445 Pan American F'way, Albuquerque, N. Mex. 87110; Sept. 6, 1979.

Eddie B. Corley, d.b.a. Eddie's Exxon, 600 East Santa Fe, Grants, N. Mex. 87020; Sept. 11, 1979.

Bosque Tire & Auto, 655 Bosque Farms Blvd., Bosque Farms, N. Mex. 87068; Sept. 13, 1979.

Park Row-H'way 360 Shell, 2525 E. Park Row, Arlington, Tex. 76010; Sept. 5, 1979.

John Woods Exxon, 1501 North Street, Nacogdoches, Tex. 75961; Aug. 27, 1979.

Vandel Mayberry, d.b.a. Mayberry's Exxon, 101 E. End Blvd., North Marshall, Tex. 75670; Sept. 4, 1979.

L & L, Inc., (12 Sta), 620½ Ambler, Abilene, Tex. 79601; Aug. 24, 1979.

Gary V. Sudderth, d.b.a. Circle Gulf, 300 W. Commerce, Brownwood, Tex.; Aug. 28, 1979.

Creel Exxon, P.O. Box 154, Payner, Tex. 75782; Sept. 4, 1979.

Charlie Brown's Exxon, 3509 Wesley, Greenville, Tex. 75401; Sept. 10, 1979.

Don Hudson Mobil, 304 S. Blackjack, Bublin, Tex. 76446; Sept. 12, 1979.

Patterson's Gulf, P.O. Box 56, Albany, Tex. 76430; Sept. 13, 1979.

Carlile's Texaco, 400 S. Main, Albany, Tex. 76430; Sept. 13, 1979.
Ranger Hill Texaco, P.O. Box 355, Ranger, Tex. 76470; Sept. 12, 1979.
Dubose Texaco, P.O. Box 548, Merkel, Tex. 79536; Sept. 13, 1979.
Dick Shelton Exxon, 203 Hill St., Albany, Tex. 76430; Sept. 13, 1979.
Stuart Exxon, I–20 & FM 570, Eastland, Tex. 76448; Sept. 14, 1979.
Bill Morgan Shell, 325 Pine, Baird, Tex. 79504; Sept. 14, 1979.
Gary Exxon, P.O. Box 875, Abilene, Tex. 79604; Sept. 14, 1979.
Otho Cromer, d.b.a. Cromer's Exxon, 401 W. 7th St., Texarkana, Tex. 75501; Sept. 10, 1979.
Tommie & J. E. Ellis Texaco, 1021 N. Fisk, Brownwood, Tex. 76801; Sept. 11, 1979.
Nelson & Lewis Exxon, 104 Early Blvd., Brownwood, Tex. 76801; Sept. 4, 1979.
Joe Averett Mobil, 3101 E. Belknap, Ft. Worth, Tex. 76111; Sept. 4, 1979.
Robert E. Pfiester, d.b.a. Ingram Exxon, P.O. Box 492, H'way 27, Ingram, Tex. 78025; Sept. 6, 1979.
David C. Anderson, 7560 Bandera Rd., San Antonio, Tex. 78225; Sept. 7, 1979.
Anton Haner, 1060 Bandera Rd., San Antonio, Tex. 78228; Sept. 7, 1979.
Alton H. Justi, 1554 Bandera Rd., San Antonio, Tex. 78228; Sept. 7, 1979.
Delton Feller, 900 Mario St., Kerrville, Tex. 78028; Sept. 6, 1979.
Michael L. Rowland, I–10 & U.S. 87, Comfort, Tex. 78013; Sept. 6, 1979.
Elmer Hansen, 401 E. Main, Fredericksburg, Tex. 78674; Sept. 5, 1979.
C. P. Merrick, Carl & Weimar Hein, 406 E. Main, Fredericksburg, Tex. 78624; Sept. 5, 1979.
Hein Chevrolet Dealership, 406 E. Main, Fredericksburg, Tex. 78624; Sept. 5, 1979.
Oliver Ottmers, 502 E. Main, Fredericksburg, Tex. 78624; Sept. 5, 1979.
Thomas Kaderli, 501 S. Washington, Fredericksburg, Tex. 78624; Sept. 5, 1979.
Estella M. Crenwelge, H'way 87 S., P.O. Box 452, Fredericksburg, Tex. 78624; Sept. 5, 1979.
Hans Hannamar, H'way 87 South, Fredericksburg, Tex. 78624; Sept. 5, 1979.
William B. Hobb, U.S. H'way 281 & 290, Johnson City, Tex. 78636; Sept. 5, 1979.
Kenneth Bible, P.O. Box 328, Johnson City, Tex. 78636; Sept. 5, 1979.
John A. Didway, Sr., Robertson & H'way 290, Johnson City, Tex. 78636; Sept. 5, 1979.
Dominic Martin, Main & Nugent, Johnson City, Tex. 78636; Sept. 5, 1979.
Roger Reeves, Main & 12th, Blanco, Tex. 78606; Sept. 5, 1979.
Wesley Ellebracht, P.O. Box 184, Mountain Home, Tex. 78058; Sept. 6, 1979.
Kelly Brown, 344 Junction H'way, Kerrville, Tex. 78028; Sept. 6, 1979.
Robert Graham, 341 Junction H'way, Kerrville, Tex. 78028; Sept. 6, 1979.
Robert L. Gaconnet, H'way 16 & Cherry St., Bandera, Tex. 78003; Sept. 7, 1979.
Robert Albertson, 1001 Main St., Bandera, Tex. 78003; Sept. 7, 1979.
E. S. Jennings, Box 173, H'way 16 & Rd. 1283, Pipe Creek, Tex. 78063; Sept. 7, 1979.
C. T. Bryce, d.b.a. Bryce's Exxon, 526 E. Main, Uvalde, Tex. 78801; Sept. 11, 1979.
Norman Lehmann, 619 S. Seguin, New Braunfels, Tex. 78130; Sept. 10, 1979.
Bill & Joe Ellis, d.b.a. Ellis Texaco, 303 E. Central, Comanche, Tex. 76442; Sept. 5, 1979.
Curlee's Exxon, 921 E. Henderson, Cleburne, Tex. 75031; Sept. 5, 1979.
Lawrence Reber, d.b.a. Reber Enterprises, Inc., 3303 E. Skelly Dr., Tulsa Okla. 74135; Sept. 19, 1979.
Bill Satterfield, d.b.a. Satterfield's Auto Center, 1948 S. Harvard, Tulsa Okla. 74112; Sept. 17, 1979.
Robert Grinter, d.b.a. Fontana Texaco, 5102 S. Memorial, Tulsa Okla.; Sept. 19, 1979.
David Bartlett, d.b.a. Dave's Warr Acres Texaco, 5040 N. MacArthur, Oklahoma City, Okla. 73122; Sept. 19, 1979.
Jack Votano, d.b.a. Tulane Avenue Exxon, Tulance Avenue Exxon, New Orleans, La. 70119; Sept. 26, 1979.
Frank Marabella, d.b.a. Overpass Exxon, 3155 Perkins Rd., Baton Rouge, La. 70808; Sept. 27, 1979.
Malcolm LeMoine, d.b.a. Mac's Mobil, 5377 Highland Rd., Baton Rouge, La. 70808; Sept. 26, 1979.
Jack Obeny, d.b.a. Economy Texaco, Range Rd. & I–12, Denham Spring, La. 70726; Sept. 26, 1979.
Ben Peabody, d.b.a. Ben's Exxon, 3452 Scenic H'way, Baton Rouge, La. 70805; Sept. 27, 1979.
Dino L. Carlomagro, d.b.a. Dino's Airline Gulf, 3551 Airline H'way, Metairie, La. 70001; Sept. 24, 1979.
Russell Gagliano, d.b.a. Russell's Conoco, 1100 Jefferson H'way, Jefferson, La. 70121; Sept. 24, 1979.
Wade LeMoine, d.b.a. Twin Cedars Exxon, 7615 Jefferson H'way, Baton Rouge, La. 70809; Sept. 25, 1979.
Arthur Octave, d.b.a. Stadium Exxon, 1300 Scenic H'way, Baton Rouge, La. 70802; Sept. 25, 1979.
Gary C. Becker, 339 N. Guadalupe, San Marcos, Tex. 78666; Sept. 26, 1979.
Lee Upshaw, 2310 Babcock Rd., San Antonio, Tex. 78229; Sept. 27, 1979.
H. G. Boldt, 10780 Fredericksburg Rd., San Antonio, Tex 78240; Sept. 27, 1979.
James P. Clemett, d.b.a. Temple Gulf, 1220 N. Gen. Bruce, Temple, Tex. 76501; Sept. 18, 1979.
Tom Espinosa, I–35N and Loop 82, San Marcos, Tex. 78666; Sept. 26, 1979.
John L. Bassett, d.b.a. Bassett Gulf Service Center, Bassett Gulf S, 8791 Katy Freeway, Houston, Tex. 77024; Sept. 17, 1979.
Horace Hoelscher, d.b.a. Coastal Lion Service, 2411 South Gordon; Alvin, Tex. 77511; Sept. 17, 1979.
Ted Heitman, d.b.a. Heitman Lion Service, 614 South Gordon, Alvin, Tex.; Sept. 17, 1979.
R. V. Kelley, d.b.a. Kelley Texaco & Dayton Tire Center, 602 East H'way 6, Alvin, Tex. 77511; Sept. 17, 1979.
Howard G. Beeching, d.b.a. Beeching Texaco, 5714 Canal St., Houston, Tex. 77011; Sept. 20, 1979.
Raju Patel, d.b.a. Patel's Texaco, 12003 Eastex F'way, Houston, Tex. 77039; Sept. 21, 1979.
David Brewer, d.b.a. Brewer's Texaco, 11501 Eastex Freeway, Houston, Tex. 77016; Sept. 20, 1979.
Flores Exxon, 12303 Eastex Freeway, Houston, Tex. 77039; Sept. 21, 1979.
Clute 66, 101 East Main, Clute, Tex. 77531; Sept. 14, 1979.
S. Jarmon Texaco Station, 3730 Eastex Freeway, Houston, Tex. 77026; Sept. 7, 1979.
Brown's Service Center, 476 Plantation, Lake Jackson, Tex. 77506; Sept. 18, 1979.
Henry Fuller, d.b.a. Fuller's Gulf, 201 W. Main, LaPorte, Tex. 77571; Sept. 25, 1979.
Joe H. Yim, d.b.a. Yim's Texaco Station, 105 Highway 6, LaPorte, Tex. 77571; Sept. 25, 1979.
L. G. Simmons, d.b.a. Midland Lock, 611 N. Big Spring, Midland, Tex. 79701; Sept. 18, 1979.
Pete Armbruster, d.b.a. Pete's Chevron, 701 South Eddy, Pecos, Tex. 79772; Sept. 19, 1979.
Joe Miller, d.b.a. Miller's Chevron, P.O. Box 1322, Socorro, N. Mex. 87801; Sept. 18, 1979.
Ben F. Zimmerly, d.b.a. 1105 California St., Socorro, N. Mex. 87801; Sept. 17, 1979.
Frank Torres, d.b.a. Frank's Exxon, 1013 N. California St., Socorro, N. Mex. 87801; Sept. 17, 1979.
Luciano Gallegos, d.b.a. Luciano's Exxon, 506 S. California St., Socorro, N. Mex. 87801; Sept. 18, 1979.
Ned Baca, d.b.a. Ned's Shamrock, Rt. 1, Box 368, Belen, N. Mex. 87002; Sept. 20, 1979.
Felix Baca, d.b.a. Mountain States Oil Co., 943 Highway 85, Los Lunas, N. Mex. 87031; Sept. 20, 1979.
Raymond Soechting, 503 S. Seguin, New Braunfels, Tex. 78130; Sept. 10, 1979.
David Towns, d.b.a. Towns Mobil, 727 St. Joseph, Gonzales, Tex. 78629; Sept. 11, 1979.
Lupe C. Gonzales, d.b.a. Gonzales Exxon, 207 S. Esplanade, Cuero, Tex. 77954; Sept. 11, 1979.
Jesse C. Saucedo, d.b.a. Saucedo Exxon Service Station, 701 Guadalupe, San Marcos, Tex. 78666; Sept. 10, 1979.
Thomas Claxton, 190 I–35 North, New Braunfels, Tex. 78130; Sept. 10, 1979.
Robert B. Nelson, 1185 I–35 East New Braunfels, Tex. 78130; Sept. 10, 1979.
Howard Jensen, 225 Highway 81 East, New Braunfels, Tex. 78130; Sept. 10, 1979.
Clifton Friesenhahn, 211 Highway 81 East, New Braunfels, Tex. 78130; Sept. 10, 1979.
George Piewiazek, 10081 Highway 87 East, San Antonio, Tex. 78220; Sept. 11, 1979.
Maurice Ellzardo, Rt. 1, Box 301, Adkins, Tex. 78101; Sept. 11, 1979.
Veron Beal, 87 East, La Vernia, Tex. 78121; Sept. 11, 1979.
Koepp Chevrolet, P.O. Box 399, La Vernia, Tex. 78121; Sept. 11, 1979.
Ed Baker, Highway 123 South, Stockdale, Tex. 78160; Sept. 11, 1979.
John F. Wiatrek, Main & 10th, Stockdale, Tex. 78160; Sept. 11, 1979.
Robert L. Humphries, Rt. 11, Box 78, Stockdale, Tex. 78160; Sept. 12, 1979.
Harry Wieswer, P.O. Box 96, Stockdale, Tex. 78160; Sept. 12, 1979.
Tom Nipp Chevron, P.O. Box 10, Nixon, Tex. 78045; Sept. 12, 1979.
Audria Watkins, P.O. Box 565, Stockdale, Tex. 78160; Sept. 12, 1979.
Earl Kennedy, 101 Nixon St., Nixon, Tex. 78140; Sept. 12, 1979.
Audria Watkins, 208 E. Central, Nixon, Tex. 78140; Sept. 12, 1979.

Paul Pakebusch, Route 1, Cuero, Tex. 77954; Sept. 12, 1979.
M. H. Leske, 413 S. Esplanade, Cuero, Tex. 77954; Sept. 12, 1979.
Everitt B. Day, Route 2, Cuero, Tex. 77954; Sept. 12, 1979.
Theodore Vanek, d.b.a. Vanek's Exxon Station, I–10 & U.S. 77, Shulenburg, Tex. 78956; Sept. 13, 1979.
Z. K. Truman, 6007 West Avenue, San Antonio, Tex. 78213; Sept. 14, 1979.
Wayne Fenack, 360 NE I–40, San Antonio, Tex. 78216; Sept. 14, 1979.
John J. Brooks, 2230 NE Loop 410, San Antonio, Tex. 78217; Sept. 14, 1979.
Albert Glins, d.b.a. Glins Exxon, I–35 & Reyes, San Marcos, Tex. 75666; Sept. 12, 1979.
Carlos & Jose Adan, d.b.a. Adan Bros. Texaco, 1706 SW Loop 410, San Antonio, Tex. 78227; Sept. 14, 1979.
Ernie McDonald, d.b.a. Valley Hi Texaco, 5245 SW Loop 410, San Antonio, Tex. 78227; Sept. 14, 1979.
Fernando G. Gonzales Exxon, 1133 Austin H'wy, San Antonio, Tex. 78209; Sept. 20, 1979.
James Vaughn, d.b.a. Terrell Plaza Texaco, 1251 Austin H'way, San Antonio, Tex. 78209; Sept. 20, 1979.
Tommy Warwas Gulf, 1795 Nacogdoches, San Antonio, Tex. 78202; Sept. 20, 1979.
John H. Altmann Exxon, 1903 Nacogdoches, San Antonio, Tex. 78209; Sept. 20, 1979.
Bulmaro Alarcon Exxon, 8315 Broadway, San Antonio, Tex. 78209; Sept. 20, 1979.
J. B. Tucker Exxon, 3103 Nacogdoches, San Antonio, Tex. 78217; Sept. 24, 1979.
William H. Watson Texaco, 9202 Perrin-Beitel Rd., San Antonio, Tex. 78218; Sept. 21, 1979.
Ewe Zunkel Exxon, 505 S. W. W. White Rd., San Antonio, Tex. 78220; Sept. 21, 1979.
Antonio Gonzales Exxon, H'way 281, Leming, Tex. 78050; Sept. 17, 1979.
Fidel Martinez Texaco, 2932 2nd Street, Pleasanton, Tex. 78064; Sept. 17, 1979.
E. W. Wehman Texaco, 1401 2nd Street, Pleasanton, Tex. 78064; Sept. 17, 1979.
William S. Nelson, Jr. Texaco, 104 South Main, Pleasanton, Tex. 78064; Sept. 17, 1979.
Henry Vrbanczyk Texaco, 301 South Main, Pleasanton, Tex. 78064; Sept. 17, 1979.
Julia R. Sanchez, d.b.a. La Haciendita, Rt. 1, Box 1100, Von Ormy, Tex. 78073; Sept. 18, 1979.
Helen Amadoro, d.b.a. Stop & Pack Ice House, H'way 16 S & H'way 162, Jourdanton, Tex. 78026; Sept. 18, 1979.
Albert Fuller, d.b.a. Al's One Stop Texaco, H'way 16 & 173 , Jourdanton, Tex. 78026; Sept. 18, 1979.
Bob Tyler & Bill Sheppard, d.b.a. Deep Sea Headquarters, 416 W. Cotter, Port Aransas, Tex. 78378; Sept. 6, 1979.
Fishermans Wharf, Inc., P. O. Box 387, Port Aransas, Tex. 78373; Sept. 4, 1979.
Roger Heim Texaco, 901 Liberty & 1729 Raht, Rockport, Tex. 78382; Sept. 6, 1979.
R. D. Balyeat Exxon, 321 E. San Patricio, 337 H'way 9, Mathis, Tex. 78368 Sept. 5, 1979.
Homer Garza Texaco, H'way 359 & FM 666, Mathis, Tex. 78368; Sept. 5, 1979.
R. F. Pietsch Mobil, 1404 N. H'way 359, Mathis, Tex. 78368; Sept. 5, 1979.
Oscar Rokohl, d.b.a. Oscar's Mobil, Oscar's Mobil, H'way 359 & 624, Orange Grove, Tex. 78372; Sept. 6, 1979.
I. B. Garcia Texaco, 4440 Prescott, Corpus Christi, Tex.; Aug. 20, 1979.
Jose Rios, Jr., H'way 44 & Simmon, Aqua Dulce, Tex. 78330; Sept. 7, 1979.
Lawrence E. McCoy, 426 S. 14th St., Kingsville, Tex. 78363; Sept. 10, 1979.
Robert Suldana, Box 301, H'way 77, Driscoll, Tex. 78351; Sept. 7, 1979.
Gilbert Arguijo, 908 N. 19th St., Kingsville, Tex. 78363; Sept. 10, 1979.
Lupe Barrientes, 111 W. 5th St., Bishop, Tex. 78343 ; Sept. 10, 1979.
Juan G. Muniz, 701 N. H'way 77 By Pass, Kingsville Tex.; Sept. 11, 1979.
Jesse Gandy, 1330 S. 14th St., Kingsville, Tex. 78363; Sept. 11, 1979.
Dan Garcia, 300 E. Gravis, San Diego, Tex. 78384; Sept. 12, 1979.
Van's Sales & Service, 1320 Ayers, Corpus Christi, Tex. 78404; Sept. 7, 1979.
Landa Exxon, 2702 Prescott, Corpus Christi, Tex. 78404; Sept. 7, 1979.
Ronald T. Pfeifor, 1802 North 10th St., McAllen, Tex. 78501; Sept. 25, 1979.

Issued in Dallas, Texas this 17th day of October, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement.

[FR Doc. 79-33584 Filed 10-29-79; 8:45 am]
BILLING CODE 6450-01-M

L&L Oil Co., Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.
ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportuntiy for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date: September 20, 1979. Comments by: November 29, 1979.

ADDRESS: Send comemnts to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 (phone) 214/767–7751.

SUPPLEMENTARY INFORMATION: On September 20, 1979, the Office of Enforcement of the ERA executed a Consent Order with L&L Oil Company, Inc. (L&L) of Belle Chasse, Louisiana. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

Because the DOE and L&L wish to expeditiously resolve this matter as agreed and to avoid delay in the payment of refunds, the DOE has determined that it is in the public interest to make the Consent Order with L&L effective as of the date of its execution by the DOE and L&L.

I. The Consent Order

L&L Oil Company, Inc., with its home office located in Belle Chasse, Louisiana, is a firm engaged in the resale of petroleum products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of L&L, the Office of Enforceemnt, ERA, and L&L entered into a Consent Order, the Significant terms of which are as follows:

1. The audit period extended from November 1, 1973 through April 30, 1974 and included sales of No. 2 diesel fuel to 11 classes of purchaser, three of which consisted of resellers with the remaining eight consisting of end-users.

2. The alleged violation of 10 CFR 212.93 (6 CFR 150.359 prior to January 15, 1974) was, apparently, the result of L&L's failure to apply its product cost pass-through on a dollar-for-dollar basis. Apparently, L&L determined prices based upon prevailing market conditions rather than by a strict application of regulatory guidelines.

3. L&L agrees to refund to the DOE $10,000, including interest and penalties, within 30 days of the effective date of the Consent Order.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, L&L agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. 1. above, the sum of $10,000 to the DOE within 30 days of the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator

of Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations.

Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7751.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on L & L Oil Company, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 29, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 19th day of October, 1979.

Wayne I. Tucker,

District Manager of Enforcement, Southwest District Office, Economic Regulatory Administration.

[FR Doc. 79-33486 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL78-29]

Village of Penn Yan, N.Y.; Shortening Time for Answer

October 24, 1979.

On October 19, 1979, New York State Electric & Gas Corporation (NYSEG) filed a motion for expedited stay of Commission's declaratory order issued on March 28, 1979. In its motion, NYSEG requests that the answering period be shortened to less than 15 days.

Upon consideration, notice is hereby given that answers to the motion filed October 19, 1979, may be filed on or before October 31, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-33485 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

Subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following shipment:

WC-EU-139, from the United States to West Gernmany, 20 grams of Uranium-238 to be used for determination of vacancy concentrations in metallic uranium over a wide range of temperatures.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 14, 1979.

Dated: October 26, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-33689 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria.

The subsequent arrangement to be carried out under the above mentioned agreement involves the approval for the following sale and retransfer:

Contract S/EU/620-Austria, sale of 3.81 kilograms of uranium, containing 3.554 kilograms of U-235 (93.3%) for use as fuel in the ASTRA Research Reactor, Wien, Austria. U.S. export license number XSNM-1428, issued August 27, 1979 permits transfer of this material from the European Community to Austria.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 14, 1979.

Dated: October 26, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-33690 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement"

under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of American and the Government of Austria.

The subsequent arrangement to be carried out under the above mentioned agreements involve approval of the following retransfer:

RTD/AT(EU)-49, West Germany to Austria, 1,612 grams Uranium, containing 1,500 grams U-235 (93.05%), for experiments in reactivity and neutron spectra changes by water penetration into a HTR zone in the Siemans Argonaut Reactor. After completion of the experiments, the material will be returned.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 14, 1979.

Dated: October 26, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-33691 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 28, 1979 Through October 5, 1979

Notice is hereby given that during the week of September 28, 1979 through October 5, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 24, 1979.

List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 28 through Oct. 5, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 28, 1979	Conoco, Inc., Washington, D.C	DEX-0209	Supplemental Order. If granted: The August 30, 1979, Decision and Order (Case No. DEX-0208) and the September 25, 1979, Decision and Order (Case No. DEX-0207), regarding the establishment of an Escrow Agreement as a prerequisite to implementing special refund procedures for the amount stated in an August 11, 1978, Consent Order, would be vacated.
Sept. 28, 1979	Slop Oil Company, Kilgore, Tex	DEE-8311	Price Exception (Section 212.73). If granted: Slop Oil Company would be permitted to sell the crude oil produced for the benefit of the working interest owners from the Way-Tex pits at market prices.
Sept. 28, 1979	Standard Oil Company of Ohio, Cleveland, Ohio	DRD-0028	Motion for Discovery. If granted: Discovery would be granted to Standard Oil Company of Ohio with respect to the Proposed Remedial Order issued to the firm by the Office of Special Counsel on May 1, 1979, regarding alleged violations of the Mandatory Petroleum Price Regulations.
Oct. 1, 1979	Atlantic Richfield Company, Dallas, Tex	BRD-0001	Motion for Discovery. If granted: Discovery would be granted to Atlantic Richfield Company with respect to the Statement of Objections which it submitted in response to the Proposed Remedial Order (Case No. DRO-0193) issued to the firm by the Office of Special Counsel on May 1, 1979.
Oct. 1, 1979	Atlantic Richfield Company, Los Angeles, Calif	BRZ-0001	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the Proposed Remedial Order issued to Atlantic Richfield Company on May 1, 1979, by the DOE Office of Special Counsel (Case No. DRO-0193).
Oct. 1, 1979	DeBlois Oil Company, Pawtucket, R.I	BEE-8311	Allocation Exception. If granted: DeBlois Oil Company would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 1, 1979	Gulf Oil Corporation, Houston, Tex	BRZ-0002	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the May 1, 1979, Proposed Remedial Order issued to Gulf Oil Corporation by the DOE Office of Special Counsel (Case No. DRO-0194).
Oct. 1, 1979	Marathon Oil Company, Inc., Findley, Ohio	BRZ-0003	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the Proposed Remedial Order issued on May 1, 1979, to Marathon Oil Company, Inc., by the DOE Office of Special Counsel (Case No. DRO-0195).
Oct. 1, 1979	PRC Energy Analysis Company, McLean, Va	BFA-0001	Appeal of Information Request Denial. If granted: The DOE's September 6, 1979, Information Request Denial would be rescinded and PRC Energy Analysis Company would receive access to certain DOE information.
Oct. 1, 1979	Southern Oil Company, Jackson, Miss	BXE-0003	Extension of relief granted in *Southern Oil Company,* 3 DOE Par. (June 19, 1979). If granted: Southern Oil Company would continue to receive exception relief from the provisions of 10 CFR 211.67, with respect to its entitlement purchase obligations.
Oct. 1, 1979	Standard Oil Company of California, San Francisco, Calif.	BRZ-0004	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the May 1, 1979, Proposed Remedial Order issued to Standard Oil Company of California by the DOE Office of Special Counsel (Case No. DRO-0196).
Oct. 1, 1979	Standard Oil Company of Indiana, Chicago, Ill	BRZ-0005	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the May 1, 1979, Proposed Remedial Order issued to Standard Oil Company of Indiana by the DOE Office of Special Counsel (Case No. DRO-0198).
Oct. 1, 1979	Standard Oil Company of Ohio, Cleveland, Ohio	BRZ-0006	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the May 1, 1979, Proposed Remedial Order issued to Standard Oil Company of Ohio by the DOE Office of Special Counsel (Case No. DRO-0197).
Oct. 1, 1979	Texaco, Inc., White Plains, N.Y	BRZ-0007	Interlocutory Order. If granted: A number of firms would be permitted to participate in the enforcement proceeding involving the May 1, 1979, Proposed Remedial Order issued to Texaco, Inc. by the DOE Office of Special Counsel (Case No. DRO-0199).

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 28 through Oct. 5, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 1, 1979	Virginia Electric & Power Company, Washington, D.C.	BFA-0002	Appeal of Information Request Denial. If granted: The August 28, 1979, Information Request Denial issued by the Office of FOI and Privacy Acts Activities would be rescinded and Virginia Electric & Power Company would received aceess to certain DOE data.
Oct. 1, 1979	Warrior Asphalt Company, Washington, D.C	BXE-0004	Extension of Relief granted in *Warrior Asphalt Company*, 3 DOE Par. (June 19, 1979). If granted: Warrior Asphalt Company would continue to receive exception relief from the provisions of 10 CFR 211.67, with respect to its entitlement purchase obligations.
Oct. 2, 1979	City of Berry, Ala., et al., Athens, Ga	BEE-0024 thru BEE-0040.	Exception from Reporting Requirements. If granted: The City of Berry, Ala., and sixteen other cities would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage".
Oct. 2, 1979	George H. Morgan, Denver, Colo	BFA-0003	Appeal of Information Request Denial. If granted: The DOE's August 24, 1979, Information Request Denial issued by the Office of the Inspector General would be rescinded and George H. Morgan would be granted access to certain DOE data.
Oct. 2, 1979	Gulf Oil Corporation, Houston, Tex	BEE-0008	Price Exception. If granted: Gulf Oil Corporation would receive an exception from the provisions of 10 CFR 212.83, permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol.
Oct. 2, 1979	Gulf Oil Corporation, Houston, Tex	BEA-0004, BES-0004.	Appeal of ERA Decision and Order, Request for Stay. If granted: The September 21, 1979, Decision and Order issued by the Economic Regulatory Administration to Archer Daniels Midland Co., regarding the Entitlements Program would be rescinded. Gulf Oil Corporation would be granted a Stay of the Order pending a final determination on the Appeal.
Oct. 2, 1979	James M. Forgotson, Sr., Washington, D.C	BEE-0012	Price Exception (Section 212.73). If granted: James M. Forgotson, Sr., would be permitted to sell the crude oil produced from the Cart Well No. 1 located in Acadia Parish County, Louisiana, at upper tier ceiling prices.
Oct. 2, 1979	Southern California Edison Company, Rosemead, Calif.	BEE-0007	Allocation Exception. If granted: Southern California Edison Company would receive an exception from the provisions of 10 CFR 211, regarding the allocation of propane.
Oct. 2, 1979	Yellowstone Park Service Station, Billings, Mont	BEE-0006, BES-0006, BST-0006.	Allocation Exception, Requests for Stay and Temporary Stay. If granted: Yellowstone Park Service Stations would receive an exception from the provisions of 10 CFR 211.9 with respect to an increased allocation of motor gasoline. The firm would receive a Stay and Temporary Stay pending a final determination on its Application for Exception.
Oct. 2, 1979	Young Refining Corporation, Douglasville, Ga	BXE-0005	Extension of Relief granted in *Young Refining Corporation*, 3 DOE Par. (June 19, 1979). If granted: Young Refining Corporation would continue to receive exception relief from the provisions of 10 CFR 211.67, with respect to its entitlement purchase obligations.
Oct. 3, 1979	Alaska Gas & Service Company, Anchorage, Alaska.	BEE-0057	Exception to Reporting Requirements. If granted: Alaska Gas and Service Company would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").
Oct. 3, 1979	Anchor Hocking, Lancaster, Ohio	BEE-0041	Exception to Reporting Requirements. If granted: Anchor Hocking would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").
Oct. 3, 1979	Asamera Oil (U.S.), Inc., Denver, Colo	BEE-0018 thru BEE-0023.	Price Exception (Section 212.73). If granted: Asamera Oil (U.S.), Inc., would be permitted to sell the crude oil produced from the K. W. Carrell, Dustin 1, W. G. Hansen 1, A. Knight 1, Myrin Ranch 1, and S. Williams Leases, located in Duchesne County, Utah, at upper tier ceiling prices.
Oct. 3, 1979	Crown Central Petroleum Corporation, Baltimore, Md.	BMR-0001	Motion for Modification/Rescission. If granted: The August 19, 1979, Decision and Order issued to Fina Jobbers Association, Inc. (Case No. DEL-5568), as modified in the September 14, 1979, Decision and Order (Case No. DMR-0072), would be rescinded.
Oct. 3, 1979	Demetriou, Del Guercio & Lovejoy, Los Angeles, Calif.	BFA-0006	Appeal of Information Request Denial. If granted: The July 27, 1979, Information Request Denial issued by the Director of the Division of FOI and Privacy Acts Activities would be rescinded and Demetriou, Del Guercio & Lovejoy would receive access to certain DOE documents.
Oct. 3, 1979	Farmland Industries, Inc., Kansas City, Mo	BEE-0054	Exception to Buy/Sell Program. If granted: Farmland Industries, Inc., would receive an exception from the provisions of 10 CFR 211.65 regarding upward certification for the purposes of the Crude Oil Buy/Sell Program.
Oct. 3, 1979	Farmland Industries, Inc., Kansas City, Mo	BEE-0014, BEL-0014.	Allocation Exception, Temporary Exception. If granted: Farmland Industries, Inc., would receive an exception and a temporary exception from the provisions of 10 CFR 211.65 regarding the firm's supply obligations to three other refiners under the crude oil Buy/Sell Program.
Oct. 3, 1979	Gas Service, Inc., Nashua, NH	BEE-0056	Exception to Reporting Requirements. If granted: Gas Service, Inc., would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").
Oct 3, 1979	Interstate Power Company, Dubuque, Iowa	BEE-0053	Exception from Reporting Requirements. If granted: The Interstate Power Company would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").
Oct. 3, 1979	Marathon Oil Company, Washington, D.C	BEA-0008 thru BEA-0015.	Appeals of Redirection thru Orders. If granted: The eight (8) Redirection Orders issued by the Economic Regulatory Administration Office of Fuels Regulation Region IV on August 28, 1979, to Powell Oil Company, Inc., Teague Oil Company, Inc., and Morgan and Hunt Oil Company, Inc., on August 29, 1979, to B. W. Simpkins Oil, Inc., Treasure Coast Oil, Inc., and Palm Beach Oil Company, Inc. and on August 30, 1979, to S. A. White Oil Company and Le Grande Fender, Inc., would be rescinded.
Oct. 3, 1979	Mobil Oil Corporation,Washington, D.C	BED-0002	Motion for Discovery. If granted: Discovery would be granted to Mobil Oil Corporation with respect to the Application for Temporary Exception and Request for Stay (Case Nos. DEE-8020, respectively) filed by Commonwealth Oil Refining Company, Inc.
Oct. 3, 1979	National Treasury Employees Union, Atlanta, Ga	BFA-0005	Appeal of Information Request. If granted: National Treasury Employees Union would be granted access to certain documents.
Oct. 3, 1979	Pacific Resources, Inc., Honolulu, Hawii	BEE-0059	Price Exception (Section 212.83). If granted: Pacific Resources, Inc., would receive an exception from the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol.
Oct. 3, 1979	Pabst Brewing Company, Milwaukee, Wis	BEE-0072	Exception to Reporting Requirements. If granted: Pabst Brewing Company would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").
Oct. 3, 1979	R. H. Bowles Company, Yakima, Wash	BEE-0043	Allocation Exception. If granted: R. H. Bowles Company would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 3, 1979	Russellville Utilities, Russellville, Ala	BEE-0042	Exception to Reporting Requirements. If granted: Russellville Utilities would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 28 through Oct. 5, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 3, 1979	Van's Exxon, Yonkers, N.Y.	BEE-0079	Price Exception. If granted: Van's Exxon would be granted an exception from the provisions of 10 CFR 212, permitting the firm to sell motor gasoline above the applicable ceiling price.
Oct. 4, 1979	Atlantic Richfield Company, Los Angeles, Calif	BST-0001, BES-0001.	Request for Stay and Temporary Stay. If granted: Atlantic Richfield Company would be granted a Stay and Temporary Stay of the provisions of 10 CFR 211 with respect to the allocation of unleaded motor gasoline for the purpose of blending gasohol and of 10 CFR 212.83 with respect to the pricing of gasohol.
Oct. 4, 1979	Brock Exploration Corporation, St. James Parish, La.	BEE-0065, BES-0065.	Price Exception, Request for Stay. If granted: Brock Exploration Corporation would receive an exception from the provisions of 10 CFR 212.31 and 212.75 with respect to certification requirements. The firm would be granted a Stay pending a final determination on its exception request.
Oct. 4, 1979	Burns Brothers, Inc., Portland, Oreg	BEE-0063	Allocation Exception. If granted: Burns Brothers, Inc., would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 4, 1979	Energy User News, New York, N.Y.	BFA-0016	Appeal of Information Request Denial. If granted: The September 27, 1979, Information Request Denial issued by the Office of FOI and Privacy Acts Activities to Energy User News would be rescinded, and the firm would be granted access to certain DOE documents.
Oct. 4, 1979	Tenneco Oil Company, Washington, D.C	BRS-0002	Request for Stay. If granted: Tenneco Oil Company would receive a Stay of an Economic Regulatory Administration Region VI, Interim Remedial Order for Immediate Compliance issued on May 24, 1979, regarding the firm's supply obligations to Kern County Refinery, Inc.
Oct. 5, 1979	Biofuel, Inc., Washington, D.C.	BEE-0077	Allocation Exception. If granted: Biofuel, Inc., would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Oct. 5, 1979	City of Summerville, Summerville, Ga	BEE-0080	Exception from Reporting Requirements. If granted: The City of Sommerville would not be required to file Form EIA-149 ("Natural Gas Supply, Distribution, and Usage").
Oct. 5, 1979	Commonwealth Oil Refining Co., Inc., Washington, D.C.	BED-0003	Motion for Discovery. If granted: Discovery would be granted to Commonwealth Oil Refining Company, Inc., with respect to the firm's Application for Temporary Exception (Case No. DEL-8020).
Oct. 5, 1979	Kirkland & Ellis, Washington, D.C.	BFA-0017	Appeal of Information Request Denial. If granted: The August 2, 1979, Information Request Denial issued by the Director of the FOI and Privacy Acts Activities Office of the DOE to Kirkland & Ellis would be rescinded, and the firm would be granted access to certain DOE documents.
Oct. 5, 1979	Pester Refining Company, Washington, D.C.	BEA-0018	Appeal of Assignment Order. If granted: The September 21, 1979, Assignment Order issued by the Economic Regulatory Administration Region VII, to Pester Oil Company regarding the firm's supply obligations to Midland Energy Corporation would be rescinded.

Notices of Objection Received

[Week of September 28, 1979 through October 5, 1979]

Date	Name and location of applicant	Case No.
10/1/79	Howie Oil Company, Pensacola, FL.	DEE-2549
10/2/79	Bayside Marine Duxbury, MA	DEE-7689
10/3/79	Courtesty Tow Service, San Jose, CA.	DEE-6950
10/3/79	Fronk's Self Serve Shell Pindale, CA.	BED-0005
10/3/79	Frank's Service Station, Chicago, IL	BED-0007
10/3/79	Gray Brothers Oil Co., Ashlaind, MI.	DEE-5237
10/3/79	Murry, R. W. (I-30 & SH #4), Hope, AR.	BED-0004
10/3/79	Pamlico Seafood & Variety, Waves, NC.	BED-0013
10/3/79	Park Mart Sunoco, Charleston, WV.	BED-0001
10/3/79	Rode's Hazel Park Mobil, St. Paul, MN.	BED-0002
10/3/79	Sheehan Oil Co., Norman, OK	DEE-5561
10/3/79	T & M Auto Service, Miami, FL	BED-0006
10/3/79	Walters Oil, Easton, PA	BED-0003
10/4/79	Drexel Gas House, Morganton, NC.	BED-0009
10/4/79	Eagle's Chevron Service, West Yellowstone, MT.	DEE-7233
10/5/79	Clinton-Maple Mini Mart, Fresno, CA.	BED-0011
10/5/79	R.P. & J.P. Overstreet, Bedford, VA.	DEE-6701

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 28 through October 5, 1979

If granted: The following firms would receive an exception from the activation of the standby Petroleum Product Allocation Regulations with respect to motor gasoline.

September 28, 1979.

BP Gas & Co, DEE-6148, Maryland.
Eligin Exxon Gas Station, DEE-6112, Alabama.
Englefield Oil Company, DEE-8307, Ohio.
Houston Mooring Co., Inc., DEE-5956, Texas.
Johnson's ARCO Mini Market, DXE-8308, California.
M & G Auto Repair, DEE-8313, Massachusetts.
Monument Ford, Inc., DEE-8312, Massachusetts.

October 2, 1979.

Bell of Pennsylvania, BXE-0073, Pennsylvania.
Go-Clean, Inc., BEE-0015, Wisconsin.
Haase Oil Company, BEE-0010, North Dakota.
Kenilworth Car Wash, Inc., BXE-0011, Maryland.
Town Tire (Casali), BEE-0009, Rhode Island.

October 3, 1979.

ALlen Oil Co., BEE-0044, Oklahoma.
Ann Arbor I-275 Shell, BEE-0016, Michigan.
Blanchette's Garage, Inc., DEE-0045, New Hampshire.
Bob & Lee's Truck Stop, BEE-0046, Kentucky.
Community Fuel, BEE-0069, Connecticut.
Crown Oil & Wax Company, BEE-0050, Maryland.
Curtis, W.A., BEE-0061, Alabama.
George's Alpine Shell, BEE-0017, Michigan.
Jerry's Exxon, BEE-0047, New Jersey.
Marblehead Services, Inc., BXE-0058, Massachusetts.
Matt's Service Station, BEE-0074, New York.
Midway Red Barn, BEE-0060, Tennessee.
Onyx Corporation, BEE-0013, Missouri.
Riggs Gas & Grocery, BEE-0051, Texas.
Summit Car Care Center, BXE-0070, Missouri.
Tuner Up of Boston, BEE-0055, Massachusetts.
Veilleux Oil Amoco, BEE-0048, Maine.

October 5, 1979.

Cass & Sons Service, BEE-0081, Michigan.
Perry Hall Amoco, BEE-0071, Maryland.
Items retrieved, 31.

[FR Doc. 79-33586 Filed 10-29-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1038-6]

Grants and Cooperative Agreements; Implementation

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of implementing guidelines for the Federal Grant and Cooperative Agreement Act of 1977.

SUMMARY: The Federal Grant and Cooperative Agreement Act of 1977 requires Federal agencies to designate the use of the grant or cooperative agreement in carrying out their assistance programs. EPA Assistant Administrators reviewed their programs listed in the Catalog of Federal Domestic Assistance and determined, to the extent possible, which programs would normally be funded under the grant or cooperative agreement mechanism. EPA

hereby announces, by attachment to this notice, the guidelines used and determinations made for each program.

FOR FURTHER INFORMATION CONTACT: Belle N. Davis, Acting Chief, Grants Policy and Procedures Branch, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; telephone 202-755-0860.

Dated: October 24, 1979.

Douglas M. Costle,

Administrator.

[Order 1000.19]

September 18, 1979.

Policy—General

Policies and Procedures for Implementing the Federal Grant and Cooperative Agreement Act of 1977

1. *Purpose.* This Order implements the Federal Grant and Cooperative Agreement Act of 1977 in conformity with OMB guidance, published in the **Federal Register**, Vol. No. 43, page no. 36860 (August 18, 1978) (See Attachment A).

2. *Background.* The Federal Grant and Cooperative Agreement Act of 1977 requires Federal agencies to use a *contract* to acquire property or services for the direct benefit or use of the Federal Government and a *grant* or *cooperative agreement* to transfer money, property, services, or anything else of value to accomplish a public purpose of assistance authorized by Federal statute.

3. *Applicability.* This Order applies to those relationships between EPA and a State or local government, or other person or entity in which:

a. The principal purpose of the relationship is the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government *(acquisition relationship);* or

b. The principal purpose of the relationship is the transfer of money, property, services, or anything else of value to a State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute *(assistance relationship).*

4. *Policy.*

a. *Distinguishing grant agreements, cooperative agreements, and procurement contracts.*

(1) *Grant Agreements.* Grant agreements will be used to enter into assistance relationships in which no substantial Federal involvement is anticipated between EPA and the recipient during performance of the contemplated activity.

(2) *Cooperative Agreements.* Cooperative agreements will be used to enter into assistance relationships in which substantial involvement is anticipated between EPA and the recipient during performance of the contemplated activity.

(3) *Procurement Contracts.* Procurement contracts will be used to enter into acquisition relationships or whenever the Directors of the Grants Administration Division and Procurement and Contracts Management division jointly determine that the use of a type of procurement contract is otherwise appropriate.

b. *Distinguishing acquisition and assistance relationships.*

(1) Where property or services are acquired by the Agency for its own direct use or for transfer to an eligible assistance recipient a procurement contract will be used for the acquisition. A grant or cooperative agreement will be used for the transfer.

(2) An assistance relationship shall normally be established (see paragraph 6b for exception) whenever the purpose of the relationship is to support or stimulate the activities of a State or local government or other recipient and such support or stimulation is authorized by Federal statute. A federal statute authorizes an assistance relationship whenever the statute uses the term "grant" or "cooperative agreement" and otherwise indicates a Congressional intent to authorize support or stimulation, or indicates a Congressional intent to authorize support or stimulation even though the term "grant" or "cooperative agreement" is not used in the statute.

c. *Distinguishing grants and cooperative agreements.*

(1) The basis for distinguishing between assistance provided by the use of a grant or cooperative agreement is whether there is substantial Federal involvement between EPA and the recipient during performance of the contemplated activity. Generally, there is substantial Federal involvement where there is:

(a) Intense monitoring by EPA;

(b) Joint operational involvement, participation, or collaboration between EPA and the recipient; or

(c) EPA review or approval of project phases within the scope of the agreement.

(2) If after a grant is awarded the award official determines that the Federal involvement must become substantial, the award official may convert the grant instrument to a cooperative agreement following negotiation with the recipient and with the concurrence of the Director, Grants Administration Division. If after a cooperative agreement is awarded the award official determines that substantial Federal involvement is not required, the award official may convert the cooperative agreement to a grant following negotiation with the recipient and with the concurrence of the Director, Grants Administration Division.

d. *Assistance to For-Profit Organizations.* As a general rule, a grant or cooperative agreement may be used to enter into assistance relationships with for-profit organizations where:

(1) The statute authorizes an assistance activity to a person, or where the statute does not specify the types of eligible recipients (e.g., States, municipalities, non-profit organizations);

(2) The grant or cooperative agreement is awarded on a competitive basis between non-profit and for-profit organizations;

(3) No profit or other increment above cost in the nature of profit is allowable; and

(4) The Director, Grants Administration Division, has approved the use of a grant or cooperative agreement for an assistance relationship with for-profit organizations.

5. Applicable EPA regulations.

a. Procurement contracts shall be subject to the applicable requirements of 41 CFR Chapter I.

b. Grant and cooperative agreements shall be subject to the applicable requirements of Subchapter B of 40 CFR including 40 CFR Part 30.

6. Procedures.

a. Assistant Administrators shall periodically review and update their programs listed, or scheduled to be listed as required by the Federal Program Information Act, Public Law 95-220, in the Catalog of Federal Domestic Assistance and determine to the extent possible which programs will normally have substantial Federal involvement during performance. Assistant Administrators shall send the results of the review and classification to the Director, Grants Administration Division (see attachment B). The Grants Administration Division will publish final program classification as a notice in the **Federal Register.**

b. A determination that a program is principally one of acquisition or assistance does not preclude the use of any of the types of instruments when appropriate for a particular transaction. The Program Office will make the intial recommendation as to whether a relationship is one of acquisition or assistance. However, in a specific instance or for a class where the Director, Grants Administration Division, determines that the use of a grant or cooperative agreement is not appropriate a procurement contract shall be used, after consultation with the program office and with the concurrence of the Director, Procurement and Contracts Management Division. In a specific instance or for a class where the Director, Procurement and Contracts Management Division determines that the use of a procurement contract is not appropriate a grant or cooperative agreement shall be used, after consultation with the program office and with the concurrence of the Director, Grants Administration Division.

c. The Grants Administration Division is responsible for monitoring continuing program operations to assure compliance with the Act.

Paul J. Elston,

Deputy Assistant Administrator for Resources Management.

Attachment B.—Environmental Protection Agency

Catalog Number, Program, and Funding Mechanism

Office of Air, Noise, and Radiation:

66.001 Air Pollution Control Program Grants; Cooperative Agree.

66.003 Air Pollution Control Manpower Training Grants; Cooperative Agree.

66.006 Air Pollution Control-Technical Training; Cooperative Agree.

Office of Water and Waste Management:

66.417 Water Pollution Control-Direct Training; Grant or Cooperative Agreement.

66.418 Construction Grants for Wastewater Treatment Works; Grant or Cooperative Agreement.

66.419 Water Pollution Control-State and Interstate Program Grants; Cooperative Agree.
66.420 Water Pollution Control-State and Local Manpower Program Development; Grant or Cooperative Agreement.
66.426 Water Pollution Control-State and Area-wide Water Quality Management Planning Grants; Cooperative Agree.
66.428 Water Pollution Control-Professional Training Grants; Grant.
66.429 Water Pollution Control-Technical Training Grants; Grant.
66.432 State Public Water System Supervision Program Grants; Grant.
66.433 State Underground Water Source Protection Program Grants; Grant.
66.434 Safe Drinking Water-State and Local Program Development Grants; Grant.
66.435 Water Pollution Control-Lake Restoration Demonstration Grants; Grant or Cooperative Agreement.
66.438 Construction Management Assistance Grants; Cooperative Agree.
66.451 Solid and Hazardous Waste Management Program Support Grants; Cooperative Agree.
66.452 Solid Waste Management Demonstration Grants; Grant or Cooperative Agreement.
66.453 Solid Waste Management Training Grants; Grant or Cooperative Agreement.
Resource Recovery Project Development Grants; Cooperative Agree.
Safe Drinking Water-Professional Training Grants; Grant.
Rural Water Association Training Grants; Grant.
Safe Drinking Water Occupational Training Grants; Grant.
Safe Drinking Water Inspection and Supervisory Training Grants; Grant.

Office of Research and Development:

66.500 Environmental Protection-Consolidated Research Grants; Grant or Cooperative Agreement.
66.501 Air Pollution Control Research Grants; Grant or Cooperative Agreement.
66.502 Pesticides Control Research Grants; Grant or Cooperative Agreement.
66.504 Solid Waste Disposal Research Grants; Grant or Cooperative Agreement.
66.505 Water Pollution Control-Research, Development, and Demonstration Grants; Grant or Cooperative Agreement.
66.506 Safe Drinking Water Research and Demonstration Grants; Grant or Cooperative Agreement.
66.507 Toxic Substances Research Grants; Grant or Cooperative Agreement.
Technology Demonstration for Potable Reuse of Wastewater; Grant or Cooperative Agreement.

Office of Planning and Management:

66.600 Environmental Protection Consolidated Grants-Program Support; Grant or Cooperative Agreement.
66.602 Environmental Protection Consolidated Grants-Special Purpose; Grant or Cooperative Agreement.

Office of Enforcement:

66.700 Pesticides Enforcement and Applicator Training and Certification Program Grants; Cooperative Agree.

Office of Toxic Substances:

Toxic Substances Program Grants; Cooperative Agree.

Attachment A—EPA Order 1000.19

September 18, 1979.

(Material in this Attachment A was originally published as a Separate Part V, Friday, August 18, 1978, 43 FR 36860)

Office of Management and Budget

Implementation of Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224)

Final OMB Guidance

Agency: Office of Management and Budget.

Action: Notice of final OMB guidance for Federal Agency use in implementing the Federal Grant and Cooperative Agreement Act of 1977.

Summary: The Federal Grant and Cooperative Agreement Act distinguishes between procurement and assistance relationships and mandates that Federal agencies use contracts for procurement transactions:

Sec. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient (1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or (2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

and grants or cooperative agreements for assistance transactions:

Sec. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever (1) the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and (2) no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during the performance of the contemplated activity.

Sec. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever (1) the prinicpal purpose of the relationship is the transfer of money, property, services, or anything of value to the State and local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and (2) substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

Federal agencies must implement sections 4, 5, and 6 by February 3, 1979. OMB's intent in issuing guidance is to promote consistent implementation of the Act.

Section 8 of the Act requires OMB to conduct a study of Federal assistance relationships and provide a report to Congress no later than February 1980. This will focus on developing a better understanding or alterative means for implementing Federal assistance programs and on determining the feasibility of developing a comprehensive system of guidance for Federal assistance programs. In undertaking the study, OMB is required by the act to consult and, to the extent practicable, involve representatives of the executive agencies. Congress, General Accounting Office, State and local governments, other recipients, and interested members of the public. A draft plan outlining the proposed scope of the study was published in the **Federal Register** on June 23, 1978, for comment. Comments on the draft plan are due to OMB by August 23, 1978.

For further information contact: Thomas L. Hadd, Intergovernmental Affairs Division, Office of Management and Budget, Room 9026, NEOB, Washington, D.C. 20503, telephone 202–395–5156.

David R. Leuthold,

Budget and Management Officer.

Summary of Major Comments on the Draft Guidance and the OMB Response

The Act authorizes the Director of OMB to issue supplementary interpretative guidelines to promote consistent and efficient use of contracts, grants, and cooperative agreements. On May 19, 1978, OMB published a proposed draft of the guidance in the **Federal Register** for comment.

Numerous comments were received from Federal agencies and others. The majority of the comments suggested ways for improving the clarity of the draft and many of these improvements are reflected in the final guidance. Some comments dealt with aspects or potential effects of the Act itself that are beyond the scope of this guidance. There were also comments or suggestions that could not be used in revising the guidance, but which will be considered during the study.

A summary of the more important substantive comments about specific parts of the draft proposal along with the OMB response to them follow:

A. OMB interpretation of the Act.

1. General purposes of the Act.

Comment. One agency pointed out that there are a number of types of transactions that are not covered by the Act, such as the sale, lease, license, and other authorizations to use Federal property, when not for the purpose of support or stimulation.

Response. The guidance was amended to reflect this fact.

A. 3. Interpretation of specific provisions of the Act.

Comment. There were several comments about the clarity of the guidance in interpreting subsection 4(2) of the Act, which allows the use of contracts "whenever an

executive agency determines in a specific instance that the use of a type of procurement contract is appropriate." Most of the comments related to the possible use of "assistance contracts."

Response. The guidance was revised by including a direct quote from the legislative history and by stating that in all transactions based on this subsection of the Act, procurement contracts must be used.

Comment. One comment was received expressing the opinion that subsection 7(a) of the Act, which authorizes agencies to use procurement contracts, grants, and cooperative agreements as provided for in the Act unless otherwise prohibited, should be interpreted as replacing the Grants Act. The Grants Act provided general authority to use grants for funding research.

Response. OMB cannot agree with this interpretation, since Pub. L. 95–224 specifically repeals the Grants Act and requires that the selection of the appropriate legal instrument be based on the character of the specific transaction (i.e., procurement or assistance) rather than on a functional activity of class of recipient.

L. Distinguishing between procurement and assistance.

1. Basic determinations.

Comment. Although a major purpose of the Act is to distinguish between procurement and assistance, several observers indicated they did not feel the OMB draft guidance was in sufficient detail. One comment was made that the guidance should stress the principal purpose of a transaction as being the most important determinant. Two comments requested that agencies be guided to use grants for research funding.

Response. In most cases, agencies will have no trouble distinguishing between procurement and assistance. Where the distinction is hard to make, OMB believes that the agency mission and intent must be the guide, and that more detailed criteria would not be useful. The suggestion that emphasis be placed on the principal purpose was followed. The request to guide the agencies to use grants to fund research is not consistent with the Act. OMB will continue to work with the agencies to promote consistency in agency determinations on procurement and assistance distinctions.

B. 2. Assistance awards to for-profit organizations.

Comment. Some of the comments indicated confusion over whether the Act authorizes assistance awards to for-profit organizations.

Response. A subsection was added that indicates assistance awards may be made to for-profit organizations if the awards are consistent with sections 4, 5, and 6 of the Act.

C. Characterization of grants and cooperative agreements.

Comment. Many comments were received on this section. Most of them indicated a need for clarifying the guidance or suggested ways of doing it.

Response. The entire section has been rewritten for clarification. One additional provision was added to indicate that transactions that include very precise Federal requirements and provisions for intense monitoring of these requirements may properly be classified as cooperative agreements.

C. 2. OMB policy on substantial involvement.

Comment. There were several expressions of concern that cooperative agreements, as a new class of assistance instruments, might lead to greater Federal involvement, particularly in research projects.

Response. The guidance has been revised to state that nothing in this Act can be interpreted as a basis for increasing Federal involvement beyond that authorized by program statutes.

D. Agency decision structure for selection of instruments.

Comments. It was pointed out that the guidance, as drafted, would not apply to the organization and processes of some agencies.

Response. The guidance was rewritten to convey the original intent but to be less restrictive on how agencies should follow it.

E. Administrative requirements for grants and cooperative agreements.

Comments. There were a number of comments about whether or not these requirements should apply to cooperative agreements. It was also pointed out that some of these requirements do not now apply to some classes of recipients, such as for-profit organizations.

Response. The legislative history specifically indicates that OMB Circular A–102 is part of the existing system or guidance, and the creation of the cooperative agreement instrument should not lead to a bypass of this initial step. The point about the limited applicability of some of the administrative requirements has been included in the final guidance. OMB will consider the question of administrative requirements as they relate to grants and cooperative agreements during the study required by section 8 of the Act.

F. Specific guidelines for grants.

1. Distinction between grants and subsidies.

Comments. Several comments were received that the draft guidance on this point was inadequate.

Response. The distinction between grants, which are covered under section 5 of the Act, and subsidies, which are not, will have to be included in the section 8 study. Accurate coverage is not possible at this time, so this paragraph has been removed from the guidance.

L. Agency records and M. OMB reporting requirements.

Comment. There were numerous comments that both of these sections impose a considerable burden on the agencies.

Response. One purpose of the Act is to provide Congress with more information on the operations of Federal assistance programs. OMB is trying to keep the burden to a minimum, consistent with this purpose. These sections are to give the agencies an early indication of the type of information that will be needed.

Guidance to the Federal Agencies

The transmittal memorandum from the Director of OMB to the heads of Federal agencies and the attached guidance follows:

Executive Office of the President,
Office of Management and Budget,
Washington, D.C. August 15, 1978.

Memorandum for the Heads of Executive Departments and Agencies

From: James T. McIntyre, Jr.
Subject: OMB Guidance for Implementing the Federal Grant and Cooperative Agreement Act.

The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224) requires that by February 3, 1979. Federal agencies use procurement contracts to acquire property or services for the direct benefit or use of the Federal Government and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a Federal purpose of stimulation or support authorized by statute.

The act authorizes the Office of Management and Budget to issue supplementary interpretative guidelines to promote consistent and efficient use of contracts, grants, and cooperative agreements as defined in the act. It is hoped that the attached OMB guidance will not only promote consistent and orderly implementation of the act, but also aid in minimizing potential disruptions resulting from possible revisions to procedures and application materials.

A draft of this guidance was published in the May 19, 1978, **Federal Register** for agency and public comment. While we received a number of suggestions for improving and clarifying specific sections, relatively few basic policy issues that could be treated in the guidance were brought to our attention. The attached guidance reflects, to the extent practicable, comments provided in response to the public notice. Agency representatives assisted in revising the draft and bringing it to its final form. This guidance will appear as a notice in the **Federal Register** in the near future.

OMB is authorized to except individual transactions or programs from provisions of the act until February 3, 1981. Exception policy and procedures are included in the guidance. In the meantime, OMB is required to conduct a study to develop a better understanding of alternative means for implementing Federal assistance programs and to determine the feasibility of developing a comprehensive system of guidance for Federal Assistance programs. Many of the issues addressed in the OMB guidance will also be the subject of further review in the study. A draft plan for the study was published in the June 23, 1978, **Federal Register** for a 60-day public comment period. A report on the study is to be submitted to Congress no later than February 1980.

OMB Guidance to Agencies for Implementing the Federal Grant and Cooperative Agreement Act

(Pub. L. 95–224)

Introduction. The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224), signed February 3, 1978, requires executive agenies to distinguish procurement relationships from assistance relationships. A major objective of the act is to achieve consistency in the use of legal instruments by agencies for procurement and assistance transactions. This is a preliminary step

toward a broad review of the administration of Federal assistance programs and the relationships created by the terms and conditions of legal assistance instruments. Section 4 of the act requires the use of procurement contracts for all agency acquisition activity. Sections 5 and 6 require the use of grants or cooperative agreements for specified types of assistance relationships. Section 9 authorizes the Director of the Office of Management and Budget to issue supplementary interpretative guidelines to promote consistent and efficient implementation of sections 4, 5, and 6. Subsection 10(d) authorizes the Director to except individual transactions or programs from the act's provisions.

In addition, section 8 of the act requires OMB to conduct a study of Federal assistance relationships and submit a report to Congress in 2 years. The guidelines that follow are based on OMB authorizations under sections 8, 9, and 10(d).

Contents

A. OMB interpretation of the Act.
B. Distinguishing between procurement and assistance.
C. Characterization of grants and cooperative agreements.
D. Agency decision structure for selection of instruments.
E. Administrative requirements for grants and cooperative agreements.
F. Specific guidelines for grants.
G. Specific guidelines for cooperative agreements.
H. Assistance transactions involving only non-monetary transfers.
I. OMB exception policy.
J. OMB exception procedures.
K. Joint funding under grants and cooperative agreements.
L. Agency records.
M. OMB reporting requirements.

Guidance

A. OMB Interpretation of the Act

1. *General purposes of the Act.* OMB views the Federal Grant and Cooperative Agreement Act as an important opportunity to review, improve, and simplify the broad array of Federal assistance relationships. It sees the Act's objective of Federal consistency for various types of relationships coinciding with the President's goal of making Federal program actions more understandable and predictable. Agencies should give serious consideration to the policy implications of the Act's provisions, particularly Sections 4, 5, and 6, pertaining to thee use of contracts, grants, and cooperative agreements as these involve the essence of the way agencies perform fundamental functions.

This Act does not cover all possible relationships that may exist between Federal agencies and others. For example, the sale, lease, license, and other authorizations to use Federal property, when not for the purpose of support or stimulation, are not within the scope and intent of Pub. L. 95–224 or this guidance.

2. *Orderly implementation of sections 4, 5, and 6.* These sections of the Act require agencies to use contracts for all procurement actions, and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a Federal purpose of stimulation or support authorized by statute. Subsection 10(b) says:

Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

The legislative historic clearly indicates that Congress intended this provision to provide one year for orderly implementation of sections 4, 5, and 6. The Act was signed February 3, 1978. Agencies have until February 3, 1979, to implement these sections in accordance with the OMB guidelines.

3. *Interpretation of specific provisions of the Act.* To promote consistency, agencies should interpret subsections 4(2), 7(a), and 7(b) of the Act as follows:

a. Subsection 4(2) allows the use of contracts "whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate." The Senate Report on the Act says:

This subsection accommodates situations in which an agency determines the specific public needs can be satisfied best by using the *procurement process.* For example, subsection 4(2) would cover the two-step situation in which a Federal agency may procure medicines which it then "grants" to non-Federal hospitals. This subsection does not allow agencies to ignore sections 5 and 6. Compliance with the requirements of sections 4, 5, and 6 will necessitate deliberate and conscious agency determinations of the choice of instruments to be employed. (Italics added.)

Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation, the Armed Services Procurement Regulation, and other procurement regulations authorized by law govern policy and procedures regarding procurement contracts awarded under the authority of this subsection. section M of this guidance includes a reporting requirement for procurement transactions based on subsection 4(2).

b. Subsection 7(a) says:

Notwithstanding any other provision of the law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act.

If, prior to the passage of the Act, an agency was authorized to use one or more of the three instruments—procurement contracts, grants, or cooperative agreements—and is not prohibited from using any of them, this provision enables it to enter into any of the three types of arrangements, subject to the criteria set forth in sections 4, 5, and 6.

c. Subsection 7(b) says:

The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied research at nonprofit institutions of higher education, or at non-profit organizations whose primary purpose is the conduct of scientific research shall include discretionay authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible personal property purchased with such funds.

The Act repeals the Grants Act, Pub. L. 85–934, which authorized the use of grants for scientific research. This provision continues the authority of the Grants Act to vest title to equipment purchased with Federal funds in a nonprofit organization. It expands this authority to other classes of property and applies to procurement contracts and cooperative agreements as well as grants.

B. Distinguishing Between Procurement and Assistance

1. *Basic determinations.* While one of the major objectives of the Act is to distinguish between procurement and assistance relationships, neither term is specifically defined. Section 4 requires use of a procurement contract when the principal purpose is acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government. Sections 5 and 6 require the use of grants or cooperative agreements when the principal purpose is the transfer of money, property, services, or anything of value to accomplish a public purpose of support to stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use by the Federal Government.

Agencies should interpret the language of sections 5 and 6 which call for the use of grants or cooperative agreements to "accomplish a public purpose of support or stimulation authorized by Federal statute" as including but not restricted to traditional assistance transactions. Thus, for example, where an agency authorized to support or stimulate research decides to enter into a transaction where the *principal purpose* of the transaction is to stimulate or support research, it is authorized to use either a grant or a cooperative agreement. Conversely, if an agency is not authorized to stimulate or support research, or the *principal purpose* of a transaction funding research is to produce something for the government's own use, a procurement transaction must be used. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation, the Armed Services Procurement Regulation, and other procurement regulations authorized by law govern policy and procedures regarding procurement contracts.

2. *Assistance awards to for-profit organizations.* Subject to the requirements of sections 4, 5, and 6 of the Act, assistance awards may be made to for-profit organizations when deemed by the agency to be consistent with legislative intent and program purposes.

3. *When to decide on the use of procurement or assistance instruments.* Any

public notice, solicitation, or request for applications or proposals should indicate whether the intended relationship will be one of procurement or assistance.

4. *What to do if the distinctions between procurement and assistance do not apply to a specific class of transactions.* Agencies should make every effort to ensure their relationships conform with those specified in the Act. If, however, there are major individual transactions or programs which contain elements of both procurement and assistance, but which cannot be characterized as having a *principal purpose* of one or the other, an OMB exception should be requested. Sections I and J deal with OMB exceptions.

C. Characterization of Grants and Cooperative Agreements

1. *Anticipated substantial involvement during performance.* The basic statutory criterion for distinguishing between grants and cooperative agreements is that for the latter, "*substantial* involvement is *anticipated* between the executive agency and the recipient *during performance* of the contemplated activity" (emphasis added). To insure consistent determinations, all agencies should use only this criterion when deciding to use either a grant or a cooperative agreement.

a. Anticipated substantial Federal involvement is a relative rather than an absolute concept. The examples that follow in "b" and "c" are not meant to be a checklist or to be considered as individual determinants. Rather, they are to illustrate the general policy that:

(1) When the terms of an assistance instrument indicate the recipient can expect to run the project without agency collaboration, participation, or intervention as long as it is run in accordance with the terms of the assistance instrument, substantial involvement is not anticipated.

(2) When the instrument indicates the recipient can expect agency collaboration or participation in the management of the project, substantial Federal involvement is anticipated.

b. As a guide to making these determinations, anticipated substantial involvement during performance does not include:

(1) Agency approval of recipient plans *prior* to award.

(2) Normal exercise of Federal stewardship responsibilities during the project period such as site visits, performance reporting, financial reporting, and audit to insure that the objectives, terms, and conditions of the award are accomplished.

(3) Unanticipated agency involvement to correct deficiencies in project or financial performance from the terms of the assistance instrument.

(4) General statutory requirements understood in advance of the award such as civil rights, environmental protection and provision for the handicapped.

(5) Agency review of performance *after* completion.

(6) General administrative requirements, such as those included in OMB Circulars A–21, A–95, A–102, A–110, and FMC 74–4.

c. Conversely, anticipated involvement during performance would exist and, depending on the circumstances, could be substantial, where the relationship includes, for example:

(1) Agency power to immediately halt an activity if detailed performance specifications (e.g., construction specifications) are not met. These would be provisions that go beyond the suspension remedies of the Federal Government for nonperformance as in OMB Circulars A–102, and A–110.

(2) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the assistance instrument.

(3) Agency review and approval of substantive provisions of proposed subgrants or contracts. These would be provisions that go beyond existing policies on Federal review of grantee procurement standards and sole source procurement.

(4) Agency involvement in the selection of key recipient personnel. (This does not include assistance instrument provisions for the participation of a named principal investigator for research projects.)

(5) Agency and recipient collaboration or joint participation.

(6) Agency monitoring to permit specified kinds of direction or redirection of the work because of interrelationships with other projects.

(7) Substantial, direct agency *operational involvement or participation* during the assisted activity is anticipated prior to award to insure compliance with such statutory requirements as civil rights, environmental protection, and provision for the handicapped. Such participation would exceed that normally anticipated under (b)(4), above.

(8) Highly prescriptive agency requirements prior to award limiting recipient discretion with respect to scope of services offered, organizational structure, staffing, mode of operation and other management processes, coupled with close agency monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.

2. *OMB policy on substantial involvement.* Agencies should limit Federal involvement in assisted activities to the minimum consistent with program requirements. Nothing in this Act should be construed as authorizing agencies to increase their involvement beyond that authorized by other statutes.

3. *How technical assistance and guidance relate to substantial involvement.* The practice of some agencies of providing technical assistance, advice, or guidance to recipients of financial assistance does not constitute substantial involvement if:

a. It is provided at the request of the recipient, or;

b. The recipient is not required to follow it, or;

c. The recipient is required to follow it, but it is provided prior to the start of the assisted activity and the recipient understood this prior to the financial assistance award.

4. *What to do if grants or cooperative agreements do not fit program requirements.* There may be a few cases of assistance programs covered by section 5 or 6 of the Act where neither a grant nor a cooperative agreement is suitable. In such cases, an OMB exception should be requested in accordance with sections I and J below.

5. *Competition for assistance awards.* Consistent with the purposes of Pub. L. 95–224, agencies are encouraged to maximize competition among all types of recipients in the award of grants or cooperative agreements, in consonance with program purposes.

D. Agency Decision Structure for Selection of Instruments

The determinations of whether a program is principally one of procurement or assistance, and whether substantial Federal involvement in performance will normally occur are basic agency policy decisions. Agency heads should insure that these general decisions for each program are either made or reviewed at a policy level. A determination that a program is principally one of procurement or assistance does not preclude the use of any of the types of instruments when appropriate for a particular transaction. Congress intended the Act to allow agencies flexibility to select the instrument that best suits each transaction. Agencies should insure that all transactions covered by the Act are consistent with their basic policy decisions for each program.

E. Administrative Requirements for Grants and Cooperative Agreements

Present administrative requirements such as OMB Circulars A–95, A–102, and A–110 apply to both grants and cooperative agreements involving the transfer of Federal funds. Some of these administrative requirements apply to specific classes of recipients such as State and local governments. This guidance does not extend the coverage of these requirements to instruments with other recipient classes such as for-profit organizations. These adminstrative requirements will not apply to General Revenue Sharing or Anti-Recession Fiscal Assistance Grants administered by the Treasury Department.

Each assistance instrument must provide that the head of the assisting agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipient and their subgrantees which are pertinent to the transaction for the purpose of making audits, examination, excerpts, and transcripts.

F. Specific Guidelines for Grants

1. *Increasing Federal involvement during a grant period.* At times an agency may find it necessary to increase the involvement in a grant-funded project during the period of time covered by the grant. This could happen, for example, when standard grant reports or monitoring indicates some sort of problem. If this occurs, agencies should not view the Act as restricting their authority to intervene as necessary to bring the project into conformance with original intentions. Agencies should not, however, seek to become substantially involved in a long term or ongoing grant-funded activity without converting the grant instrument to a

cooperative agreement following negotiation with the recipient.

G. Specific Guidelines for Cooperative Agreements

1. *Alternative uses of cooperative agreements.* In all cases, the determination of when to use cooperative agreements will be based on the need for substantial Federal involvement in the assisted activity.

a. Some programs now using grants will require the use of cooperative agreements exclusively. This determination should be based on statutory requirements or policy level determinations of substantial Federal involvement in the performance of the assisted project.

b. Other programs may use grants or cooperative agreements, depending on the nature of the project or the abilities of the recipients. For example:

(1) Some projects may start out as cooperative agreements in the first year and be converted to grants after recipient capacity has been established.

(2) Other projects, initially funded as grants, may have to be renewed or continued for subsequent budget periods as cooperative agreements if there is a need to revise the project, upgrade recipient capacity, or protect the Federal interest.

2. *Statement of Federal involvement.* Each cooperative agreement should include an explicit statement of the nature, character, and extent of anticipated Federal involvement. These statements must be developed with care to avoid unnecessarily increasing Federal liability under the assistance instrument.

H. Assistance Transactions Involving Only Nonmonetary Transfers

1. *Types of assistance included.* Sections 5 and 6 apply to transactions that transfer "property, services, or anything of value," which *could* include consultation, technical services, information, and data. This section of the guidance applies to agencies and programs that provide such types of nonmonetary assistance apart from fund transfers.

2. *Applicability of administrative standards.* Section E above stated that existing administrative standards (e.g., OMB Circulars A–95, A–102, A–110) apply to grants and cooperative agreements involving the transfer of funds.

Agencies are encouraged, however, to use these standards where appropriate, and in some cases, their use is required for nonmonetary transfers. For example, a donation of a substantial parcel of land to a local government is the type of Federal action covered by Part II of A–95, but other administrative standards may not apply.

3. *OMB exception for nonmonetary assistance.* OMB exempts programs and transactions providing nonmonetary assistance from the provisions of section 5 of the Act. Existing agency practices for providing nonmonetary assistance where no Federal involvement in the assisted activity is anticipated should continue. Thus a formal grant instrument is not required to provide surplus property, consultation, or data. Where substantial Federal involvement in the assisted activity is anticipated, however, a cooperative agreement is required as indicated in section 6 of the Act. Agencies engaged in the provision of nonmonetary assistance will be asked to report on these activities under section M below.

I. OMB Exception Policy

1. *General.* Section 10(d) authorizes the Director of OMB to:

Except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.

Agencies are advised that, unless otherwise indicated, OMB exceptions will run through January 1981.

2. *Exceptions provided in this guidance.* Section H 3 of this guidance excepts nonmonetary grants.

3. *Other exceptions under the Act.* Agencies are required to conform with sections 4, 5, and 6 of the Act. Where severe disruption to a program or serious consequences to recipients would result, a request for exceptions should be made to OMB. OMB intends to grant additional exceptions only on the basis of agency requests that include strong justifications and an indication of the harm that will result if an exception is not granted. Section J below indicates the procedures agencies should follow in requesting exceptions.

4. *Waiver of administrative standards.* OMB is responsible for most of the administrative standards that apply to assistance programs. Agencies should follow these standards. The circulars that establish these standards presently provide procedures for granting of waivers. If the standards appear unsuitable to a particular situation, requests for waivers should be sent to the OMB office responsible for the circular or the responsible agency if not OMB (e.g., for GSA uniform relocation provisions). Requests for waivers to financial management circulars administered by OMB should be addressed to John Lordan, Chief, Financial Management Branch, OMB, Room 6002, NEOB, Washington, D.C. 20503.

J. OMB Exception Procedures

A request for an OMB exception under this Act should be addressed to Deputy Associate Director for Intergovernmental Affairs, Room 9025, NEOB, Washington, D.C. 20503. It should include:

1. A statement on whether the exception is requested for a complete program or an individual transaction.

2. An explanation of why an exception is requested, including statutory, agency policy, or other reasons.

3. A statement of what the agency will do if an exception is not granted and what the implications would be if this action were taken.

4. An indication of how the agency will handle the situation if the OMB exception expires before there are any changes to either this Act or agency statutes.

K. Joint Funding Under Grants and Cooperative Agreements

Subsection 10(c) of the Act specifically provides for projects funded under the Joint Funding Simplification Act that include more than one type of assistance relationship. Thus a project with some components funded by grants and others by cooperative agreements is entirely permissible. Agencies should view this Act as providing the opportunity and authority to participate in joint funded projects in any number of funding relationships to serve the best interests of the participating agencies programs.

L. Agency Records

Both Congress and OMB view this Act as a preliminary step toward long-range overhaul of Federal assistance activities. The requirement for agencies to implement sections 4, 5, and 6 in one year is, in large part, to begin the systematic gathering of data about Federal assistance relationships. Agencies should anticipate that congressional committees, the General Accounting Office, and OMB will be asking extensive questions about the effects of implementing these sections. While the questions may vary from agency to agency, they can reasonably be expected to deal with operating experience for a year or more after full implementation. Agencies should develop systems of records that would allow them to answer questions such as

1. How many financial grants have been awarded in accordance with section 5 of the Act? What was the dollar volume and what classes of recipients were involved (e.g., State governments, universities, hospitals, individuals)?

2. For which programs did the agency decide to use grants exclusively? Why?

3. How many financial assistance cooperative agreements have been awarded in accordance with section 6 of the Act? What was the dollar volume and what classes of recipients were involved?

4. For which programs did the agency decide to use cooperative agreements exclusively? What are the nature and reason for the agency involvement?

5. For which programs were both grants and cooperative agreements used? What were the criteria for determining the instrument used?

6. What types of nonmonetary assistance transfers were made as grants? What types as cooperative agreements?

7. What was the agency's experience in implementing sections 4, 5, and 6? How did it contribute to improved projects, management, or intergovernmental relations? What problems has the Act presented that can be expected to continue?

M. OMB Reporting Requirements

The experience of the agencies in making decisions necessary to implement sections 4, 5, and 6 of the Act will be important to the study required by section 8. In addition, to the more general questions about the feasibility of a comprehensive system of guidance for assistance activities, the report to Congress must include a summary of the effects of sections 4, 5, and 6. For these reasons agencies are to provide by March 1,

1979, a report to OMB that includes the following:

1. Distinguishing between procurement and assistance:

a. For what types of activities did the agency have trouble making the distinction between procurement and assistance? Why?

b. On what basis were the issues resolved?

2. Use of procurement contracts:

a. What activities formerly funded through grants or other assistance instruments will now be handled with procurement contracts?

b. What is the anticipated dollar volume of these procurement contracts?

c. What is expected to be the impact of this shift on the agency?

d. Who will be the principal recipients of these contracts?

e. What is expected to be the impact on the recipients?

f. What use was made of the subsection 4[2) procurement provisions? Explain any uses other than those following the two-step example in the legislative history.

3. Agency decisions on when to use grants or cooperative agreements:

a. Describe the process by which the agency decided which programs would use:

(1) Only grants.

(2) Only cooperative agreements.

(3) Both grants and cooperative agreements.

b. Which programs, as listed in the Catalog of Federal Domestic Assistance, will fall into each of the above three categories? For those in category 3 what is the expected mix in terms of total dollars and numbers of transactions?

c. What programs not listed in the Catalog of Federal Domestic Assistance will fall into each of the three categories? For those in category 3 what is the expected mix in terms of total dollars and numbers of transactions?

d. What is the anticipated first-year dollar volume of the programs in each of the three categories?

e. What types of Federal involvement in the assisted activity led to the identification of programs that would use only cooperative agreements?

f. What are the anticipated reactions of the recipients of programs using only cooperative agreements?

g. What are the anticipated liability, accountability, and other implications for the programs using only cooperative agreements?

h. What are the agency guidelines on the selection of instruments for programs that may use either grants or cooperative agreements.

i. What is the anticipated dollar volume of grants and cooperative agreements to be awarded under these programs?

j. How will the opportunity to use either grants or cooperative agreements improve administration of these programs?

k. What negative effects are anticipated from the requirements to make a choice of instruments?

l. What programs will use assistance instruments that formerly used contracts and what is the dollar volume of these new uses of assistance instruments?

4. Nonmonetary assistance transfers:

a. What were the types and dollar value of nonmonetary transfers made by the agency using grant instruments?

b. How do these grant instruments compare with monetary grant instruments?

c. What were the types and dollar value of nonmonetary transfer made under the OMB exception that did not use grant instruments?

d. How would the agency have treated these transfers had not OMB granted the exception?

e. What were the types and dollar value of nonmonetary transfers made through cooperative agreements?

f. What was the agency's experience with this use of cooperative agreements?

5. Overall evaluation of the Act:

a. What elements of the Act are contributing to improved program performance and administration?

b. What elements of the Act are particularly troublesome? Why?

c. What proposals would the agency make for revising the Act?

[FR Doc. 79-33512 Filed 10-29-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1348.4]

Intent To Prepare an Environmental Impact Statement

AGENCY: EIS Branch, Surveillance and Analysis Division, Region IV, Atlanta, GA, Environmental Protection Agency.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (EIS).

PURPOSE: In accordance with Section 102(2)(C) of the National Environmental Policy Act, the EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: John E. Hagan III, Chief, EIS Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, GA 30308.

SUMMARY:

Description of Proposed Action

Mobil Chemical Company is proposing to develop and operate a phosphate mine, and beneficiation plant in Polk County, Florida to be known as the South Fort Meade Mine. The proposed facility is to be located on a 16,000 acre site lying on the Polk-Hardee County line immediately east of Peace River. At full development, the South Fort Meade mine would produce approximately 3.4 million tons per year of phosphate rock. The new facility will replace production from the existing Fort Meade mine which will be phased out over the next decade. Existing facilities at Nichols, Florida, will continue to be used for rock drying and processing.

Alternatives

An assessment of alternatives related to the project and its environmental impacts must be included in the EIS. Major alternatives to be addressed include location of benefication facility, routing, treatment and disposal of waste and wastewater streams mining and reclamation techniques, air and water pollution controls and no action. Major emphasis will be placed on impacts to surface water and groundwater quality, wetlands preservation and restoration.

In the development of alternatives, every reasonable effort will be made to comply with the recommendations of the "Final Environmental Impact Statement—Central Florida Phosphate Industry" EPA 904/9-78-0262 dated November 1978. Key elements of those recommendations applicable to the Mobil project include: elimination of rock dryers; elimination of above ground slime ponds; maximize water reuse/recycling to minimize demand on groundwater; minimize impact on wildlife habitat and historical/archeological sites or mitigate unavoidable damage; develop reclamation plan to minimize radionuclide impacts.

Public Participation and Scoping

A draft Plan of Study (POS) has been developed by Engineering-Science, Inc., and is presently under review by EPA and Corps of Engineers. The draft Plan of Study is available for inspection at:

Mobil Chemical Co., Nichols, Florida.
U.S. Army Corps of Engineers, 400 West Bay Street, Jacksonville, FL.
U.S. EPA, 345 Courtland Street, Atlanta, GA.

A limited number of copies are available from EPA at the address shown below to persons with direct interest in the project and on a first come first served basis.

A Scoping meeting will be held at 10:00 a.m. on Wednesday, November 14, 1979, at Tampa Electric Company Conference Room, 101 Second Street, N.W., Mulberry, Florida. The purpose of this meeting is to develop and provide to the consultant instructions for any necessary modifications/additions to the draft Plan of Study. Any persons wishing to participate in this Plan of Study/Scoping meeting are invited to attend and submit comments to EPA. Written comments or concerns may be submitted by November 23, 1979, to: John E. Hagan III, Chief, EIS Branch, U.S. EPA, 345 Courtland Street, N.E., Atlanta, GA 30308.

Timing

Preliminary estimates project that the Draft EIS will be available in October, 1981.

Requests for Copies

Request for copies should be directed to: Ms. Stephanie Lankford, U.S. EPA, 345 Courtland Street, Atlanta, GA 30308.

Dated: October 24, 1979.

Joseph M. McCabe,

Acting Director, Office of Environmental Review (A–104).

[FR Doc. 79–33513 Filed 10–29–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1348–5]

Science Advisory Board, Research Outlook Review Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the Research Outlook Review Subcommittee of the Science Advisory Board will be held on November 19, 1979, beginning at 9:00 a.m., in Conference Room 2117, Waterside Mall, 401 M Street, S.W., Washington, D.C.

This is the first meeting of this Research Outlook Review Subcommittee. The Environmental Research, Development, and Demonstration Authorization Act of 1978 requires the Science Advisory Board to review and comment on the Agency's five-year plan for environmental research, development, and demonstration. The agenda includes briefings on the Agency's new ORD planning system and background information on the *1980 Research Outlook;* commentary on the first draft of the *Research Outlook*; and planning procedures for the review.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Staff Officer, Science Advisory Board, 202–472–9444.

Dated: October 25, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79–33514 Filed 10–29–79; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

Radio Technical Commission for Marine Services; Meetings

In accordance with Public Law 92–463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 74, "Digital Selective Calling," Notice of 7th Meeting, Tuesday, November 13, 1979, Wednesday, November 14, 1979 (Full-day meetings), Conference Room 6200/6202, Nassif (DOT) Building, 400 Seventh Street, S.W. (at D Street), Washington, D.C.

Agenda

November 13, 1979

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Meeting of Ship Station Working Group and Coast Station Working Group.

November 14, 1979

1. Administrative Matters.
2. Working Group Reports.

CDR J. G. Williams, Chairman, SC–74, U.S. Coast Guard Headquarters, Washington, D.C., Phone: (202) 426–1345.

Executive Committee Meeting, Notice of November Meeting, Thursday, November 15, 1979—9:30 a.m., Conference Room 6200/6202, Nassif (D.O.T.) Building, 400 Seventh Street, SW., at D Street, Washington, D.C.

Agenda

1. Administrative Matters.
2. Discussion of U.S. Coast Guard Maritime Safety Requirements.
3. Acceptance of New Membership Applications.
4. Acceptance of FY—1979 Fourth Quarter Financial Statement.

The RTCM has acted as a coordinator for maritime telecommunications since its estalishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632–6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79–33488 Filed 10–29–79; 8:45 am]

BILLING CODE 6712–01–M

[FCC 79–557]

Petition by Texas Instruments, Inc., for a Waiver of § 15.4(m) and § 15.7 of FCC Rules; Order Granting Waiver in Part

Adopted: September 18, 1979.

Released: October 23, 1979.

By the Commission: Commissioners Lee and Quello absent.

1. On February 27, 1979 Texas Instruments, Inc. (TI) filed a petition asking the Commission to waive § 15.4(m) and § 15.7 so that TI could immediately market a stand alone video modulator [1] and an associated home computer [2] under standards that TI had proposed in a petition for rule making filed February 16, 1979.[3]

2. The petition for waiver was put on public notice on March 3, 1979 with comments to be received by March 20, 1979 subsequently extended to March 30, 1979. A plethora of filings have been received in response to the public notice.[4] These filings are enumerated in Appendix A.

Issues Involved in Petition

3. TI notes that some personal computers are currently being marketed with a built in video display—a video monitor.[5] Others are sold with instructions that the purchaser procure a video (or RF) modulator to be used as an interface device between the computer and a home TV receiver as the video display. TI points out that both courses pose problems. if sold with a video monitor, substantial additional costs are imposed on the purchaser.[6] If sold to be used with an RF modulator, the vendor is in violation of the Commission's marketing regulations by selling a non approved device (stand alone RF modulator) or, at the very least, is encouraging the purchaser to violate FCC rules by using a non approved device.

4. Recognizing these difficulties, TI had petitioned the Commission to institute rule making to provide for type approval of a stand alone modulator under standards presently set forth in FCC Rules Part 15 Subpart H and to

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[1] A video modulator (also referred to as an RF modulator) is an interface device that permits a home TV receiver to be used as a display device for a computer.

[2] TI describes its computer as a "home computer". The Commission prefers to use the term "personal computer". Either term refers to a computer that is relatively low cost, mass produced for sale to the general public, and intended for use in the home. The Commission understands that many such computers are in fact used by small business.

[3] RM–3328

[4] Motions to accept a late filing were filed by Commodore Business Machines, Inc. and National Association of Broadcasters. Both motions are accepted. Motions to Strike TI's Reply to oppositions were filed by Commodore Business Machines, Inc. and Association of Maximum Service Telecasters. Since we have no provisions to regulate the number or type of filings in a proceeding of this nature, there is no need for the Commission to act on these Motions to Strike.

[5] A video monitor is a device that accepts a video signal and displays that signal on a cathode ray tube. It differs from a TV receiver in that an RF carrier (TV channel) is not used, an RF tuning mechanism is not required and no local oscillator or IF strip is included in the monitor.

[6] TI estimates that the cost of a video monitor ranges from $200 for black and white to $400 for color (TI petition for waiver at page 3).

provide a certification procedure for the video source used with the modulator [7] under standards proposed in the petition for rule making, RM-3328.

5. The second issue raised by TI deals with certification of a personal computer and the standards to be applied to the computer. TI indicates its awareness that personal computers currently being marketed are causing interference to TV reception. In part, this is due to the fact that the Commission's rules lack a realistic standard applicable to computers [8] and because computers were never brought within the confines of the Commission's equipment authorization program. By proposing that its computer be certificated, TI appears to be seeking a standing in the market place, not presently held by other personal computers—namely the assurance given the purchaser by FCC certification that such equipment is not likely to become a source of interference. To this end, TI suggests that the computer be certificated to meet the technical standards, it has proposed in RM-3328. TI acknowledges in RM-3328 that its proposed standards for the computer are less stringent than the standard (Section 15.419) that it would have applied to its stand alone modulator. In this connection, TI says that while

"* * * the 15 microvolt standard set forth in Section 15.419 can be met by RF modulators of good design, the increasing complexity of circuitry (in a computer) which provides the video input signal to the RF modulator has created situations in which compliance with Section 15.419 for the video source is not practical in commercial production. (TI petition for rule making at page 4.) [9]

TI goes on to say

"The switching times employed in the logic circuitry are often so fast that radiation in excess of that set forth in Section 15.419 is emitted.[10] Thus, as indicated, Section 15.419 imposes requirements that are inconsistent with the economics required to market such equipment in volume, thereby denying the equipment to the mass market consumer." (TI petition for rule making at page 6).

6. TI argues that a significant amount of data have been collected which show that the less restrictive standards it has proposed in RM-3328 could be applied to a personal computer without significantly increasing its interference potential.

TI's Argument for the Waiver

7. TI points out that some manufacturers are marketing computers with a video monitor. In this way, they avoid becoming subject to the Class I TV rules which impose very strict limits of radiation and require that the device be type approved by the Commission as a prerequisite for marketing.[11] Although using the video monitor avoids the problem of the Class I TV rules, it burdens the purchaser with an unnecessary cost of about $200-400 for the purchase of a separate video monitor, or adds this sum to the cost of the computer if the monitor and computer are combined in one housing. TI argues that imposing such additional cost factor is not in the best interests of the consumer. Other manufacturers who market computers, according to TI, instruct the purchaser to procure an RF modulator and use this modulator as an interface device between the computer and the purchaser's home TV receiver. This approach, TI argues, induces the user to buy and use a device in violation of the Commission's Rules.

8. Thus, when a manufacturer provides a video monitor as a display device, the purchaser is burdened with an extra cost of at least $200. If the manufacturer sells the computer without a video monitor display, he is in essence abetting a violation of the FCC rules by encouraging the vendor to sell non-approved devices in violation of the Commission's marketing regulations. At the same time, the purchaser is encouraged to violate the FCC rules by using a non-approved device. Either course of action according to TI is contrary to the public interest.

9. In contrast, TI stresses that it has asked the Commission to revise the present regulations to permit the legal sale and use of a stand alone modulator.[12] However, TI points out that market forces may not permit it to wait until the Commission takes final action on its petition for rule making. Since TI does not want to subject the purchaser to the extra expense of a video monitor,[13] and since it does not want to encourage its customers to violate existing FCC regulations by buying and using non-approved RF modulators, it has requested a waiver of the existing regulations during the pendency of the rule making it has requested the Commission to institute (RM-3328). As a part of this request, TI asks that the standards it has suggested in RM-3328 be applied to equipment operating under the waiver until such time as final rules are promulgated. TI argues further that a grant of the waiver will promote compliance with the Commission's rules, since it will encourage other manufacturers to seek similar waivers.

Arguments Opposing the Waiver

10. The parties opposing the waiver argue that, despite TI's claim, personal computers can be designed to meet the Commission's requirements for Class I TV device. It is pointed out that at least one manufacturer has obtained type approval, several applications for type approval are now pending before the Commission, and others are designing personal computers that are expected to meet the Class I TV standards. The difficulty in meeting these standards stems from the computer part of the device—not from the modulator. TI, it is pointed out, seeks to avoid this problem by separating the computer from the modulator and recommending that each be separately approved, with only the modulator meeting the Class I TV standards.

11. The opponents contend that the less restrictive standards suggested by TI for its computer will permit a higher level of radiation than is permitted under the Class I TV rules. This in turn will increase the potential for interference to TV reception, particularly for people living in close proximity as in apartments or townhouses. This raises the question whether TI's proposal is in the public interest—a question that can only be resolved in a deliberate rule making proceeding such as TI requests in its petition for rule making, RM-3328.

12. Manufacturers currently making and marketing personal computers oppose a grant of the waiver on the grounds that it will give TI an unreasonably advantageous market position to the detriment of the smaller companies. A grant of a waiver, it is contended, will lessen the cost of the

[7] TI's petition used the term "video source" to mean the device providing an input to the video (RF modulator). Basically, the video source will be a personal computer.

[8] The Commission is currently applying the technical standards in Secton 15.7 which requires radiation to be limited to 15 uV/m at $\lambda/2\pi$. In a rule making proceeding in Docket 20780: In the Matter of Amendment of Part 15 to redefine and clarify restricted radiation devices and low power communication devices, Notice of Proposed Rule Making adopted April 14, 1976, released April 23, 1976, 41 FR 17938 (1976), the Commission is proposing to revise and relax the 15.7 standard. The proposed new standard is

10-500 kHz.....2400/F uV/m at 300m
500-1600 kHz.....24000/F uV/m at 30m
Above 1600 kHz.....100 uV/m at 3m

[9] The "15 microvolt standard in Section 15.419" mentioned by TI is ". . . 15 uV/m at a distance of $\lambda/2\pi$ or a distance of 1 meter, whichever is the larger distance."

[10] In a footnote, TI points out that the switching rise time is often less than 20 nanoseconds.

[11] 47 C.F.R. Sections 15.401-15.423.

[12] RM-3328.

[13] TI's actual statement is: "TI would prefer to expend additional resources on lessening the radio frequency interference potential of the personal computer rather than to allocte those resources to providing a home computer with a separate video monitor." TI petition for waiver at page 5.

product to TI and permit the early market introduction of a product for which only TI has approval. This, they contend, will have a damaging and potentially ruinous impact on manufacturers developing a product to meet the Commission's rules for a Class I TV device.

13. The fact that the FCC may not have an effective regulation to limit RFI from a personal computer is no justification, it is contended, to approve, on an emergency basis, the interim regulation proposed by TI. This is particularly true, according to the opponents, when after rulemaking, it may prove to be ineffective in controlling interference to TV reception. It is conceded that if a waiver is granted to TI, other computer manufacturers would undoubtedly seek the same privilege. Such a series of waivers would amount to a *de facto* imposition of standards without rulemaking and without the public interest determination required by 5 U.S.C. 553. The opponents repeat again and again that a grant of a waiver and the accompanying imposition of interim standards undermines the Commission's rule making process and places the Commission in the position of prejudging the proceedings in the rule making sought by TI in RM-3328. In particular, the opponents of the waiver argue that only in a full rule making proceeding—not by the grant of waiver—can the Commission determine the effect on TV reception of the levels of radiation that would emanate from a computer under the interim standards proposed by TI.

Discussion

14. We find the essence of TI's argument to be that we should grant the waiver in order to bring the benefits of new technology—the personal computer—to the public at the earliest possible time. We agree with this concept. We agree also that our regulations should not stand as a barrier against bringing new technology in the form of the personal computer to the public. But we cannot agree with TI that this should be done by waiver.

15. Our response to TI's request not to impede the movement of new technology to market is to expedite that part of our rule making in Docket 20780 dealing with electronic computing equipment and to institute a separate rule making proceeding to revise our present rules for a Class I TV device, to accommodate a stand alone video modulator requested in RM-3328.

16. Accordingly, we have adopted a First Report & Order in Docket 20780 creating a new Subpart J in Part 15 which sets our specific technical standards for electronic computing equipment together with a certification procedure. These rules require all computing equipment manufactured after July 1, 1980 to comply with the technical specifications in Subpart J. Applications for certification may be submitted at any time and a grant of certification will be issued as soon as processing of the application is completed. Under these rules, computing equipment manufactured prior to July 1, 1980 may be marketed without certification subject only to the requirement in § 15.3 that no harmful interference is caused.

17. Having adopted new rules and technical standards specifically for computers, and having provided for the prompt issuance of a grant of certification, the question of a waiver of § 15.7 has been rendered moot and no further action on this part of TI's request is required.

18. The situation is different with respect to the stand alone modulator. In response to this part of TI's request, we have issued a Notice of Proposed Rule Making to completely revise our rules for a Class I TV device in Subpart H of Part 15. This Notice proposed technical standards that will apply to any device that feeds a signal into a standard TV receiver. Instead of type approval, we are proposing to require certification. While we will make every effort to finalize these rules as soon as possible, we recognize the need for a waiver of our Class I TV rules to permit early marketing of a stand alone modulator.

19. As made clear by our issuance of a rulemaking (FCC Gen Docket 79-244), we think that the present rules pertaining to Class I TV devices are not suitable for a number of reasons. First, experience has shown that the present radiation limits in § 15.419 are overly restrictive. Secondly, experience indicates that the requirement for type approval, which requires the FCC to test the equipment, is also overly restrictive. Thirdly, the existing rules in general lack flexibility concerning the manufacturing and use of radio frequency devices that utilize the home TV set for video display purposes. There are, however, special public interest considerations that justify a waiver of the existing rules in the interim. A waiver will bring the benefits of new technology to the public much sooner than would otherwise be the case. In other words, the technology for personal computer systems exists, and we do not anticipate any cognizable harm that will befall the public (although we retain our jurisdiction to review the matter again if such unanticipated harm does occur). Furthermore, by requiring certification instead of type approval, it will be easier for manufacturers to make production changes while providing the Commission with adequate control over the interference potential of devices. In general, waiver of the existing rules now will allow greater flexibility in the manufacturing and use of electrical products that employ the home TV set as a video display device. We wish to emphasize, however, that our willingness to grant this waiver does not in any way prejudice any actions the Commission may wish to take in the aforementioned rulemaking.

20. Similar waivers may be granted by the Chief Scientist under delegated authority to manufacturers that meet the same conditions set out in this Order. Devices that may qualify for a waiver include personal computing systems, home security systems, and green thumb boxes.[14] If members of the public have information that has not been presented to us and which may impact on our grant of TI's waiver, they may, of course, petition the Commission for reconsideration prior to the effective date of the TI waiver (although parties should note that the mere filing of a petition for reconsideration does not automatically stay the effective date of our action today). (47 C.F.R. § 1.106)

21. Accordingly, the provisions of § 15.4(m) and of Subpart H are hereby waived subject to the following conditions:

a—The model TI-900 video modulator shall meet the technical specifications for a TV Interface Device proposed by the Commission.

b—The model TI-900 has been certificated in accordance with the procedures in Subpart J of Part 2.

c—This waiver shall terminate 30 days after the effective date of the rules that are promulgated for a TV Interface Device or after any other action concerning the validity of the waiver.

d—The video source (computer) providing the input signal to the modulator shall have been certificated to show compliance with the technical specifications in the First Report and Order in Docket 20780.

22. In summary, in view of the above, the request for a waiver of § 15.7 IS MOOT and requires no action. The waiver of § 15.4(m) IS GRANTED subject to the conditions in paragraph 21, effective 30 days after publication.

[14] A "green thumb" project is under development by the U.S. Department of Agriculture to provide farmers with up-to-date information. The information would be fed over telephone lines and displayed on TV receivers.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A.—*Filings With Respect to Texas Instruments, Inc., Petition for Waiver of § 15.4(m) and § 15.7*

Date received by FCC	
2-27-79	Petition for waiver by Texas Instruments, Inc. by attorney Richard E. Wiley, John Bartlett, David Hilliard; Kirkland & Ellis; 1776 K St., NW; Washington, DC 20006.
3-20-79	Letter opposing petition for rulemaking and petition for waiver by Glen Dash; Dash-Straus Associates; 2 Ridgewood Rd.; Malden, MA 02148.
3-20-79	Alpex Computer Corp. opposition to TI waiver by attorney Nancy L. Buc, M. Stuart Madden; Weil, Gotshal & Manges; 1101 Connecticut Ave., NW; Washington, DC 20036.
3-22-79	Mattel Electronics letter re TI petition for waiver by Dr. David P. Chandler, Manager System Products; Mattel, Inc.; 5150 Rosencrans Ave.; Hawthorne, CA 90250.
3-23-79	Broadrein letter opposing TI petition filed by J. E. McConnell, Vice President of Engineering; Broadrein Instruments; 1057 Checkrein Ave.; Columbus, OH 43229.
3-26-79	Compucolor letter (no objection to waiver) by Charles Muench, Vice President, Compucolor Corp.; P.O. Box 569, Norcross, GA 30071.
3-28-79	Interact Electronics, Inc. opposition to TI waiver by attorney Peter M. Kantner; Kantner & Smith; 555 East William St.; Ann Arbor, MI 48104.
3-30-79	Tandy Corp. (Radio Shack) opposition to waiver by attorney John M. Pettit; Hamel, Park, McCabe, and Saunders; 1776 F St., NW; Washington, DC 20006.
3-30-79	Association of Maximum Service Telecasters, Inc. opposition to waiver by attorney Paul J. Berman; Covington & Burling; 888 Sixteenth St., NW; Washington, DC 20006.
3-30-79	ATARI, Inc. opposition to waiver by attorney Aaron I. Fleischman, James A. Cook, Arthur A. Harding; Fleischman & Walsh, P.C., 1725 N St., NW; Washington, DC 20036.
3-30-79	Statement by Archer S. Taylor, Senior Vice President of Malarkey, Taylor & Associates in support of ATARI opposition by ATARI attorney Aaron I. Fleischman.
4-2-79	Interact Electronics amended statement in opposition by attorney Peter M. Kantner.
4-4-79	Statement by ATARI, Inc. submits two (2) comments filed by RCA and CBEMA in RM-3328 (TI petition for rule making) as of interest in petition for waiver by attorney Aaron I. Fleischman.
4-11-79	Letter from Senator Donald W. Riegle, Jr. (Michigan).
4-20-79	FCC reply to Senator Donald W. Riegle, Jr. (Michigan).
4-13-79	Letter from Congressman Jim Wright (Texas).
4-20-79	FCC reply to Congressman Jim Wright (Texas).
4-16-79	Letter from Congressman Carl D. Pursell (Michigan).
5-2-79	FCC reply to Congressman Carl D. Pursell (Michigan).
4-16-79	Apple Computer Inc. opposition to TI waiver by attorney Timothy G. Todd; Davis, Stafford, Kellman, and Fenwick; 2 Palo Alto Square, Palo Alto, CA 94304.
4-17-79	Commodore Business Machines, Inc. opposition to waiver, request to accept pleading in opposition by attorney Fred W. Ford, Joseph Hennessey, Michael Jones; Levett, Ford, & Hennessey; 1901 L St., NW; Washington, DC 20036.
4-23-79	Errata to above.
4-19-79	National Association of Broadcasters request to waive time limit on filing response to TI petition for waiver, National Association of Broadcasters opposition to TI waiver by Erwin G. Krasnow, Senior Vice President & General Counsel; NAB; 1771 N St., NW; Washington, DC 20036.

Appendix A.—*Filings With Respect to Texas Instruments, Inc., Petition for Waiver of § 15.4(m) and § 15.7*—Continued

Date received by FCC	
4-20-79	TI reply to oppositions by Attorney Richard E. Wiley
4-24-79	Mattel Electronics letter states letter received March 22, 1979 not an objection, merely asked for clarification of issues by Jeffrey A. Rochlis, President; Mattel, Inc.; 5150 Rosencrans Ave.; Hawthorne, CA 90250.
5-4-79	AMST motion to strike TI reply to opposition by attorney Paul J. Berman.
5-9-79	Commodore Business Machines motion to strike TI reply by attorney Joseph Hennessey.
5-11-79	ATARI, Inc. Response to New Matters (re TI reply to oppositions) by attorney Aaron I. Fleischman.
5-17-79	TI oppostion to motions to strike by attorney John Bartlett, David E. Hilliard, Barry Wood.
6-4-79	TI letter replying to Atari response to new matters filed by attorney Richard E. Wiley, John L. Bartlett, David E. Hilliard.
6-26-79	AMST submits engineering statement by Howard T. Head (A. D. Ring & Associates) supports AMST opposition by attorney Paul J. Berman.
7-6-79	Tandy Corp. (Radio Shack) comment on TI letter received June 4, 1979 submits statement by Jules Cohen (Jules Cohen & Associates) supports opposition to waiver by attorney John W. Pettit, Joe D. Edge.
7-19-79	TI—further letter reviews status of TI petition for waiver by attorney Richard E. Wiley.
7-27-79	Atari, Inc. further letter responds to TI letter received July 19, 1979 by attorney Aaron I. Fleischman.
8-2-79	Tandy Corp. (Radio Shack) further letter responds to TI letter received July 19, 1979 by attorney John W. Pettit.

[FR Doc. 79-33523 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 79-266; FCC 79-664]

Implementation of Section 505 of the International Maritime Satellite Telecommunications Act; Interim Report and Notice of Inquiry

AGENCY: Federal Communications Commission.

ACTION: Interim Report and Notice of Inquiry.

SUMMARY: This Interim Report and Notice of Inquiry is adopted to advise Congress of the status and direction of a study of the Communications Satellite Corporation (Comsat) and to solicit public comment on certain policy issues raised by an initial review of Comsat's structure and activities. In Section 505 of the International Maritime Satellite Telecommunications Act, Pub. L. No. 95-564, 92 Stat. 2392 (1978), the Congress directed the Commission to conduct a study of Comsat's corporate structure and operating activities, with a view toward determining whether any changes are required to ensure that Comsat is able to effectively fulfill its obligations under the Communications Act of 1934, as amended, 47 U.S.C. 151 (1971) and the Communications Satellite Act of 1962, as amended, 47 U.S.C. 751 (1962).

DATES: Comments should be filed with the Commission on or before November 30, 1979 and reply comments should be filed on or before December 21, 1979. A final report to Congress is due no later than May 1, 1980.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James L. Ball or Douglas V. Davis, Common Carrier Bureau, International Programs, (202) 632-3214.

In the matter of implementation of Section 505 of the International Maritime Satellite Telecommunications Act; interim report and notice of inquiry.

Adopted: October 18, 1979.

Released: October 19, 1979.

By the Commission:

1. The International Maritime Satellite Telecommunications Act, Pub. L. No. 95-564, 92 Stat. 2392 (1978), directs the Commission to conduct a study of the corporate structure and operating activities of the Communications Satellite Corporation (Comsat) to determine whether any changes are required to ensure that Comsat is able to effectively fulfill its obligations and carry out its functions under the Communications Satellite Act of 1962, as amended, 47 U.S.C. 751 (1962) and the Communications Act of 1934, as amended, 47 U.S.C. 151 (1971). The Commission is to transmit a report of its findings and conclusions to Congress no later than May 1, 1980. The purpose of this Interim Report and Notice of Inquiry is to advise the Congress of the direction and status of the study and to seek public comment on certain policy issues which have been raised by an initial review of Comsat's corporate structure and operational activities.

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INTRODUCTION

A. Requirement for the Study

2. The International Maritime Satellite Telecommunications Act amended the Communications Satellite Act of 1962 to designate Comsat as the U.S. participant and sole operating entity in the International Maritime Satellite Organization (INMARSAT).[1] INMARSAT is an international organization established to develop and operate a commercial global maritime satellite system. The Act places sole responsibility on Comsat for any financial obligations it incurs as the U.S. participant in INMARSAT.

3. Section 505 of the Act provides:

(a) The Commission shall conduct a study of the corporate structure and operating activities of the corporation, with a view toward determining whether any changes are required to ensure that the corporation is able to effectively fulfill its obligations and carry out its functions under this Act and the Communications Act of 1934.

(b) The Commission shall transmit a report to the Congress not later than 18 months after the effective date of this title relating to the study of the corporation conducted under subsection (a). Such report shall contain a detailed statement of the findings and conclusions of such study, any action taken by the Commission related to such findings and conclusions, and any recommendations of the Commission for such legislative or other action as the Commission considers necessary or appropriate.

Section 505 was enacted out of a general concern for Comsat's continued ability to effectively fulfill its obligations and carry out its functions under the 1962 Satellite Act and the 1934 Communications Act, in view of the additional responsibilities being placed on Comsat as the designated U.S. operating entity in INMARSAT. In addition, the Senate Committee on Commerce, Science and Transportation indicated a particular concern with respect to the varied non-INTELSAT related activities in which Comsat has become engaged since enactment of the 1962 Act.[2] The Committee stated that the Commission should conduct a study to (1) determine whether activities in which Comsat or any subsidiary of Comsat is now engaged or may become engaged are consistent with Comsat's statutory obligations, (2) determine whether existing regulatory or other safeguards are sufficient to protect the public interest should any occasion arise in the future when Comsat's dual statutory roles present a conflict of interest, and (3) review Comsat's existing corporate structure and recommend any changes in that structure that may be necessary to ensure that Comsat is organized to best carry out its statutory obligations. See S. Rep. No. 95–1036, 95th Cong., 2d Sess. 15 and 16 (1978).

B. Approach for Conducting the Study

4. Pursuant to the Congressional directive contained in Section 505, we have initiated a three-phased examination of Comsat's corporate structure and operating activities. The initial phase was completed in preparation of this Interim Report and Notice of Inquiry. It consisted of a review of the legislative and regulatory actions which shaped Comsat, and an initial survey audit of Comsat and Comsat's subsidiaries. The legislative and regulatory review focused on the obligations and responsibilities imposed on Comsat by statute or regulatory action. The review involved an analysis of how these obligations and responsibilities make Comsat different from other U.S. communications common carriers and what consequences flow from Comsat's unique position in the U.S. telecommunications industry. The major thrust of the initial survey audit was an on-premises staff examination of Comsat's operations to provide initial information regarding Comsat's corporate structure, managerial organization, operating activities, and financial practices. The on-premises examination included a review of (1) Comsat's accounting practices and cost accounting systems, (2) the corporation's financial obligations, agreements, contracts, and arrangements, (3) the corporate structure and decision-making process, and (4) the corporation's activities and any agreements or contracts relative to those activities.

5. The second phase of the study will consist of (1) review of the information obtained from the initial survey, (2) determination of the areas of emphasis for the remainder of the study, and (3) preparation of a program for further conduct of the study. The program prepared for further conduct of the study will include additional on-premises review of Comsat's operations as well as consideration of the comments filed in response to this Interim Report and Notice of Inquiry. The additional on-premises review of Comsat's operations will involve examination of operating activities and practices which directly relate to the basic issues of the study and which merit deeper investigation for purposes of a final report to Congress. We expect to substantially complete this task by the end of the year.

6. The final phase of the study will involve preparation of the final report to Congress following analysis of the information obtained from additional on-premises review of Comsat's operations and from the public comments submitted in this proceeding. The final report will take the form of a Commission Report and Order which will include a statement of the Commission's findings and conclusions from the study, any actions taken by the Commission or to be taken as a result of such findings and conclusions, and any recommendations of the Commission for legislative action.

C. Scope of This Inquiry

7. This Interim Report and Notice of Inquiry seeks public comment on a number of issues. From a broad perspective, we are concerned with whether Comsat is optimally structured to engage in a variety of activities involving different markets. From a narrower perspective, we are concerned with three issues related to Comsat's continued ability to effectively fulfill its special INTELSAT and INMARSAT obligations and responsibilities: (1)

[1] The International Maritime Satellite Telecommunications Act became Title V of the Communications Satellite Act.

[2] The House Committee on Interstate and Foreign Commerce pointed out that the 1962 Satellite Act did not envisage many situations that now exist, since the Act was enacted to facilitate the development of a global communications system at a time when satellite communications technology was primarily in its initial stages of development. See H.R. Rep. No. 95–1134, Part I, 95th Cong., 2d Sess. 13 (1978).

whether Comsat's new INMARSAT role may result in potential conflicts or other problems with respect to its INTELSAT statutory obligations and responsibilities; (2) whether current statutory provisions and intergovernmental arrangements provide for effective governmental oversight of Comsat in fulfilling its INTELSAT and INMARSAT duties; and (3) whether Comsat's non-INTELSAT and non-INMARSAT business ventures may result in situations in which its INTELSAT or INMARSAT duties are compromised. With respect to Comsat's non-INTELSAT and non-INMARSAT activities and operations, we are particularly concerned with (1) whether the requirements and restrictions that we originally placed on Comsat for the purpose of its participation in domestic satellite services and any other non-INTELSAT activities are now appropriate in view of changes in Comsat's corporate structure and operating activities that have occurred since those requirements and restrictions were imposed, and (2) whether Comsat's application of its corporate technology and expertise to the development of business opportunities that involve unregulated activities may lead to situations in which either Comsat's INTELSAT and INMARSAT obligations and responsibilities are compromised in favor of other corporate interests.

8. Our purpose in seeking public comment on these issues is to supplement the information we are obtaining from our on-premises review of Comsat's operations and to provide a more complete record upon which to make recommendations to Congress concerning any changes in Comsat's corporate structure or restrictions on its operating activities.[3] In order to aid interested parties in commenting on the problems that are posed by Comsat's corporate structure and the activities in which it is engaged, we will provide certain background information. This information will (1) summarize the statutory and regulatory obligations imposed on Comsat and the institutional framework within which Comsat operates, (2) identify the major activities in which Comsat and its subsidiaries are involved, and (3) describe the current corporate structure and decision-making process.

BACKGROUND

A. Statutory Framework

9. The 1962 Communications Satellite Act and the 1978 International Maritime Satellite Telecommunications Act both place specific obligations and responsibilities on Comsat as the chosen instrument of the United States to participate in international cooperative ventures for the establishment of global communications satellite systems. In addition, both Acts place specific responsibilities on the U.S. Government for oversight of Comsat's fulfillment of its statutory missions.

(1) Communications Satellite Act of 1962

10. The declared purpose of the 1962 Act is to establish a global communications satellite system in conjunction and cooperation with other countries (47 U.S.C. 701(a)) and to provide for U.S. participation in such a system through a private corporation, subject to appropriate Government regulation (47 U.S.C. 701(c)). To this end, Congress authorized the creation of a private corporation for profit which would not be an agency or establishment of the U.S. Government (47 U.S.C. 701(b)). It charged the Corporation with the responsibility of:

(1) establishing as expeditiously as practicable a commercial communications satellite system, as part of an improved global communications network;

(2) directing care and attention toward providing such services to economically less developed countries and areas as well as those more highly developed; and

(3) reflecting the benefits of this new technology in both quality of services and charges for such services (47 U.S.C. 701(a)(b)).

11. The Corporation was created to exploit this nation's space technology in developing the global system and was to be the U.S. representative in a joint international venture established to facilitate such development. In addition, the Corporation was to be the only U.S. entity authorized to construct and operate satellite facilities for international communications. As such, the Corporation was to provide U.S. communications common carriers and other authorized users access to satellite facilities on a nondiscriminatory basis (47 U.S.C. 701(c)).

12. In order to achieve these objective, the Act authorizes the Corporation to:

(1) plan, initiate, construct, own, manage, and operate itself or in conjunction with foreign governments or business entities a commercial communications satellite system;

(2) furnish, for hire, channels of communication to authorized entities, foreign and domestic; and

(3) own and operate satellite terminal stations when licensed by the Commission (47 U.S.C. 735(a)).

The Act names certain activities as among those the corporation may engage in to carry out its mission:

(1) to conduct or contract for research and development related to its mission;

(2) to acquire the physicial facilities, equipment and devices necessary to its operations, including communications satellites and associated equipment and facilities, whether by construction, purchase, or gift;

(3) to purchase satellite launching and related services from the United States Government;

(4) to contract with authorized users, including the United States Government, for the services of the communications satellite system; and

(5) to develop plans for the technical specifications of all elements of the communications satellite system (47 U.S.C. 735(b)).

13. To insure that the Corporation serves the interest of the public whose technology it is using, the Act defines the Corporation as a common carrier subject to the licensing provisions of Titles II and III of the Communications Act of 1934 (47 U.S.C. 741). The Act requires the Corporation to be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public, and the activities of the Corporation and of the persons or companies participating in the ownership of the Corporation to be consistent with the Federal antitrust laws (47 U.S.C. 701(c)). The Act also requires the Corporation to notify the Department of State whenever it enters into business negotiations with international or foreign entities with respect to facilities, operations and services (47 U.S.C. 742), and to transmit annual reports to the President and the Congress of its operations, activities and accomplishments (47 U.S.C. 744(b)).

14. The Act vests certain responsibilities in both the Commission and the President for oversight of the Corporation's operations. It requires the Commission to: (1) insure that the corporation provides all authorized carriers with nondiscriminatory use of, and equitable access to, the satellite system under just and reasonable charges (47 U.S.C. 721(c)(2)); (2)

[3] The issues we pose for comment are not reflective of the entire scope of the study, but involve those matters about which we believe public comment would be most helpful to our conduct of the study. For example, as part of the second phase of the study, the Common Carrier Bureau is conducting an analysis and evaluation of the economic and financial performance of Comsat and its subsidiaries. The results of this analysis and evaluation, as well as our findings and conclusions regarding the issues we are posing herein, will be reflected in our final report.

prescribe such accounting regulations and systems and engage in such ratemaking procedures as will insure that any economies made possible by the satellite system are appropriately reflected in rates for services (47 U.S.C. 721(c)(5)); (3) insure the technical compatibility of the facilities of the satellite system with satellite terminal stations and communications facilities (47 U.S.C. 721(e)(4)); (4) approve technical characteristics of the operational communications satellite system and of the satellite terminal stations (47 U.S.C. 721(c)(6)); and (5) grant authorizations for construction and operation of satellite terminal stations, either to the Corporation, to one or more authorized carriers, or to the Corporation or one or more such carriers jointly (47 U.S.C. 721(c)(7)). The Act gives the Commission extraordinary authority over the capital structure of the Corporation, empowering the Commission to approve or disapprove any future issuance of stocks or borrowings, in accordance with public interest findings (47 U.S.C. 721(c)(8)). In addition, the Act gives the Commission the responsibility of insuring effective competition in the procurement of equipment and services for the satellite system (47 U.S.C. 721(c)(1)).[4]

15. The Act requires the President to (1) aid in the planning and development and foster a national program to establish a satellite system, (2) provide for continuous review of the development and operation of the system and the activities of the Corporation, (3) coordinate the activities of governmental agencies with responsibilities in telecommunications to insure compliance with the policies set forth in the Act, (4) exercise supervision over the relationship of the Corporation with foreign governments or international entities to assure consistency with the U.S. national interest and foreign policy, (5) insure that timely arrangements are made for foreign participation in the establishment of the satellite system, (6) insure the availability and utilization of the satellite system for governmental purposes, and (7) exercise his authority to attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the satellite system with existing communications facilities (47 U.S.C. 721(a)). In addition, the President is given authority to appoint three members of the Corporation's Board of Directors, with the advice and consent of the Senate (47 U.S.C. 733(a)). The Act also places certain requirements on NASA to assist the Corporation in research and development for and establishment of the satellite system (47 U.S.C. 721(b)).

16. The Communications Satellite Corporation (Comsat) was incorporated under the laws of the District of Columbia in 1963, following Presidential approval of the Articles of Incorporation pursuant to provisions of Title II of the 1962 Act (47 U.S.C. 732). As authorized by the 1962 Act, U.S. communications common carriers subscribed to 50 percent of the shares of stock offered.[5] The remaining 50 percent was acquired by 130,000 members of the general public. The initial stock offering has been Comsat's ony stock issuance.[6]

(2) International Maritime Satellite Telecommunications Act

17. The declared purposes of the 1978 International Maritime Satellite Telecommunications Act is to provide for U.S. participation in INMARSAT in order to develop a global maritime satellite system that will meet the maritime commercial and safety needs of the United States and foreign countries (47 U.S.C. 751(a)). To this end, the Act designates COMSAT as the U.S. operating entity in INMARSAT (47 U.S.C. 751(b) and 752(a)). The Act places sole responsibility on Comsat for any financial obligations it incurs in this capacity, and authorizes Comsat to be the sole U.S. representative in the managing body of INMARSAT (47 U.S.C. 752(d)).[7]

18. The Act vests certain responsibilities in both the President, Secretary of Commerce, and the Commission for oversight of Comsat's operations. The President is to exercise supervision over and issue instructions to Comsat as may be necessary to ensure that Comsat's relationships and activities with foreign governments, international entities and INMARSAT are consistent with the U.S. national interest and foreign policy (47 U.S.C. 753(b)). The Secretary of Commerce is required to (1) coordinate the activities of Federal agencies, other than the Commission, with responsibilities in telecommunications, to ensure compliance with the provisions of the Act, (2) ensure the availability and utilization of INMARSAT services for governmental purposes, (3) exercise his authority to attain coordinated and efficient use of the electromagnetic spectrum and orbital space and to ensure the technical capability of the INMARSAT space segment with existing communications facilities, and (4) determine the interests and needs of maritime users and communicate the views of the Federal Government on utilization and user needs to INMARSAT (47 U.S.C. 753(a)).

19. The Commission is authorized to issue instructions to Comsat with respect to regulatory matters; however, if a Commission instruction conflicts with a Presidential instruction, the Presidential instruction shall prevail (47 U.S.C. 753(d)). The Commission is required to (1) institute proceedings, grant authorizations, and prescribe rules as may be necessary to carry out the provisions of the Act, (2) make recommendations to the President to assist him in his issuance of instructions to Comsat, and (3) establish procedures for the continuing review of telecommunications activities of Comsat as the U.S. designated entity in INMARSAT (47 U.S.C. 753(c)).

B. Institutional Famework

20. The arrangements under which INTELSAT and INMARSAT were formed both place significant responsibilities on Comsat as the U.S. participant in those international organization.

(1) Intelsat

21. The International Telecommunications Satellite Organization (INTELSAT) originated as an international joint venture in 1964 under interim arrangements established by the United States and several other countries to develop a global

[4] The Act requires that maximum competition be maintained in provision of equipment and services utilized by the satellite system (47 U.S.C. 701(c)).

[5] The right of any carrier to own stock was not intended by Congress to be an absolute right. Rather, only those carriers authorized by the Commission upon a finding that their ownership would be consistent with the public interest could become stockholders (47 U.S.C. 734(b)).

[6] The international carriers have divested themselves of virtually all of their holdings in Comsat, either on a voluntary basis or as a result of Commission action. *See* Domestic Communications Satellite Facilities, 38 FCC 2d 665, at 679–80 (1972).

[7] The Act permits only Comsat to own and operate the U.S. share of jointly owned international space segment and associated ancillary facilities established for the purpose of providing maritime satellite facilities. It also permits Comsat to own and operate satellite earth terminal stations in the United States, but provides that this Commission may authorize ownership of earth stations by persons other than Comsat at any time it determines that such additional ownership will enhance the provision of maritime satellite services in the public interest. Comsat is required to interconnect its earth stations with the facilities and services of U.S. domestic and international common carriers, as authorized by this Commission, for the purpose of extending maritime satellite services to users within the United States and beyond. In addition, Comsat is also required to interconnect its earth stations with private communications systems, unless this Commmission finds that such interconnection would not serve the public interest.

communications satellite system.[8] The interim arrangements provided groundwork for the subsequent formulation of definitive arrangements which formally created INTELSAT in 1973. The definitive arrangements consist of two separate international agreements: (1) an Agreement among participating governments, and (2) an Operating Agreement among the actual investors and participants in INTELSAT, which may either be governments or telecommunicatins entities, public or private, designated by governments. Comsat is the designated U.S. signatory to the Operating Agreement.

22. The basic province of INTELSAT is space segment development and operation. As the U.S. Signatory, Comsat is obligated to make capital contributions to the capital requirements of INTELSAT, and pay appropriate utilization charges for use of space segment.[9] In turn, Comsat provides satellite transmission services to authorized U.S. communcitations common carriers serving the public between the United Sates and foreign countries and to other authorized users.

23. INTELSAT is composed of four organs: (1) the Assembly of Parties; (2) the Meeting of Signatories; (3) the Board of Governors; and (4) an executive organ (the Director General). The Assembly of Parties is comprised of all Parties (governments) to the INTELSAT Agreement. The Assembly considers matters primarily of interest to the Parties as sovereign states, including the general policy and long-term objectives of INTELSAT. The U.S. government is a member of the Assembly of Parties. The Meeting of Signatories and Board of Governors are comprised of representatives of Signatories to the Operating Agreement. Comsat is the U.S. representative in the INTELSAT Meeting of Signatories and on the Board of Governors. The functions and powers of the Meeting of signatories include: acting on any recommendations made by the board of Governors concerning an increase in INTELSAT's capital ceiling; the expression of views to the board of Governors on the annual financial statements and the annual report; the consideration of reports on future programs, including the estimated financial implications of these programs; the establishment of general rules relating to approval of earth stations for access to the space segment; allotment of the INTELSAT space segment capacity; and the adjustment of the rates charged for INTELSAT space segment utilization on a nondiscriminatory basis. The Board of Governors is responsible for the design, development, establishment, construction, maintenance and operation of the INTELSAT space segment. The Board also is concerned with adopting plans, programs and policies in conjunction with the design, construction and establishment of the INTELSAT space segment; setting procurement practices, financial policies and procedures for the acquisition of rights in inventions; adopting procedures, in accordance with general rules established by the Meeting of Signatories, for the approval of earth stations and conditions and terms governing the allotment of INTELSAT space segment capacity; submitting to the Meeting of Signatories reports on future programs including the estimated financial implications of these programs; arranging contracts; and appointing the Director General.[10] The Director General serves as the chief executive and is responsible directly to the Board of Governors for the day-to-day management of INTELSAT and operation of the INTELSAT system.

(2) INMARSAT

24. As with INTELSAT, the arrangements by which INMARSAT was formed consist of two separate agreements: (1) a Convention signed by governments participating in INMARSAT, and (2) an Operating Agreement signed by either governments or their designated operating entities.

These instruments set forth the legal and financial requirements for participation in INMARSAT and the institutional basis upon which the organization will operate.

25. Comsat is the designated U.S. Signatory of the INMARSAT Operating Agreement. As such, it is required to (1) contribute to the capital investment of INMARSAT, and (2) pay utilization charges for use of INMARSAT space segment.[11] Additionally, Comsat is the U.S. representative on the INMARSAT Council. The Council has the responsibility to make provision for space segment in the most economic and efficient manner consistent with the Convention and Operating Agreement. The Council's powers include: planning for the development and operation of space segment; procurement of necessary launch services; adoption of criteria and procedures for approval of earth stations and ship terminal stations; adoption of procurement procedures and approval of procurement contracts; approval of the annual budget and financial regulations; and determination of space segment charges and matters concerning investment shares and capital ceiling.

C. Significant Commission Actions Taken Pursuant to its Oversight Responsibilities

26. The Commission took certain initial actions in carrying out its duties and responsibilities under the 1962 Act. In addition, a number of policy decisions were made involving (1) the definition of Comsat's operational role in relation to other U.S. carriers and the public, (2) the economic regulation of Comsat, and (3) the entry of Comsat into non-INTELSAT activities. These decisions generally defined the parameters of and placed restrictions on Comsat's role in providing international satellite communications to the United States via the global system.

(1) Initial Actions

27. Initially, the Commission approved requests from Comsat for interim financing pending the initial issuance of stock pursuant to the 1962 Act. Rules and regulations were adopted establishing procedures for carriers to follow in applying for authorization to own stock in the corporation and prohibiting carriers from selling any of their stock prior to June 1, 1965, to entities other than authorized carriers with Commission approval (47 C.F.R.

[8] Shortly after Comsat was incorporated, representatives of Comsat and the U.S. Government and representatives of foreign governments and telecommunciations admnistrations met to establish interim arrangements for a global system. The resulting agreement chartered the principles, purposes, scope and structure of INTELSAT. It also established initial investment quotas for the original participants and provided a basis for the reduction of those quotas as additional members joined the joint venture. Participation was open to any ITU member nation. Nineteen countries initially signed the agreement.

[9] Investment in INTELSAT is determined principally on the basis of space segment utiliztion; that is, each member invests in proportion to its use of the system and shares accordingly in revenues which become available for distribution, including a 14 percent-pretax return on investment. Investment is periodically redetermined on the basis of changing space segment utilization.

[10] Represenatation and voting on INTELSAT's Board of Governors are based on a country's percentage of investment in INTELSAT. Comsat's current investment and voting share in INTELSAT is 24.80%. Representation and voting in INTELSAT's Assembly of Parties (governments that are Parties to the Agreement) and the Meeting of Signatories (governments or designated entities that are Signatories to the companion Operating Agreement) are on a one-country, one-vote basis.

[11] Investment shares in INMARSAT will be periodically redetermined on the basis of space segment utilization, commencing not less than two nor more than three years after the INMARSAT space segment begins operation. Comsat's initial investment share is 22.50%. However, there is an unresolved dispute in INMARSAT, the resolution of which could result in an increase in Comsat's investment share.

25.501–25.531).[12] The Commission also adopted rules establishing procedures to insure effective competition in the procurement by the corporation and communications common carriers of apparatus, equipment and services required for the satellite system and satellite earth terminal stations (47 C.F.R. 25.101–25.178).

(2) Definition of Comsat's Operational Role

28. In determining Comsat's operational role, the Commission considered issues involving access to the satellite system and ownership of earth stations. On the issue of access to the satellite system, the Commission restricted Comsat's operational role in international satellite communications to that of primarily a carrier's carrier, leasing satellite circuits to the U.S. overseas carriers. *Authorized User Decision*, 4 FCC 2d 421 (1966).[13] The Commission made the policy decisions that (1) under ordinary circumstances users of satellite facilities should be served by the terrestrial carriers; (2) therefore Comsat would be authorized to provide services directly to noncarrier users only in "unique and exceptional circumstances"; and (3) such authorization would be dependent upon "the nature of the service, i.e. unique or exceptional, rather than the identity of the user."[14] In *Spanish Internation Network*, 70 FCC 2d 2127 (1978), the Commission modified the *Authorized User* policy by permitting users of international television transmissions to obtain satellite service directly from Comsat instead of through one of the international carriers. The Commission held that the *Authorized User* "unique and exceptional" policy is not applicable to television customers, and that television customers are authorized users under the *Authorized Users* decision and therefor may receive direct service from Comsat. However, the *Authorized User* decision and the "unique and exceptional" policy was not modified in any other respect.[15]

29. As to the question of ownership of the U.S. earth stations to be used with the global satellite system, the commission initially concluded that Comsat should be the sole entity authorized to construct, own, and operate the first three U.S. earth stations.[16] This decision was subsequently modified to provide for a policy authorizing Comsat to own 50% of each earth station, with the remaining 50% of ownership for each station divided among the terrestrial carriers in a manner reasonably related to each carrier's projected use of each station. *Ownership and Operation of Earth Stations*, 5 FCC 2d 812 (1966). The Commission additionally found that efficient operation of the global system necessitated centralizing control over all U.S. earth stations in a single entity; it was therefore decided that Comsat should serve as manager of the U.S. earth stations, subject to overall control and guidance on basic policy and investment matters by a body composed of all earth station owners.[17]

(3) Economic Regulation of Comsat

30. Pursuant to both its specific oversight responsibilities under the 1962 Act and its general regulatory mandate under the 1934 Act to insure that Comsat's charges for access to the satellite system are just and reasonable, the Commission in 1965 initiated an investigation into the lawfulness of Comsat's rates for its services. *Communications Satellite Corporation*, 38 FCC 1280, (1965).[18] The ensuing investigation and hearing culminated in a Commission decision in 1975 which determined that Comsat had overstated its revenue requirements as a result of novel and unacceptable rate base claims and an exaggerated view of the risk attending its investment. *In re Matter of Communications Satellite Corporation*, 56 FCC 2d 1101 (1975). The Commission prescribed a specific rate of return of 10.8% on Comsat's approved rate base, with an opportunity to earn up to 11.8% as a result of efficiencies and economies in operation, and directed Comsat to file conforming rates. Comsat sought judicial review of the Commission's decision.[19]

31. The Commission's decision was upheld by the court in most major respects, but three issues were remanded to the Commission for further consideration. *Communications Satellite Corporation* v *FCC*, Slip Op. Case No. 75–2193 (D.C. Cir. October 14, 1977).[20] A

[12] The basic purpose of these rules was to prevent the carriers from profiting from their preferred position in procuring stock by selling it shortly after issue at prices considerably in excess of the issue price. The Commission did not extend the prohibition beyond June 1, 1965.

[13] The issue of access to the satellite system was held to encompass two separate questions: (1) the extent to which, as a matter of law, entities in the United States other than communications common carriers can be authorized under the 1962 Act to obtain services directly from Comsat, and (2) the extent to which, as a matter of policy, such entities should be authorized to obtain direct services. The Commission's conclusions were that as a matter of law the 1962 Act empowered the commission to authorize Comsat to provide direct service to entities other than common carriers, but that, for policy reasons, Comsat should be primarily a "carrier's carrier". 4 FCC 2d 421 at 436. If our findings and conclusions in this proceeding warrant such action, we will revisit this policy and propose changes or elimination of it.

[14] 4 FCC 2d at 436. The Commission also recognized that in certain instances the U.S. Government may occupy a special position because of its unique and national interest requirements, and ruled that Comsat may be authorized to provide service directly to the Government whenever such service is required to meet unique governmental needs or is otherwise required in the national interest, givern circumstances where the Government's needs cannot be effectively met under a carrier's carrier approach. 4 FCC 2d at 436. *See also* Authorized User Decision, 6 FCC 2d 593 (1967).

[15] 70 FCC 2d 2127 at 2148. The *Spanish Internation Network* Decision also took steps to eliminate the current "carrier of the week" rotational arrangement for providing international television service via satellite, pursuant to which Western Union International, RCA Globcom, AT&T, and ITT Worldcom purchase international television service from Comsat, and then re-sell it to users on a non-competitive rotation basis. Elimination of the "carrier of the week" arrangement would allow Comsat to compete with those carriers for customers of direct international television services. The Commission's decision in *Spanish International Network* was appealed to the United States Court of Appeals; on May 11, 1979 the court issued an order holding the appeal in abeyance pending Commission action on Comsat's application for authority to provide direct television service. ITT World Communications, Inc. v. FCC, Case No. 79–1046 (D.C. Cir. May 11, 1979).

[16] Proposed Global Commercial Communications Satellite System, 38 FCC 1104 (1965). The rationale behind this initial decision was that early implementation of the satellite system would be facilitated if Comsat alone was authorized to construct, own, and operate the first three U.S. earth stations for a period of three years. In a subsequent decision the Commission concluded that the terrestrial transmission facilities used to carry the traffic from various U.S. international gateways to the earth stations should not be considered part of the earth station complex and should be provided by the terrestrial carriers rather than Comsat. Proposed Global Commercial Communications Satellite System, 2 FCC 2d 658 (1966).

[17] 5 FCC 2d 812 at 819. Modification of the Commission's initial decision on earth station ownership was prompted by filings of the carriers for authorizations to own and operate additional U.S. earth stations to supplement the original three stations authorized by the Commission in 1965. However, because the development of satellite communications was still in its early stages, the Commission decided not to adopt permanent policies on this issue. Earth station ownership shares were therefore not specified on a permanent basis, and the earth station ownership policy was made subject to continuing jurisdiction and later review. 5 FCC 2d 812 at 821.

[18] Specifically, the issues in this proceeding were (1) the elements properly includable in Comsat's rate base, (2) Comsat's allowable rate of return and its rate structure, and (3) the overall justness and reasonableness of Comsat's rates.

[19] The Commission's decision was stayed by the U.S. Court of Appeals pending judicial review, upon the condition that the Commission enter "an accounting and refund order deemed appropriate . . . to protect the interests of all parties . . ." Communications Satellite Corporation v. FCC, Court Order Case No. 75–2193 (D.C. Cir. June 16, 1976). Pursuant to the court's order, the Commission directed Comsat to place in escrow the differences between its existing charges and rates calculated in accordance with the Commission's decision. Communications Satellite Corporation, FCC 76–688, July 22, 1976.

[20] The court remanded:

(1) determination of a proper rate for the computation of interest during construction;

Footnotes continued on next page

Settlement Agreement disposing of the issues remanded by the court was negotiated by representatives of the Commission, Comsat, and the other parties in the proceeding and was accepted by the Commission in 1978. As a result of the Settlement Agreement Comsat's regulated carrier customers received from Cosmat a refund of $100,000,000 and approximately a 50% reduction in revenues collected from the carriers under Comsat's tariffs.[21]

(4) Authorization of Comsat's Entry Into the Domestic Satellite Field

32. Although the 1962 Act provides a detailed framework for the development of and regulation of international satellite communications, it does not cover the domestic satellite area. See 47 U.S.C. 701(d). The basic policies governing domestic satellites were adopted by the Commission pursuant to the 1934 Act in the course of extensive proceedings which considered various legal, technical, and policy questions associated with the authorization of domestic communications satellite facilities to non-governmental entities. Comsat was among the applicants for Commission authorization to construct and operate domestic satellite facilities. *Domestic Communications—Satellite Facilities*, 22 FCC 2d 86 (1970). When the Commission decided to permit multiple entry into the domestic field rather than authorize a single satellite carrier, it permitted Comsat to be among those eligible for entry. However, the Commission required Comsat to form a separate subsidiary to engage in any domestic satellite venture and in any other non-INTELSAT related activities. *Domestic Communications—Satellite Facilities*, 35 FCC 2d 844, at 853 (1972). This requirement had the dual purpose of (1) guarding against potential conflicts of interest resulting from Comsat's peculiar ownership structure (e.g., the fact that Comsat might compete against some of the carriers which then held its stock),[22] and (2) assuring that Comsat would, at all times, retain sufficient funds and financial capacity to discharge fully the responsibilities imposed upon it by the 1962 Act as the chosen instrument of the United States in the global communications satellite system. The Commission determined that the establishment of such a separate subsidiary should be supported by a plan providing for the financial independence and viability of the separate subsidiary as well as establishing definitive limits on the amount of investment to be made by Comsat in the subsidiary and on the liabilities Comsat could assume with respect to the new corporation.[23]

33. The Commission dispproved Comsat's initial proposal for financing the subsidiary, on the ground that risks and obligations incurred by the subsidiary would be entirely assumed by Comsat. *Communications Satellite Coproration*, 42 FCC 2d 677 (1973). Comsat was directed to submit a revised plan which would reflect the Commission's concern that a fixed limit be placed on the financial risk the domestic satellite and other ventures of the subsidiary could impose on Comsat's capital structure. The Commission approved, with modifications, Comsat's revised plan for the formation of the subsidiary. *Communications Satellite Corporation*, 45 FCC 2d 444 (1974). In doing so, the Commission imposed additional requirements on Comsat concerning Comsat's relationship with its new subsidiary. The Commission made known its intent that the subsidiary not be a mere division of Comsat and required, at a minimum, that each corporation have separate officers and that all intercorporate dealings be at arm's length. The Commission expressed its expectation that the subsidiary will conduct itself as a separate corporate entity, without the need to refer matters which are normally decided without approval of corporate boards of directors to Comsat's management or Board of Directors. 45 FCC 2d 444 at 451. The subsidiary became COMSAT General Corporation, which as in recent years become involved in a number of other non-INTELSAT activities in addition to providing domestic satellite services.

D. Operational Activities of Comsat

(1) INTELSAT Related Activities

34. *U.S. Signatory.* The growth of satellite communications technology has been rapid since Comsat was created and Comsat has played various roles in this growth. As we have noted, Comsat represents the United States on the INTELSAT Board of Governors and in the Meeting of Signatories, and otherwise participates in those official organization activities attendant with fulfilling its obligations and responsibilities under the INTELSAT definitive arrangements. In its role as the sole U.S. provider of INTELSAT space segment capacity to U.S. international communications common carriers and other authorized users, Comsat processes requests for transmission services and makes the necessary administrative arrangements with INTELSAT for the use of space segment capacity. The communications services Comsat provides are offered pursuant to tariffs published with this Commission.

35. *Support services for INTELSAT.* Comsat' s INTELSAT related activities are not limited to its duties as the U.S. Signatory or its role as the sole U.S. provider of space segment capacity. Comsat has been and continues to be deeply involved in INTELSAT satellite system planning, establishment, operations and administration. The INTELSAT interim arrangements designated Comsat as manager for the consortium, responsible for the research, design, development, construction, establishment, operation and maintenance of the space segment portion of the global satellite system.

36. Comsat's system planning functions under the interim arrangements included recommending proposals regarding the nature and the performance specifications of satellites and drafting system configuration plans. These functions included market research and analysis of traffic potential for new services and for expansion of the global system. Comsat's system establishment functions involved preparing performance specifications and requests for proposals (RFP's) for space segment equipment, evaluating responses to the RFP's and making procurement recommendations, negotiating contracts for space segment equipment on behalf of INTELSAT, monitoring performance of construction contractors, and making arrangements for launch vehicles and launch services with NASA and the spacecraft contractor. Comsat's system operations functions included assuming control of each spacecraft in the transfer orbit from NASA, placing the spacecraft in synchronous orbit, conducting in-orbit testing of the satellite, and preparing and coordinating transition plans with earth stations to facilitate the transfer of service to new operational satellites.

Footnotes continued from last page

(2) developing of an appropriate allocation formula or new basis for the Commission's finding requiring rapid amortization of laboratory investments;

(3) establishment of a schedule for the phase-in of imputed debt into Comsat's capital structure.

[21] The Commission decided that these cost reductions and refunds should be flowed through to the ultimate consumer. A proceeding ws instituted for the purpose of achieving such flow through in the rates charged to the public by the international service carriers. AT&T Company et al, 56 FCC 2d 821 (1975), *pleading schedule and issues modified*, 67 FCC 2d 966 (1978).

[22] See footnote 6.

[23] The Commission did not impose specific requirements on Comsat as to how the subsidiary should be structured, but Comsat's arrangements were made subject to ultimate Commission approval.

These functions also involved maintaining spacecraft in the desired orbit, establishing operation standards, monitoring earth station access to the space segment to insure its proper utilization and to maintain operating performance at proper levels, and maintaining a continuous record of the status and operational activities of the global system. As system manager under the interim arrangements, Comsat advised foreign telecommunications entities coming into the INTELSAT system, published and updated comprehensive operating manuals, maintained earth station traffic statistics and projections, and provided administrative support to the Interim Communications Satellite Committee (ICSC) (the governing body of INTELSAT under the interim arrangements). Comsat also administered the INTELSAT budget.

37. Comsat continued to provide technical and operational management services to INTELSAT under the definitive arrangements, pursuant to a management services contract entered into in 1974. The contract remained in effect until December 31, 1978, when permanent management arrangements for INTELSAT were implemented. These permanent arrangements call for the INTELSAT Director General to be directly responsible for all management functions; they also call for the Director General to contract out, to one or more competent entities, technical and operational functions to the maximum extent practicable. Pursuant to this latter provision, the Director General concluded two technical service contracts with Comsat which commenced on January 1, 1979. The first contract is for four years and is related to the technical characteristics of future satellite systems. Specifically, the contract involves (1) definition of technical aspects of space segment specifications and statements of work, (2) assessment of technical characteristics proposed for space segment facilities, and (3) technical support in negotiations for spacecraft contracts. The second technical services contract is for six years and relates to the manufacture of satellite facilities and the in-orbit operation of the global network. It involves (1) monitoring of the technical aspects of spacecraft manufacturing, (2) technical support in launch services negotiations, (3) coordination of launch vehicle/spacecraft integration, (4) technical coordination of launches and (5) specialized operational functions involving evaluation of satellite performance. The six-year contract is primarily for services related to INTELSAT V and prior space segment services.

38. In addition to the two technical services contracts, Comsat also has entered into other contracts with INTELSAT for the provision of certain services. A one-year transition contract calls for Comsat to continue assistance to INTELSAT in planning for future systems, long-term lease of satellite capacity, and the 1979 WARC. A three-year laboratory services contract requires Comsat to provide (1) research and development services, (2) communications engineering, (3) design engineering and integration support services and computer services. A two-year maintance and supply agreement calls for Comsat to provide INTELSAT with (1) equipment repair services, (2) test equipment calibration services, (3) material (spare parts) services, and (4) various technical administrative services. The laboratory services contract is primarily intended for support of INTELSAT's TTC&M network and satellite control center. Finally, two one-year contracts require Comsat to provide TTC&M services at the Andover, Maine and the Paumula, Hawaii sites, and a three-year leased space contract provides for the lease of office space to INTELSAT.

39. *Manager of ESOC.* In addition to the various functions it performs for INTELSAT pursuant to contract, Comsat serves as manager of U.S. earth stations on behalf of the Earth Station Ownership Committee (ESOC). ESOC is the consortium of U.S. international carriers, including Comsat, sharing in the ownership of the U.S. earth stations which access INTELSAT satellites. ESOC consists of one representative from each joint owner. Its function is to formulate policy and make major decisions concerning the design, development, construction, establishment, and modification of earth stations. ESOC is also responsible for policies regarding the operation and maintenance of the earth stations and for approving capital and operating budgets.

40. As manager of ESOC, Comsat (1) makes recommendations regarding the construction and operation of the earth stations, (2) directs the day-to-day operations of the earth stations, (3) develops, designs, establishes and maintains the earth stations, (4) files necessary applications with the Commission for construction and operation of the stations, (5) plans and recommends modifications to the stations, (6) prepares and submits to ESOC annual earth station budgets, and (7) prepares and submits to ESOC periodic budget reports and other requested information. Subject to ESOC approval, Comsat can enter into contracts and other other financial commitments regarding earth station operations. Comsat is paid $75,000 annually for its services as manager of the earth stations.

(2) INMARSAT Related Activities

41. *U.S. Signatory.* As we have noted, Comsat represents the United States on the INMARSAT Council. Comsat will also participate in any official organization activities attendant with fulfilling its obligations and responsibilities under the INMARSAT Convention and Operating Agreement. As the sole U.S. provider of space segment capacity obtained from INMARSAT, Comsat will interconnect with authorized U.S. domestic or international carriers for the extension of maritime satellite services with the United States and beyond. *International Maritime Satellite System,* 71 FCC 2d 1069 (1979). Interconnecting U.S. carriers will provide customer access to the satellite system by means of their onshore networks. Comsat will receive and assemble all traffic for appropriate routing, either inbound or outbound. In addition, Comsat will interconnect with the facilities and services of private communications systems, unless the Commission finds that such interconnection will not serve the public interest. The question of ownership of U.S. earth stations to be used in connection with an INMARSAT system is being considered by the Commission in Docket No. 79–35. See *International Maritime Satellite System,* 70 FCC 2d 1968 (1979).

42. *Other INMARSAT activities.* It is not known at this time whether Comsat will perform any research and development, administrative, or other functions on behalf of INMARSAT.

(3) Non-INTELSAT and Non-INMARSAT Activities

43. Comsat is involved in a number of non-INTELSAT and non-INMARSAT activities directly or through its subsidiary, COMSAT General.

44. *Domestic satellite services.* COMSAT General leases the entire capacity of its COMSTAR domestic satellite system to AT&T for use in the domestic nationwide switched telephone system. COMSAT General owns the satellites and provides TT&C services through related ground facilities. AT&T, in turn, shares part of the COMSTAR system capacity with GT&E and leases some capacity to the International Record Carriers (IRCs) for

use in providing television and private line related services to Puerto Rico and Hawaii. In addition, AT&T and GT&E each own and operate earth stations used to integrate the satellite links with the nationwide switched system. COMSTAR service bagan on July 23, 1976.

45. COMSAT General is additionally involved in Satellite Business Systems (SBS), a joint venture created for the purpose of providing an all-digital domestic satellite service to businesses and government agencies with large communications requirements. SBS is a partnership consisting of corporate subsidiaries of COMSAT General, Aetna Life and Casualty (Aetna) and International Business Machines (IBM). COMSAT General formed a wholly owned subsidiary, COMSAT General Business Communications, Inc. (BCI) for the purpose of participating in SBS. The SBS partners are committed to present funding of $225 million; of this amount, COMSAT General's subsidiary is committed to $75 million. COMSAT General provided $43 million of this amount by the end of 1978, with $13.5 million to be convertible debt. COMSAT General's subsidiary and IBM's subsidiary each held a 42.5% interest in SBS by the end of 1978 and Aetna owned the remaining 15%.

46. The first satellite in the SBS domestic satellite system is scheduled to be launched late 1980, and services are expected to be offered to the public beginning in the first quarter of 1981. However, final action by the Commission on SBS' application for authority to construct and operate the system has been delayed pending action by the U.S. Court of Appeals.[24]

47. *Maritime satellite services.* COMSAT General is a part-owner and the manager of the MARISAT system, which represents the first commercial application of satellite technology to maritime mobile communications. MARISAT is an operational maritime mobile satellite system which began providing communications services to the United States Navy and to commercial users in 1976. The system is owned and operated as a joint venture by a consortium of COMSAT General and three other U.S. carriers, each of which utilize its respective share of commercial satellite capacity to individually market services.[25] From a commercial standpoint, MARISAT is a developmental system. The MARISAT satellites have been designed for a five year life span through 1981. MARISAT's primary purpose has been to resolve technical difficulties, establish system and operational parameters, and determine the economic feasibility of commercial maritime satellite services. Such services are available to customers in all 50 states and Puerto Rico through earth stations located at Southbury, Connecticut for the Atlantic coverage area, and Santa Paula, California for the Pacific coverage area. Telephone service is provided by COMSAT General by accessing the nationwide telephone network through leased voice-grade circuits between the earth stations and Bell System Class 5 switching stations. Telex service is provided by each International Record Carrier (IRC) member of MARISAT to their gateway city customers, and is extended from the gateway cities to hinterland customers by interconnection of the IRCs' and COMSAT General's network with Western Union's domestic network. Message telegram service is provided by RCA and WUI to their gateway subscribers and is extended to hinterland customers by interconnection of their networks to Western Union's domestic network.

48. COMSAT General also markets shipboard terminals as part of its involvement in the MARISAT program. It purchases shipboard terminals from a separate manufacturer and offers them to MARISAT users for lease or sale. Other companies also currently provide shipboard terminal equipment. The number of ships and offshore facilities equipped with terminals actively commissioned for operation via the MARISAT system reached 200 in June, 1979.

49. *Foreign earth station investments.* COMSAT General has investments in two foreign corporations, each of which own and operate an earth station in conjunction with the INTELSAT system. COMSAT General owns a 49% interest in Compania Nicaraguence de Telecommunicaciones por Satelite (NICATELSAT), a corporation organized and existing under the laws of the Republic of Nicaragua, including ownership and operation of the earth station facilities in Nicaragua. The remaining 51% interest is owned by the telecommunications arm (TELCOR) of the Nicaraguan Government. COMSAT General's capital obligations to NICATELSAT have been fully met and COMSAT General has no obligation to contribute any further capital funds. However, it is obligated to provide NICATELSAT with operational and technical services on a cost reimbursable basis under a Management Services Contract. COMSAT General's interest in NICATELSAT is subject to purchase in 1981 by the majority owners.

50. In addition to its investment in NICATELSAT, COMSAT General owns a 40% interest in Intercontinental de Communicaciones por Satellite, S.A. (INTERCOMSA), a corporation organized and existing under the laws of the Republic of Panama for the purpose of providing international telecommunications services to and from Panama by earth station facilities owned and operated by INTERCOMSA in Panama. The remaining 60% interest in INTERCOMSA is owned by Panamanian entities. COMSAT General purchased its interest from INTERCOMSA shareholders, and has no obligation to contribute capital funds to INTERCOMSA. COMSAT General's ownership in INTERCOMSA is subject to purchase in 1989 by the Panamanian Government.

51. *AEROSAT.* COMSAT General was involved in the development of an Aeronautical Satellite Program (AEROSAT) with the European Space Administration (ESA) and the Canadian Government. The AEROSAT participants were involved in planning efforts looking toward the establishment of an intergovernmental program to test and evaluate the use of satellites for communications with aircraft flying heavily traveled transatlantic routes. COMSAT General's share of satellite capacity was to be used by the Federal Aviation Administration (FAA) pursuant to a proposed agreement between COMSAT General and the FAA. The AEROSAT project was halted after the United States Congress limited fiscal 1978 funds for the program to a $1 million allotment to be used for a feasibility study; consequently, the FAA cancelled the Request for Proposal (RFP) which it had issued in contemplation of the proposed agreement. As a result, COMSAT General wrote off $15.3 million of deferred aeronautical system costs in 1977.

52. *Technical assistance program.* COMSAT General is engaged in a worldwide technical services program encompassing a broad range of management and engineering activities in various phases of telecommunications planning, construction, and operation.

[24] The Commission's 1977 grant of construction permits to SBS was reversed by a three-judge panel of the U.S. Court of Appeals for the D.C. Circuit. Satellite Business Systems, 62 FCC 2d 997, *recon. denied*, 64 FCC 2d 872 (1977), *rev'd and remanded*, United States v. FCC Nos. 77-1249, 77-1252 and 77-1254 (D.C. Cir. August 24, 1978), *vacated*, Order issued May 10, 1979. That reversal was subsequently vacated and the case was re-argued before the full court on September 24, 1979.

[25] COMSAT General has an 86.29% ownership interest, while RCA Global Communications, Inc., Western Union International, Inc., and ITT World Communications Inc., have 8.00%, 3.41% and 2.30% ownership interests, respectively.

These technical assistance services have involved satellite communications earth stations, microwave links, intracity connecting systems, switching centers, and contruction of telex and telephone exchanges. Many countries with INTELSAT earth stations now use these services.

53. *Satellite system consultative services.* In addition to COMSAT General's technical assistance program, Comsat provides a more comprehensive consultative services program involving satellite systems planning. In 1978, COMSAT General provided assistance to the Government of India in connection with the procurement of satellites to be used in the establishment of an Indian domestic satellite system (INSAT). Also in 1978, COMSAT General entered into a contract with the Arab Satellite Communications Organization (ARABSAT) to provide consulting services in connection with the establishment of an Arab regional satellite system. The Arab Satellite Communications Organizationis an independent organization formed through the Arab League by agreement of 21 countries. The responsibility for implementing the ARABSAT contract has been transferred from COMSAT General to Comsat as a result of a corporate reorganization that took place this year. Under this reorganization, it appears that Comsat will handle all overseas satellite system consultative work.

54. *INTELPOST.* In 1978, Comsat entered into a contract with the U.S. Postal Service to assist in developing and demonstrating an international electronic mail system called INTELPOST, and in planning a possible one-year field trial of a pilot system. INTELPOST is intended to facilitate international mail service by providing high speed transoceanic transmissions of letters and documents via INTELSAT satellite; the letters and documents would be delivered in hard copy. Comsat demonstrated this process in 1979, using Comsat-operated earth stations and INTELSAT satellites to send mail between the United States and several overseas countries. Subsequently, Comsat reached agreements with the telecommunications administrations of France, the Netherlands, and the Federal Republic of Germany to provide technical assistance for their participation in the INTELPOST program. Under the agreement with France and the Federal Republic of Germany, Comsat is providing technical assistance in training, testing, and integrating the hardware and software needed for the program. The agreement with the Netherlands is similar, except that Comsat will purchase the hardware and software, perform integration functions and training, and bring the system into operation. In all, seven countries and the United States will take part in the one-year field trial of INTELPOST.

55. *Environmental information systems.* Comsat has increasingly been looking for opportunities to expand its business in communications and related fields through the application of satellite technology. Comsat has been particularly active in exploring the environmental information services field. In 1978, COMSAT General concluded a developmental program with the U.S. Geological Survey (USGS) and TELESAT Canada for the purpose of demonstrating the capability of satellites and small unattended earth stations to collect water resources monitoring data from remote areas of the United States and Canada. Data from hydrological sensors owned and operated by the USGS was transmitted via a Canadian satellite from small antennas placed near USGS monitoring sites to COMSAT General's Southbury, Connecticut, earth station. From the earth station, the data was sent by terrestrial facilities to the USGS headquarters in Reston, Virginia. After the conclusion of the developmental program, COMSAT General proposed a pilot program under which it would provide hydrological information services to USGS. The proposed program would involve the delivery to USGS of information derived from data collected at over 100 monitoring sites. The proposal is currently under consideration by USGS.

56. In addition to the USGS project, Comsat directly entered the environmental information services field through the acquisition in 1979 of Environmental Research and Technology, Inc. (ERT). ERT was originally acquired by COMSAT General. The acquisition was accomplished through the merger of COMSAT General's wholly owned subsidiary, COMERT, Inc., with ERT. As the surviving corporation in the merger, ERT became a wholly owned subsidiary of COMSAT General.[26]

57. ERT is engaged in a broad spectrum of environmental services intended to assist customers in complying with federal and state environmental standards and regulations in a cost-effective manner. These services include environmental monitoring, analysis, and prediction services, and environmental and ecological consulting services (such as environmental impact assessment and planning intended to aid industrial customers in selecting environmentally acceptable sites in compliance with regulatory requirements). For 1978, ERT had revenues of approximately $28 million and earnings of approximately $1.2 million. Comsat intends to apply satellite communications technology toward the development of new environmental data collection, monitoring, and analysis services by ERT. ERT is planned to be a cornerstone for the establishment of a more diversified information services company which will provide expanded environmental monitoring and data collection services by means of a network using satellites for the transmission of information. This expanded service is to be achieved through both internal development and external acquisitions. Plans additionally include the development by Comsat of environmental instruments and products such as environmental sensors. Services to be provided will involve the monitoring of sites through the use of sensors to obtain desired information, transmitting such information worldwide through the use of communications satellites, processing the information by computer, and delivering it to clients in a suitable form.

58. *Communications product development.* In 1979, COMSAT General created COMSAT General Telesystems, Inc., a wholly owned subsidiary, for the purpose of engaging in the development and manufacture of various specialized communications equipment. The corporation replaced the former COMSAT General Products Division located at Comsat Labs in Clarksville, Maryland. Telesystem's production function is located in a separate facility in Springfield, Virginia. The first product to be manufactured and marketed is an echo canceller, a device designed to remove echo in satellite telephone communications while avoiding the undesirable effects caused by presently used echo suppressors. Other products anticipated include earth station components, signal processing systems equipment, and fiber optics communications equipment.

59. *Research and development.* Comsat established Comsat Labs in 1967 as a unit of the company to perform research and development functions. The Labs research new technologies and technique applicable to satellite communications, develop experimental

[26] During early-mid 1978, the parent corporation (Comsat) was engaged in negotiations for the acquisition of ERT for cash and Comsat stock. These negotiations were discontinued on November 14, 1978. However, on January 19, 1979, Comsat announced that ERT had accepted an acquisition bid from COMSAT General for cash. The acquisition by COMSAT General was concluded on May 14, 1979 for $19.6 million. In June 1979, Comsat "requested" COMSAT General to transfer to Comsat ownership of the outstanding shares of ERT. COMSAT General effectuated the "requested" transfer by declaring a dividend to Comsat, payable by means of the ERT stock. This transfer became effective July 1, 1979, resulting in ERT becoming a direct subsidiary of Comsat.

and prototype earth station and spacecraft equipment, provide technical support for system engineering and operations, and conduct specialized technical projects.

60. The Labs is comprised of five individual laboratories, each involved in a major area of satellite communications technology. The spacecraft laboratory is concerned with satellite subsystems, including structures, stabilization, power and thermal control, and mechanical devices. The microwave laboratory designs and develops receivers, transmitters, transponders, filters, and antennas for earth and space portions of communications systems. The communications processing laboratory is concerned with processing signals received at earth stations. The transmissions systems laboratory investigates transmission systems in their entirety. The applied sciences laboratory is concerned with investigation and analysis of materials, components and devices to be used in the operation of satellite communications systems.

61. The Labs undertakes projects, such as a central research function, for the parent corporation and also support internal customes (COMSAT General, SBS) and external customers (INTELSAT, ESOC).[27] The Labs provide scientific and technological support to Comsat in its roles as the U.S. representative in INTELSAT and as a participant in ESOC; support to COMSAT General in its roles as provider of domestic, maritime and other services and as a partner in SBS; and support services to COMSAT General's new communications product development subsidiary (Telesystems). The Labs also conducts research and development under contract with INTELSAT and Government and industry entities.

62. *Maintenance and supply services.* Comsat operates a Maintenance and Supply Center at its laboratory site in Clarksburg, Maryland. The Center was originally formed in 1968 to provide logistics and field engineering support to U.S. earth stations accessing the INTELSAT system. The Center has since expanded its customers and the scope of its activities. Comsat now furnishes varied services to many INTELSAT members and other customers involved in the operation and maintenance of earth stations and related facilities and equipment. Such services include:

(1) spare parts and equipment supply;

(2) test equipment calibration and repair;

(3) cryogenic overhaul, repair and parts;

(4) electronic equipment rehabilitation;

(5) rental and lease of electronic equipment;

(6) teletype repair;

(7) reliability testing; and

(8) administrative and technological support.

Most of the work of the Center is done pursuant to purchase orders; however, some work is done pursuant to specific contracts. Customers in this latter category include international organizations, foreign signatories to INTELSAT, domestic carriers, and Comsat-affiliated companies.[28]

63. *Satellite-to-home subscription TV.* Comsat has indicated that it is considering development of a system to provide subscription TV service by satellite directly to the home. In a news release dated August 1, 1979, Comsat stated that it was involved in discussions with other companies on possible arrangements for providing such a service. The satellite TV service would offer programming over several channels simultaneously. The programs would be broadcast via satellite directly to small antennas on the roof-tops of subscribers' homes. Comsat anticipates that subscribers would pay a monthly charge that would cover the total service, including the use and maintenance of the roof-top antenna. Comsat said that satellite TV service on a broad scale would require collaboration with a variety of program producers, satellite and antenna manufacturers, and service organizations. The service would require Commission approval.

E. Corporate Organization and Decision Making Process

(1) Overview

64. Comsat's basic corporate structure places all INTELSAT activities and certain functions involving research and development, maintenance and supply, and technology and system development under the direct management of the parent company. In addition, ERT is directly responsible to the parent company. Otherwise, non-INTELSAT and non-INMARSAT activities and related functions are generally the responsibility of COMSAT General (i.e., COMSTAR, SBS, MARISAT, Telesystems). However, Comsat provides substantial support services to

[27] Generally, research and development support is provided to INTELSAT for space segment related activities, to Comsat/ESOC for U.S. earth station related items, and to Comsat for all corporate funded efforts related to either space or ground requirements.

[28] The Maintenance and Supply Center provides COMSAT General with MARISAT terminal logistics support services, inventory management of all COMSAT General-owned MARISAT terminal spare parts, and repair services (including performing and coordinating the repair of all COMSAT General-owned MARISAT terminal spare parts).

COMSAT General and its subsidiaries. Also, the parent company plays a decisive role in major policy and program questions concerning not only INTELSAT and INMARSAT matters but also those matters generally within the province of COMSAT General or its subsidiaries.

65. COMSAT General and ERT are the only active wholly owned subsidiaries of Comsat. As already described, COMSAT General also has two active wholly owned subsidiaries (COMSAT General Business Communications, Inc., (BCI), and COMSAT General Telesystems, Inc.) and maintains part interest in two foreign corporations (NICATELSAT and INTERCOMSA). Both Comsat and COMSAT GENERAL and its subsidiaries have inactive wholly owned subsidiaries as part of a name protection program.[29]

(2) Comsat's Organization and Decision Making

66. *Organization.* The parent company's organizational structure consists of the Board of Directors, Office of the President, and several offices reporting to the President. The primary function of the Board of Directors is to manage the property, affairs, and business of the corporation. This function includes involvement in major corporate policy decisions, either through the approval of a specific action or statement of policy or the grant of an appropriation request to implement a specific action or policy statement. The President is responsible for the overall management of the corporation, and performs all duties normally incident to the office of the President as well as such other duties as may be assigned to him by the Board of Directors. There are eight offices which report directly to the President: (1) Finance and Corporate Development; (2) Corporate Affairs; (3) Research and Development; (4) Personnel; (5) Corporate Procurement Policy; (6) Executive Office and General Services; (7) Chief Scientist; and (8) International Communications and Technical Services. Of these, the functions of the offices of International Communications and Technical Services, Research and Development, Finance and Corporate Development, and Corporate Procurement Policy have the greatest significance to the issues in this proceeding.

67. The Office of International Communications and Technical Services is intended to be primarily responsible for Comsat's participation in INTELSAT and INMARSAT, as well as functions dealing with technology application and system development. The office is organized into four components: International Communications; Satellite Technology Services; an office now being formed to handle INMARSAT matters, and ERT. The International Communications Division is responsible for:

(1) corporate and statutory representation in INTELSAT, including both policy and technical aspects related to the INTELSAT system, as well as coordination of all INTELSAT affairs with U.S. Government agencies and foreign telecommunications administrations;

(2) conception, development, operation, and maintenance of reliable and profitable international communications services for customers utilizing the INTELSAT system; and

(3) operation of U.S. earth stations and related facilities and development of these capabilities, as necessary, to support expanded satellite communications services.

In carrying out the first two functions, the division prepares for and represents the corporation and the United States in meetings of the INTELSAT Board of Governors, which is the entity responsible for the design, development, construction, establishment, operation and maintenance of the INTELSAT space segment.[30] This involves: (1) reviewing, evaluating and developing positions on issues before the Board or other INTELSAT forums; (2) developing and analyzing options for mid-to-long range INTELSAT system plans and evaluating the application of advanced communications and space technology to the INTELSAT system; (3) attending to matters affecting the day-to-day and future system operation and maintenance; and (4) providing continuing liaison with appropriate U.S. Government entities, and with foreign governments, telecommunications administrations, and international organizations regarding Comsat's INTELSAT services and activities. In carrying out the third function, the division oversees the operation and maintenance of U.S. earth stations, and to provides assistance to U.S. earth stations in obtaining equipment to meet new communications service requirements and in solving technical problems or developing new maintenance procedures. The division maintains marketing and project management and control units to

[29] The following nameholding corporations are maintained in order to protect the use of corporate names in states not having a name-registration protection program: "Communications Satellite Corporation (Alabama); Communications Satellite Corporation (Delaware); COMSAT General Corporation (Alabama); COMSAT General Corporation (Delaware); COMSAT General Business Communications, Inc.; (Alabama); COMSAT General Communications, Inc.; Nevada)."

[30] The division also is responsible for preparing for and representing the corporation before the INTELSAT Meeting of Signatories and advising the U.S. Government as the U.S. Representative to the INTELSAT Assembly of Parties.

provide support services for all three functions. The division operates Comsat's Maintenance and Supply center. (See paragraph 62).

68. The Systems Technology Services (STS) Division is the corporation's principle contracting unit for new business dealing with technology application and system development services. The general purpose of STS is to bring a service activity or product into operational status. The division is organized and involved in four basic areas: space segment implementation; satellite communications engineering; overseas systems development; and the INTELPOST project. Space segment implementation involves all phases of establishment of synchronous satellite communications systems from definition of system requirements through satellite operational control. The services offered include spacecraft design, RFP preparation, proposal evaluation, technical monitoring of spacecraft production, launch operations, in-orbit testing, systems operations and satellite control and performance evaluation. These services are provided to INTELSAT pursuant to Comsat's technical assistance contracts, and to SBS and COMSAT General.[31] In addition, consultative services for system planning, RFP preparation and evaluation, and contract monitoring are being performed for INSAT and ARABSAT. STS's satellite communications engineering capability provides communications system and earth station engineering support for other units of the Office of International Communications and Technical Services and for other corporate elements including COMSAT General. The division's overseas systems development activity involves providing technical services for foreign satellite communications systems such as INSAT and ARABSAT.

69. The Office of Research and Development is responsible for the research and development activities of Comsat Laboratories and the specialized equipment development activities of the Equipment Integration Division. As previously noted, the Labs' primary mission is to research new technologies for statellite communications, develop experimental earth station and spacecraft equipment, provide various support services, and conduct special projects. The Labs receives support services from other segments of the corporation, including Personnel, Finance and Corporate Development, and Corporate Affairs. The Equipment Integration Divsion (EID) is responsible for defining, developing designing, assembling, integrating and operating communications support systems for statellite based communications networks. It has its own facility in Rockville, Maryland devoted to design, assembly, integration, and testing hardware. [32]The EID primarily provides services for INTELSAT and SBS.

70. The Office of Finance and Corporate Development consists of the Finance Office and the Corporate Development Division. The Finance Office develops and administers corporate policies relative to financing, accounting, taxes, insurance, financial planning, internal control and auditing. The Corporate Development Division is responsible for the formulation of corporate goals, objectives, and strategies and the initiation, implementation, and administration of corporate business planning. In addition, the Division is responsible for implementation of corporate growth strategy (i.e., internal development and mergers and acquisitions).

71. The Office of Corporate Procurement establishes corporate procurement policy for Comsat, COMSAT General and subsidiaries. It provides procurement support services for INTELSAT, ESOC, Comsat's research and developmental activities, and Comsat's related corporate operations requiring material services.

72. *Decision making.* The decision making process in the parent company is focused upon the Board of Directors. As noted, the Board is involved in major corporate policy decisions through the approval of specific actions, statements of policy, or grant of appropriation requests. In this regard, the Board requires that specific expenditures of $100,000 or more be submitted to it for approval. [33]This requirement effectively insures that all major policy and operational decisions will be brought before the Board before implementation by corporate management. As for less important matters for which Board decision is not required, the President and certain other corporate officers have delegated authority to initiate expenditures or commitments up to specified amounts without prior approval from the Board.[34]

73. Materials submitted to the Board for consideration are prepared by staff members of the Vice President in charge of a given matter. The Vice President involved will coordinate the documents with other appropriate corporate officers. The materials are then reviewed by the President and often by the Chairman of the Board before consideration by the Board of Directors.

(3) COMSAT General's Organization and Decision Making

74. *Organization.* COMSAT General's organizational structure is similar to that of the parent company, consisting of the Board of Directors, Office of the Chairman and Chief Executive Officer, Office of the President, and several offices reporting to the President. As with Comsat's Board of Directors, the primary function of the COMSAT General Board of Directors is to manage the business of the corporation. The Chairman and Chief Executive Officer has general and active supervision over the business, property, affairs and personnel of the corporation, and is responsible directly to the Board for management of the corporation. The President is accountable for the identification, development, marketing, and performance of the corporate business activities.[35] There are five offices which report directly to the President: (1) Engineering and Operations; (2) Finance Administration; (3) Marketing: (4) Maritime Services; and (5) General Counsel and Secretary. In addition, the management of COMSAT General Telesystems, Inc. reports to the COMSAT General President.

75. The Office of Engineering and Operations is responsible for engineering, operations, program

[31] Services provided to COMSAT General for COMSTAR and MARISAT satellites have included assistance in specification preparation and proposal evaluation, technical monitoring of the contract at the manufacturer's facility, and launch preparation and in-orbit verification testing. Other services include the provision of orbital computation, maneuver requirement predictions, stability analysis, interference predictions, an ephemeris, and pointing data on a continuous basis for these satellites. In addition, STS provides engineering support for performance evalaution for the lifetime of the satellite in orbit.

[32] EID is organized into two major units: Control System Engineering and Monitor and Control Engineering. EID has an office which provides management control, coordination, and direction and develops future programs for its units. It also relies heavily on Comsat's central staff functions (procurement, personnel, finance accounting and public information) for support services.

[33] The Board is also involved in the budget process. It reviews the corporate operating and capital budgets as submitted by the President and the Finance Division. However, it also considers authorization of specific expenditures requiring Board approval as the need for them arises, whether or not the expenditure was forseen by the budget.

[34] The President may make decisions on various matters pursuant to delegated authority and in consultation with other corporate officers. Moreover, other corporate officers may decide matters of lesser importance than those going to the President, if within the scope of their authority. This involves such coordination with their colleagues as may be necessary.

[35] In March 1979, the incumbent Chairman and Chief Executive Officer assumed the duties and responsibilities of the Office of President.

control, and MARISAT system management functions. The Engineering Division is accountable for COMSAT General's system and component conception, design, manufacturing oversight, acceptance, testing and installation, and checkout of the resulting hardware (with the exception of the installation and check-out of ship terminals). It also is accountable for technical support of COMSAT General marketing and for in-service engineering support of all COMSAT General operating equipment, facilities and activities. The Operations Division is responsible for operation of the COMSTAR and MARISAT satellite systems, and is also responsible for operaton of the facilities involved in COMSAT General's provision of commercial MARISAT services. Its functions include: operating and maintaining the earth stations utilized for COMSTAR and MARISAT services; performing station keeping and TT&C functions for the COMSTAR and MARISAT satellites; operating the COMSAT general Satellite Control Center; providing operations and maintenance functions involving affiliates of COMSAT General outside the United States (e.g., NICATELSAT AND INTERCOMSA); performing various commercial operation functions for MARISAT; and providing software support for TT&C functions. The MARISAT System Management Division is responsible for maritime systems engineering, tests and analysis, and technical planning. The Program Control Division provides administrative and program planning support services for the other divisions.

76. The Office of Maritime Services is generally responsible for providing maritime communications services to COMSAT General's MARISAT customers. Specifically, the office is accountable for the quality, reliability and profitability of maritime services offered by COMSAT General; marketing those services and handling customer relations; developing new market opportunities; operating those switching systems associated with MARISAT which are not owned by the MARISAT Joint Venture; and handling interconnection and operating arrangements with other carriers, domestic and foreign. In addition, the office is responsible for the acquisition, sale, lease and servicing of shipboard terminals, including the establishment and maintenance of a worldwide network of sales and service agents. Also, it is responsible for representing the corporation on the MARISAT Joint Venture Committee.

77. The Marketing Office is generally responsible for organizing and directing marketing and sales functions for COMSAT General's business activities. Its activities include market planning, product and systems applications for services offered, development of business projections and opportunities, customer services, and business promotions.

78. The Office of Finance and Administration is responsible for the financial activities of the corporation, budgetary matters, and the care and disbursement of corporate funds. It also maintains the corporation's financial books and records and performs various procurement, contracting, and administrative functions.

79. *Decision making.* As with the parent company, the decision-making process in COMSAT General is focused on its Board of Directors. The Board requires that all expenditures or commitment of funds in excess of $50,000 be submitted to it for approval.[36] Aside from appropriation of funds, the Board is involved in major policy decisions in two other ways. At each Board meeting, the President presents a report describing the status of the important matters with which management is currently concerned. In addition, the Board may be furnished with a more detailed information memorandum prepared by management regarding matters requiring more specific consideration. As for matters not requiring a Board decision, corporate offices make decisions within their specified areas of responsibility. Decisions involving matters within the jurisdiction of more than one corporate officer are made by consensus. Absent consensus, such matters are referred to the President. In addition, all decisions of a major program or policy nature are submitted to the President for consideration. As with Comsat, the President and certain other corporate officers of COMSAT General have delegated authority to initiate expenditures or commitments up to specified amounts without prior approval from the Board.

[36] The Board is also involved in the budget process. Each COMSAT General Vice President prepares his budget in coordination with the Vice President, Finance and Administration, and submits it to the President. The President submits the overall COMSAT General budget to the President of Comsat for approval. The budget is then presented to the Board of Directors of both Comsat and COMSAT General for information and discussion. As with Comsat, the approval of the COMSAT General budget does not mean general approval of individual expenditures and commitments for which specific Board approval is required ($50,000 or above). These matters must be submitted throughout the year for specific Board authorization as they arise.

(4) Interrelationship Between Comsat and COMSAT General

80. At the outset, we note that most of the members of the COMSAT General Board of Directors are either also members of the Comsat Board or corporate officers within Comsat;[37] in addition, there are no members of the COMSAT General Board of Directors from outside the overall Comsat corporate family (i.e., officers or directors in Comsat, COMSAT General or any of their subsidiaries). Given the important role of Comsat's Board of Directors, it is clear that the parent corporation plays a decisive role in major policy and program matters involving COMSAT General or its subsidiaries. The Corporate decision-making process concerning such major matters is essentially vertical up through the COMSAT General Board to the Comsat Board. COMSAT General must submit all matters involving specific expenditures or commitment of funds in excess of $100,000 to the Comsat Board to review and note for conformance with overall corporate policy. This process is often only one step in the development of a program that has been under corporate consideration. However, it essentially amounts to Comsat Board approval of implementation of the program by COMSAT General. it is significant because it places the ultimate decisional authority for a major COMSAT General undertaking with Comsat's Board. Also significant is the management level coordination that Comsat maintains with COMSAT General operations. Comsat's President and COMSAT General's Chairman and Chief Executive Officer consult on major matters of the type normally brought to the attention of senior management (particularly those matters which will be brought to the attention of the Comsat Board). COMSAT General's corporate officers coordinate with their Comsat counterparts on (1) major program and policy matters which will ultimately be brought to the attention of the Comsat and COMSAT General Boards, and (2) centralized activities over which Comsat has basic responsibility by law (e.g., consolidated tax returns, overall personnel and benefit policies, SEC matters).

[37] The Commission did not bar interlocking directors between Comsat and COMSAT General. By letter dated March 24, 1974, the Chief, Common Carrier Bureau, made a finding pursuant to section 212 of the Communications Act and section 62.12 of the Commission's Rules that Comsat and COMSAT General are commonly owned and that therefore "duly authorized interlocking directors are authorized to perform the duties thereof."

81. Comsat also plays a large role in providing support services to COMSAT General. In addition to the various engineering, research and development, and other operational services that we have already described in paragraphs 59–61 and 69, the parent company provides a number of administrative and other support services to its subsidiary. Comsat provides services in support of COMSAT General's Finance and Administration Division's accounting and payroll, temporary investment, and financial planning functions. Comsat supports COMSAT General's accounting and payroll functions by assisting in the processing of accounting data, payroll and tax administration, use of a standard budgeting and accounting system, tax planning, management EDP systems planning, and internal auditing.[38] Comsat implements temporary investment decisions made by COMSAT General's Board of Directors.[39] Comsat also provides computer usage and program support for COMSAT General's financial analysis, planning, and forecasting functions related to its investments and to its rates and tariffs for the services it provides.[40]

82. Procurement and contracting functions are generally handled independently of the parent company. COMSAT General has a staff within the Office of Finance and Administration responsible for preparation of all requests for proposal, negotiation of contracts with suppliers, and administration of those contracts. The staff is also responsible for all aspects of contracts with customers from proposal preparation through contract administration. Comsat supports these functions only in the procurement of miscellaneous items of office furniture and office supplies, and in the administration of existing contracts with NASA for the launch of satellites.[41]

83. COMSAT General's personnel policies and procedures are governed by overall corporate guidelines and standards.[42] The subsidiary generally administers all phases of its personnel program, but turns to the Comsat Personnel Office for guidance in policy matters, assistance in policy interpretation, and in matters dealing with EEO and affirmative action.[43] Comsat has overall responsibility for the shared headquarters building and facilities maintenance, and coordinates with COMSAT General with regard to telephone installation, office layout and rearrangement, and general facilities maintenance. COMSAT General pays for facilities and services on a direct allocation basis.

ISSUES FOR COMMENT

A. Overview of Areas of Concern

84. As we have discussed, the 1962 Satellite Act charges Comsat with the responsibility of establishing a global commercial communications satellite system that (1) reflects the benefits of satellite technology in service quality and charges and (2) provides services to less developed countries as well as highly developed countries. The Act makes Comsat the chosen instrument of the United States for participation in an international cooperative venture to foster the development of such a system. It gives Comsat extraordinary powers to carry out this mission and subjects it to special obligations and responsibilities which flow from these powers. As a result, Comsat is different from other U.S. communications common carriers and occupies a unique position within the U.S. telecommunications industry.

85. Comsat is the only U.S. entity empowered to (1) engage in planning and construction of satellite facilities for the global system envisaged by the 1962 Act, (2) participate in the operation and management of that system, and (3) furnish communications channels for hire to U.S. carriers and authorized entities. Comsat is specifically authorized by the 1962 Act to engage in a variety of activities in support of its mission. (See paragraph 12). As the U.S. chosen instrument for participation in INTELSAT, Comsat plays an important foreign policy role on behalf of the United States,[44] in addition to being the U.S. entity responsible for (1) assuring that the INTELSAT system serves the communications needs of the United States and (2) fulfilling the obligations and duties imposed by the INTELSAT definitive arrangements. As the sole U.S. provider of transmission capacity obtained from the INTELSAT system, Comsat is responsible for providing access to the global system on a nondiscriminatory basis and at reasonable rates.

86. The global system envisioned by the 1962 Act has been established through INTELSAT. As the U.S. representative in INTELSAT, Comsat has a continuing obligation to fulfill its statutory mission—to extend the benefits of satellite technology by means of the global system. Fulfillment of this obligation, as well as fulfillment of its new responsibilities connected with participation in INMARSAT, remains the paramount reason for Comsat's existence.

87. This proceeding involves Comsat's continued ability to carry out its original mission and fulfill its statutory obligations and responsibilities in view of a variety of developments that have taken place since enactment of the 1962 Satellite Act. These developments concern three general areas: (1) the establishment of INMARSAT: (2) Comsat's increased involvement in non-INTELSAT and non-INMARSAT

[38] COMSAT General maintains its own set of accounting books and records and has a staff engaging in general accounting (general ledger, journal entries, preparational financial statements and reports), revenue billing and collection of receivables, property accounting, budgeting, and preparation of COMSAT General and MARISAT Joint Venture partnership returns. The support services Comsat provides for these functions is covered by Comsat's General and Administrative charge of COMSAT General. Computer usage is billed on a direct charge basis for time used.

[39] Although COMSAT General's Board authorizes temporary investments, the actual investment function is performed by Comsat's office of the Treasurer. The Comsat Office of the Treasurer also manages "blanket" insurance policies covering corporate assets/risks. These services are covered by Comsat's G&A charge to COMSAT General.

[40] Computer usage for these activities is billed on a direct charge basis for time used.

[41] These services are covered by Comsat's G & A charge.

[42] These guidelines generally relate to relocation, life insurance, health insurance, dental insurance and other items.

[43] The charges for personnel support services provided by Comsat are reimbursed through allocation of costs based on the number of personnel in both companies. The overview of pension funds and employee thrift and savings accounts that is provided by the Comsat Treasurer's office is covered by Comsat's G & A charge.

[44] Comsat's role as an instrument of U.S. foreign policy is founded in the legislative history of the 1962 Satellite Act. In testimony before the Senate Committee on Foreign Relations, Secretary of State Rusk emphasized the significance to U.S. foreign relations of U.S. leadership in development of a global communications satellite system and the need for adequate supervision of Comsat to assure that U.S. foreign policy interests are served. He stated:

> There is unquestionably an advantage for the United States in moving rapidly to establish an effective system in which other nations may participate and which, we may hope, will soon have global coverage. Such rapid progress would be in keeping with the leadership in science and technology which is expected of us. Our ability to provide this most dramatic form of international communications service to all the world efficiently and at just rates would be a notable service to the conduct of the world's business. And it is a truism that if this system is to be of greatest value for our own country and to other nations, it must, necessarily, be developed in harmony with them.

See Communications Satellite Act of 1962: Hearings on H.R. 11040 before the Senate Com. on Foreign Relations, 87th Cong., 2d Sess. 171, at 172 (1962) (statement of Hon. Dean Rusk). In order to assure that U.S. foreign policy goals are achieved, the 1962 Act specifically provides for Presidential supervision over the relationships between Comsat and foreign governments or international entities (See paragraph 15). The 1962 Act also requires Comsat to advise the Department of State of business negotiations with any international or foreign entity and the Department of State to advise Comsat of relevant foreign policy considerations. 47 U.S.C. 743.

activities; and (3) Comsat's changing role in INTELSAT. As we have described, Comsat's new role as the U.S. designated entity in INMARSAT involves undertaking additional statutory obligations and responsibilities. Also, as we have described, Comsat has become increasingly involved in non-INTELSAT and non-INMARSAT activities. These activities have included (1) the provision of domestic and maritime satellite services that are regulated by this Commission, and (2) the application of corporate technology and expertise to the development of business opportunities in areas not directly regulated by this Commission. We view Comsat's application of its corporate technology and expertise to unregulated business ventures as a significant step in its corporate development, particularly in light of Comsat's apparently changing role in INTELSAT with respect to system planning, operation and management.[45] As we have noted, INTELSAT management functions and responsibilities were assumed by the Director General in January of this year. As a result, Comsat's role in INTELSAT has changed from that of providing comprehensive system planning, operation and management services to that of providing research and development and technical and planning support services on a competitive basis (see paragraphs 35–38).

88. These developments raise several general questions concerning Comsat's continued ability to carry out its statutory duties under its current corporate structure. From a broad perspective, we are concerned with the question of whether Comsat is optimally structured to engage in a variety of activities involving different markets, and if not, whether Comsat's corporate structure should be changed in any way. This proceeding provides an opportunity to consider Comsat's overall role in both domestic and international telecommunications markets and whether Comsat is organized in a manner that will promote innovative services at just and reasonable rates. From a narrower perspective we are concerned with questions related to Comsat's continued ability to fulfill its special INTELSAT and INMARSAT obligations and responsibilities. In view of the additional obligations and responsibilities imposed on Comsat as the U.S. designated entity in INMARSAT, we see a need to consider whether Comsat's new INMARSAT role may result in potential conflicts or other problems with respect to its INTELSAT statutory obligations and responsibilities. In addition, we believe that this proceeding offers an opportunity to consider whether current statutory provisions and intergovernmental arrangements provide for effective governmental oversight of Comsat in fulfilling its INTELSAT and INMARSAT responsibilities. Finally, we are concerned with whether Comsat's non-INTELSAT and non-INMARSAT business ventures may result in situations in which its INTELSAT or INMARSAT statutory duties are compromised in favor of other corporate interests. Specifically, we are concerned that Comsat's current corporate structure provides an unacceptable potential for conflict of interest and cross-subsidization problems arising between Comsat's INTELSAT and INMARSAT roles and its other business activities.

89. Our consideration of these questions will involve four areas of examination: (1) Comsat's structure and overall marketplace role; (2) the relationship of Comsat's new INMARSAT role to its INTELSAT role; (3) the adequacy of current arrangements for governmental oversight of Comsat's participation in INTELSAT and INMARSAT activities; and (4) the effect of Comsat's non-INTELSAT and non-INMARSAT activities on fulfillment of its special statutory obligations and responsibilities. We request interested parties submitting comments to direct their comments to these areas of concern and any statutory or regulatory measures they believe should be taken. In particular, we request interested parties to consider whether the need exists for changes in Comsat's corporate structure and organization, restrictions on Comsat's operating activities, or changes in governmental oversight responsibilities. Parties advocating specific changes in these areas should indicate whether such changes should be effectuated pursuant to legislative or regulatory action.

B. Comsat's Structure and Overall Marketplace Role

90. Comsat's current corporate structure is a product of the diversified activities in which it has become engaged and the variety of markets that it now serves. Comsat's initial development as a firm was the result of the growth of international satellite communications services and its unique position in the telecommunications market as the sole provider of transmission capacity to U.S. international carriers offering satellite communications services to the public. As we have described, Comsat entered the domestic and maritime satellite communications markets through COMSTAR and MARISAT. It will continue participation in the maritime market through INMARSAT; it proposes to continue participation in the domestic market through SBS.

91. However, Comsat's development has not been confined to the provision of common carrier services and a Commission regulated economic environment. Comsat's role in providing comprehensive system planning and operational and management services to INTELSAT, and the technological demands placed on Comsat as the primary force behind the establishment of the INTELSAT system, required Comsat to develop its current technical expertise and research and development capability in satellite technology. It is this corporate technology and expertise that Comsat is utilizing to support the development of a variety of activities in markets not directly regulated by this Commission (*i.e.*, communications product manufacturing and marketing, environmental information services, and overseas satellite systems planning). While we have specific concerns with respect to how Comsat's special INTELSAT duties will be affected by its incresed development of business ventures in unregulated areas and whether certain structural changes may be required to prevent problems from arising, we have a more general concern with whether Comsat is optimally structured to engage in diversified activities involving different markets. We do not believe that Comsat should be foreclosed from applying its corporate technology and expertise to the development of business ventures which will result in public benefit. Nevertheless, in view of the fact that Comsat developed its corporate technology and expertise primarily by virtue of its special role as the U.S. representative in INTELSAT, we believe that Comsat's application of this technology and expertise to develop other marketing opportunities should be on an efficient basis and in a manner not adversely affecting its ability to provide innovative telecommunications services at just and reasonable rates.

92. As part of our study of Comsat's corporate structure and activities, the

[45] In addition, Comsat's ownership interest in INTELSAT has steadily declined from approximately 52.3% in 1973, just prior to the date when the definitive arrangements became effective, to 24.8% as of June of this year. Up until the time when the definitive arrangements took effect, Comsat effectively had an absolute veto power over substantitive actions by the LCSC, the predecessor of the INTELSAT Board of Governors.

staff is conducting an analysis and evaluation of the economic and financial performance of Comsat and its subsidiaries. It is reviewing the various markets in which Comsat and its subsidiaries provide or plan to provide services, the economic and regulatory incentives involved in these markets, Comsat's investment behavior, and the technological development of the industry. As an aid to staff consideration of these areas, we request interested parties to generally comment on Comsat's overall role in the telecommunication industry and whether its current corporate structure serves the public interest in view of the variety of markets in which Comsat is involved. We urge interested parties to comment on how Comsat's role in the provision of INTELSAT services should inter-relate with its role in the provision of domestic satellite services. In addition, we request comments on what Comsat's role in satellite technology development should be and what effect Comsat's application of its corporate technology and expertise to unregulated activities may have on the overall development of satellite technology. We are concerned that Comsat not utilize its status as the U.S. representive in INTELSAT and INMARSAT to gain unfair competitive advantages in technology development markets and, as a result, discourage vigorous competition in these markets. Finally, we request comments on whether Comsat's corporate structure should be changed in view of the various markets in which it is involved. Comments should be directed toward structural changes that are designed to assure that the public benefits from Comsat's corporate technology and expertise are derived in a manner that does not burden Comsat's customers for international and domestic satellite services.

C. Relationship Between INTELSAT and INMARSAT Roles

93. In a Notice of Proposed Rule Making (Docket No. 79–35) released on february 26, 1979, we sought comments from interested parties regarding regulatory safeguards with respect to Comsat's investment in INMARSAT. International Maritime Satellite System, 70 FCC 2d 1968 (1979).[46] We stated that safeguards will be necessary to (1) assure that Comsat's participation in INMARSAT will not adversely effect its participation in INTELSAT, and (2) prevent Comsat from cross-subsidizing its maritime satellite services with its other communications services. Our concern was that the cost of financial commitments undertaken by Comsat as the designated U.S. operating entity in INMARSAT not be borne by the users of other communications services provided by Comsat. We therefore posed several approaches to guard against potential cross-subsidization situations: (1) requiring Comsat to establish a separate subsidiary for maritime satellite services; (2) changing elements of Comsat's basic structure without a separate subsidiary for maritime satellite services; (3) requiring Comsat to establish a separate system of accounts for maritime satellite services; and (4) a combination approach. We invited comments from interested parties on these approaches and other regulatory measures which they believe should be taken to guard against cross-subsidization. However, we indicated that we would not propose specific subsidiary arrangements, structural changes, or maritime accounting rules until we examined the results for our study of Comsat's corporate structure and activities.

94. In this proceeding, we are concerned with the potential for conflicts of interest or other problems between Comsat's INMARSAT and INTELSAT obligations and duties, and whether legislative or regulatory measures are required to prevent any conflicts or problems from arising and/or to deal with any that do arise. Specifically, we are concerned with potential conflicts that may arise as a result of situations in which INMARSAT and INTELSAT have mutual dealings. For instance, INMARSAT is now considering various possibilities for a first generation INMARSAT maritime satellite system. Included among the possibilities being considered is the lease of Maritime Communications Subsystems (MCS) to be added to four INTELSAT V satellites (F–5, F–6, F–7, and F–8). The MCS packages would be part of an overall global system which may include the purchase or lease of MARECS dedicated maritime satellites from the European Space Agency (ESA).[47]

95. As the U.S. representative in INMARSAT, Comsat will participate in the decision as to whether INMARSAT will lease the INTELSAT MCS packages.[48] As the U.S. representative in both INMARSAT and INTELSAT, Comsat will be involved in deciding the terms and conditions of any such arrangement. The underlying question in this situation, or any other similar matter involving transactions between INMARSAT and INTELSAT, is how Comsat's dual role will affect its incentive to promote fair and reasonable charges for the use of INTELSAT facilities by INMARSAT. Our specific concern is twofold: that INTELSAT charges for MCS packages to INMARSAT are not unjustifiably high, and, in the opposite sense, that users of INTELSAT services not subsidize users of INMARSAT services through unjustifiably low charges. We are also concerned that Comsat not utilize its dual role to achieve a result that may favor its overall corporate interest to the detriment of either its INTELSAT or INMARSAT responsibilities. We believe that Comsat must carry out its obligations and duties in both INMARSAT and INTELSAT in a manner that serves the overall public interest. We therefore seek comments from interested parties concerning the need, if any, for measures to guard against any conflicts of interest or other problems that may arise as a result of Comsat's dual role. We invite comments on the types of conflicts and problems which parties believe may arise. In particular, we invite comments on institutional safeguards such as requiring Comsat to establish a separate subsidiary to handle INMARSAT responsibilities, or changing elements of the basic structure and operation of Comsat without requiring a separate subsidiary. Since these approaches, among others, were among those posed in Docket No. 79–35 as safeguards against the potential for cross-subsidization of Comsat's maritime services with its INTELSAT services (See paragraph 81), we will withold action in Docket No. 79–35 on that matter pending our findings in this proceeding. In preparing our report to Congress, we will consider the comments received in Docket No. 79–35

[46] We also asked for comments on the ownership of earth stations and the operational arrangements by which Comsat and U.S. domestic and international carriers interconnect their facilities for the purpose of extending maritime satellite services to users in the United States and beyond, and on the operational arrangements by which Comsat will interconnect its facilities with private communications systems authorized by this Commission. 70 FCC 2d 1971–1972. We addressed the issues of interconnection between Comsat and U.S. carriers and private communications systems on April 30, 1979. International Maritime Satellite System, 71 FCC 2d 1069 (1979).

[47] INMARSAT did not come into existence in time to put a global maritime satellite system into operation by the end of the design life of MARISAT in 1981. As a result it will buy or lease satellite facilities from other entities, such as INTELSAT and ESA, in order to establish a follow-on system to MARISAT and assure the continued availability of maritime satellite communications services.

[48] The INMARSAT Council has established a technical committee to consider the available alternatives for a maritime satellite system to follow MARISAT. It will make its recommendations to the INMARSAT Council for final decision. Comsat is a member of the INMARSAT Council.

concerning whether there is a need for establishing a separate subsidiary or other changes in Comsat's corporate structure to handle INMARSAT responsibilities. Should we conclude in this proceeding that a separate subsidiary to handle INMARSAT matters or other structural changes are required, we will propose specific arrangements within the context of Docket No. 79–35.

D. Adequacy of Governmental Oversight Arrangements

96. In determining whether existing regulatory or other safeguards are sufficient to protect the public interest (*See* S. Rep. No. 95–1036, 95th Cong., 2d Sess. 15 (1978) and paragraph 3 above), a review of current arrangements for governmental oversight appears necessary. In view of Comsat's new, dual role as U.S. representative in both INMARSAT and INTELSAT, and the increased potential for conflicts and other problems occasioned thereby, we are concerned that current arrangements for governmental oversight of Comsat may not be adequate to ensure that Comsat exercises its responsibilities in a manner that serves both the public and governmental interests. We therefore invite comments on three general questions: (1) should current statutory provisions for governmental oversight of Comsat be modified; (2) should current inter-agency arrangements for issuing instructions to Comsat be modified; and (3) should modifications to Commission procedures be made to assure more effective Commission participation in the instructional process?

97. The basic framework for governmental oversight of Comsat's INTELSAT and INMARSAT activities is found in the 1962 Satellite Act and the 1978 Maritime Satellite Act. As outlined in paragraphs 14 and 15 above, the 1962 Act places specific statutory responsibilities on both the President and the Commission for supervision of Comsat's role as the U.S. representative in INTELSAT. The authority vested in the President focuses on foreign policy concerns and is, in part, founded on the recognition that Comsat plays an important foreign policy role in INTELSAT.[49] The authority given to the Commission by the 1962 Act generally focuses on regulatory matters involving facility authorization and rate regulation. As outlined in paragraphs 18 and 19 above, the 1978 Act vests specific responsibilities in both the President and the Commission for supervision of Comsat in its role as the U.S. representative in INMARSAT. Generally, the President is to exercise supervision over and issue instructions for Comsat as may be necessary to ensure that Comsat's relationships and activities with foreign entities are consistent with the U.S. national interest and foreign policy. The Commission is authorized to issue instructions to Comsat with respect to regulatory matters; however, if a Commission instruction conflicts with a Presidential instruction the Presidential instruction shall prevail.[50]

98. Specific inter-agency arrangements were established in 1966 in order to coordinate the efforts of government agencies in fulfilling their oversight responsibilities under the 1962 Act. These arrangements provided for coordinated participation among the Department of State, the Commission, and the then Director of Telecommunications Management in issuing instructions to Comsat as the U.S. representative on the Interim Comminications Satellite Committee (ICSC).[51] They are now applicable to Comsat's current participation in INTELSAT and involve the coordination of instructional efforts by the Department of State, the Commission, and the National Telecommunication and Information Administration (NTIA). The arrangements require Comsat to circulate copies of proposed INTELSAT agenda items to the agencies involved.[52] Each agency reviews the agenda items, identifies those items which require U.S. Government instructions to Comsat, and advises the Department of State of the agency's views on the matters at hand, especially the agency's determinations with respect to those items falling within its particular competence. Each agency is privy to the view of the others. The Department of State actually issues the instructions to Comsat as to the position Comsat should take on the various INTELSAT agenda items, taking into account the respective agency views and determinations.

99. Specific inter-agency arrangements are now being considered to coordinate the efforts of the Department of State, the Commission, and NTIA in fulfilling their oversight responsibilities under the 1978 Act.

100. In discussing whether current statutory provisions for governmental supervision of Comsat's INTELSAT and INMARSAT activities should be changed in any way, we request interested parties to address the following questions:

(1) What degree of governmental involvement in Comsat's INTELSAT and INMARSAT activities and operations is required to protect the public interest?

(2) What statutory or other changes are required, if any, to assure effective U.S. Government participation in INTELSAT and INMARSAT taking into account that Comsat's views may not always be the same as those of the U.S. Government?

(3) What statutory or other changes are required, if any, to assure effective U.S. Government supervision of Comsat in view of the potential for conflicts or other problems arising from Comsat's dual role in INTELSAT and INMARSAT?

In discussing whether current inter-agency arrangements for issuing instructions to Comsat regarding issues pending before INTELSAT should be changed, we request interested parties to specifically address the following questions:

(1) What problems exist with the current arrangements?

(2) What changes are required, if any, to ensure that the U.S. Government is provided with full, timely and sufficient information regarding Comsat's participation in INTELSAT and INMARSAT?

(3) What changes should be made in the current procedures for formulating U.S. Government positions on issues before INTELSAT?

(4) What role, if any, should parties other than Comsat and currently involved U.S. agencies have in the formulation of U.S. Government positions on issues before INTELSAT?

(5) How should the current inter-agency instructional process be changed to promote more timely and effective U.S. Government instructions to Comsat?

(6) What changes to the current instructional process, if any, are required to ensure that U.S. Government

[49] See footnote 44.

[50] Section 504(c)(2) of the 1978 Act provides that the Commission shall make recommendations to the President for the purpose of assisting him in his issuance of instructions to Comsat.

[51] The ICSC was established under the INTELSAT Interim Arrangements as the governing body of INTELSAT charged with the responsibility for basic policy with respect to the establishment, operation, and maintenance of the INTELSAT system. Comsat voted in ICSC meetings after consultation and coordination with U.S. Government agencies.

[52] On important matters Comsat is to advise the involved agencies of the position it desires to take well before the time such matters are to be placed on the agenda so as to allow inter-agency consultation in arriving at a determination of instructions to Comsat. By State Department letter, dated September 19, 1979, the agencies advised Comsat that they were not receiving documents pertaining to INTELSAT Board of Governors meetings on a timely basis. This letter proposed immediate discussions with Comsat to identify the problem and develop more efficient procedures.

instructions are fully and effetively executed? [53]

101. We also urge interested parties to comment on the Commission's role in the instructional process. We are generally interested in comments addressing how Commission participation in this process can be made more effective while assuring that procedures are fair and conform with applicable provisions of the law. Comments should address the Commission's role in both the INTELSAT and INMARSAT instructional process and should focus on how the Commission can make meaningful judgments on a timely basis, how the Commission can avoid procedural problems, what requirements should be placed on Comsat with respect to matters which require Commission action, and what the roles of other parties should be. Comments should also address the question of whether the Commission's participation in the instructional process should be formalized, including the extent to which and under what circumstances Commission views and determinations should be made public.[54]

102. We are particularly concerned with the problem of achieving timely consideration of matters requiring Commission action in the face of INTELSAT or INMARSAT decision-making schedules over which the Commission has no control. We therefore will review within the framework of this proceeding the commission's 1974 "Statment of Policy Concerning Procedures Applicable to Comsat's Applying For Commission Authorization to Participate In Certain INTELSAT Activities." *Communications Satellite Corporation,* 46 FCC 2d 338 (1974). Our review will consider (1) those issues concerning the instructional process raised by ITT World Communications, Inc. (ITT) in its Petition for Rulemaking (RM–3110) requesting the Commission to modify its procedures for reviewing proposals for new cable and satellite communications facilities, [55] and (2) the need, if any, to modify the 1974 Statement of Policy to include Commission consideration of proposals for INMARSAT satellite facilities. Our purpose will be to develop Commission procedures that will achieve more timely and effective Commission consideration of proposals submitted by Comsat for INTELSAT and INMARSAT satellite facilities.

103. Our 1974 Statement of Policy was primarily designed to institute procedures to assure timely Commission action on Comsat applications, i.e., before the INTELSAT Board of Governors voted on a facilities question. The 1974 Statement of Policy attempts to accomplish this purpose while also recognizing that a unique situation exists: that the United States is a party to an international organization; that the applicant, Comsat, is the designated U.S. representative to the international organization; that the international organization, not the Commission, has the ultimate decision with respect to such matters as constructing new facilities and adopting operational plans; and that U.S. interests (including foreign policy and other national interests, as well as regulatory concerns) are subject to negotiations with other members of the international organizations. The Statement of Policy requires Comsat to submit applications for Commission authorization to participate in certain INTELSAT activities no later than 60 days prior to anticipated action by the Board of Governors on the proposed activities. 46 FCC 2d 339. Such applications include, but are not limited to, requests to participate in the launch, testing, and construction and use by Comsat of INTELSAT facilities. 46 FCC 2d 339, 340. The Statement of Policy also provides that the timing and method of release of a Commission decision to interested parties and/or the general public would be decided after consultation with the Department of State on a case-by-case basis, taking into consideration all relevant factors, including foreign policy considerations. 46 FCC 2d 340.

104. The procedures we adopted in our Statement of Policy recognize that Comsat's participation in INTELSAT activities does not obviate the necessity for Comsat to obtain Commission authorization to participate in the construction and operation of INTELSAT satellites. These procedures were designed with the intent, *inter alia,* that the Commission authorization process could be completed before action by the INTELSAT Board of Governors on a satellite facility proposal. We continue to believe that timely Commission action is important, and we request suggestions for changes in existing procedures in order better to achieve timely action in the future. In particular, we welcome suggestions concerning (1) what the Commission should instruct Comsat to do in situations in which the Commission does not have sufficient information to act on an application by Comsat for participation in an INTELSAT program,[56] and (2) whether the 60-day time period provided for in the 1974 procedures is adequate for Commission action on such applications. We believe that additional time may be required for Commission action, particularly in light of developments since adoption of the 1974 procedures, such as enactment of the "Government in the Sunshine Act," Pub. L. 94–409 (1976). In addition, we request suggestions on changes in our 1974 procedures to insure fairness and full conformity with rules and regulations dealing with *ex parte* contacts, and with the "Government in the Sunshine Act" and the "Freedom of Information Act," 5 U.S.C. 552 (1970).[57]

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[53] At the present time, no U.S. Government representative attends any meetings of the INTELSAT Board of Governors or any of its suborgans.

[54] Comments regarding formalizing Commission participation and making its actions public should take into account the recognition that (1) INTELSAT and INMARSAT are commercial organizations, and any Commission discussion of their activities may involve business secrets which they may have and (2) the INTELSAT Board of Governors and INMARSAT Council are independent of Commission jurisdiction, control their own agendas, and set their own timing for consideration of matters.

[55] ITT filed its Petition for Rulemaking on April 26, 1978. Essentially, ITT contends that modification of the Commission's current procedures for review of proposal for new international cable and satellite facilities is required to rectify an alleged imbalance in Commission treatment of applications for the two types of facilities and to remove alleged procedural infirmities such as *ex parte* contacts with Comsat. ITT argues that Commission participation in the instructional process results in "given" satellite capacity which subsequently prejudices Commission authorization of satellite facilities. Several comments were filed in support of ITT; Comsat filed an opposition. NTIA filed Comments calling for institution of a formal rulemaking proceeding to examine Commission procedures so as to achieve consistency between the Commission's regulatory responsibilities and its role in the instructional process. NTIA stresses the need for issuance of timely and definitive instructions to Comsat. The Department of State submitted a letter which essentially agreed with NTIA's comments.

[56] Several parties filing comments in response to ITT's Petition cite Comsat's INTELSAT V application as an example of failure by the Commission to act prior to approval of a satellite facilities program by the INTELSAT Board of Governors. (This was the view of the U.S. Comptroller General in his 1978 report entitled "Greater Coordination and a More Effective Policy Needed for International Telecommunications Facilities.") Comsat was permitted to participate in the Board's approval of the INTELSAT V program despite the fact that the Commission had not acted on Comsat's pending application for authority to participate in that program. However, we believe it important to point out that the 1974 procedures were not responsible for the fact that the Commission did not complete its processes before the INTELSAT Board acted. Rather, the Commission did not have before it sufficient information to make the public interest determinations required by Section 214 of the Communications Act.

[57] We note that ITT's Petition for Rulemaking (RM–3110) and pleadings filed in response to the petition raise questions concerning the consistency of the Commission's 1974 Procedures with the Ashbacker Doctrine when the Commission is presented with satellite and cable applications which may be considered mutually exclusive. However, we believe that such questions involve

Footnotes continued on next page

105. The question of whether the instructional process results in improper *ex parte* contacts is of particular concern in light of the nature of the process. As we have noted, INTELSAT, not the Commission, has the ultimate decision with respect to new satellite facilities for the global system, and U.S. interests are subject to negotiations with other INTELSAT signatories. In this sense Comsat's activities on the INTELSAT Board of Governors are part of a negotiating process.[58] U.S. Government instructions to Comsat may involve a series of positions, including fall-back positions, as well as negotiating strategy. Therefore, any discussion of how to ensure fairness and due process to interested parties, including whether and when certain matters should be disclosed to interested parties, must consider how to protect U.S. interests in the deliberations and decisions of the INTELSAT Board of Governors.

106. Finally, we welcome comments and suggestions on procedures for considering applications filed by Comsat for Commission authorization to participate in INMARSAT activities. We anticipate that any procedures we establish will take into account our INTELSAT experiences to the extent that they are relevant. INMARSAT, like INTELSAT, will have the ultimate decision with respect to satellite facilities; and, U.S. interests will be subject to negotiations with other INMARSAT Signatories. In view of these factors, we believe that the procedures we establish must take into consideration how to protect U.S. interests in the deliberations and decisions before the INMARSAT Council, as well as how to insure fairness and due process to interested parties.

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the planning process for both satellites and cables developed in Docket No. 18875 and are best considered in the context of that process and other Commission proceedings instituted in connection therewith. We therefore will not address those or related questions in this proceeding. We note, however, that docket No. CC 79-184 has been instituted to develop policies and guidelines for the coordinated construction and use of cable and satellite transmission facilities to meet North Atlantic telecommunications needs during the 1985-1995 period. FCC-457, August 1, 1979.

[58] It is important to note that Comsat's obligations, as a signatory and participant in INTELSAT, may place it in the awkward position of having to participate in an INTELSAT program even though it may not have voted for such participation. Additionally, the Commission also may be placed in an awkward position if such an INTELSAT program should happen to be contrary to the Commission's public interest findings regarding the same subject (*e.g.* certain facilities), especially where Comsat has been instructed to oppose such a program based upon these public interest findings.

E. Effect of Non-INTELSAT and Non-INMARSAT Activities on Fulfillment of Statutory Obligations and Responsibilities

(1) Original Requirements and Restrictions on Comsat's Participation in Non-INTELSAT Activities

107. We question whether the requirements and restrictions that we originally placed on Comsat for the purpose of its participation in domestic satellite services and non-INTELSAT related ventures now provide sufficient separation between Comsat's INTELSAT and INMARSAT duties and its other activities and operations. We required that Comsat form a separate subsidiary for domestic satellite and non-INTELSAT ventures which would not be a mere division of Comsat, but would conduct itself as a separate corporate entity with all inter-corporate dealings at arms length (See Paragraph 33). We believe that the sufficiency of this requirement should be reviewed in light of two factors. First, Comsat's current corporate structure and decision-making process clearly gives the parent corporation a decisive role in major policy and program matters involving COMSAT General and its subsidiaries.[59] As we have described, the Commission did not bar interlocking directors between Comsat and COMSAT General (see footnote 37). In addition, COMSAT General is required to submit all matters involving specific expenditures or commitment of funds in excess of $100,000 to the Comsat Board of Directors to review and note for conformance with overall corporate policy (See paragraph 80). Also, Comsat maintains management level coordination with COMSAT General operations and provides engineering, research and development, and various other support services to COMSAT General and its subsidiaries (See paragraph 81). As a result of these arrangements, both the ultimate decisional authority for any major undertaking by COMSAT General or its subsidiaries and the responsibility for providing necessary support services for any such undertaking is placed in the hands of the parent corporation.

[59] In addition, Comsat's current corporate structure does not place all non-INTELSAT related ventures within the province of COMSAT General as we originally contemplated in requiring Comsat to form a separate subsidiary to engage in such ventures. The satellite system planning services being provided to the ARABSAT organization is the responsibility of Comsat (See paragraph 53). ERT, although itself a separate subsidiary, is responsible directly to Comsat rather than COMSAT General. (See paragraph 56). Neither of these activities are INTELSAT or INMARSAT related.

108. Second, Comsat's increasing expansion into activities not regulated by this Commission involves considerations that were not before us when we imposed the requirement for a separate subsidiary. Our primary objectives in requiring a separate subsidiary were to (1) guard against potential conflicts of interest resulting from the ownership structure that Comsat had at that time, and (2) assure that Comsat would retain sufficient funds to discharge its INTELSAT financial obligations (See paragraph 32). We were not at that time specifically presented with the question of what degree of separation should be required between Comsat's INTELSAT operations and any activity in which Comsat may become engaged which was not itself subject to Commission regulation. (See our discussion on the funding of the subsidiary expressing our concern that the subsidiary be adequately funded and have a financial structure "consonant with the obligations of a *regulated common carrier.*" *Communications Satellite Corporation,* 45 FCC 2d 447, 448 (1974) (emphasis added).

109. In view of these factors, we are concerned with the effect Comsat's non-INTELSAT and non-INMARSAT activities may have on its ability to carry out its statutory obligations and responsibilities under Comsat's current corporate structure. Our concern is based on the premise that Comsat's fulfillment of its original statutory mission—to extend the benefits of satellite technology through a global network serving the communications needs of the United States and other countries, as well as fulfillment of its new INMARSAT responsibilities, are the primary reasons for Comsat's existence. We will therefore review Comsat's corporate structure in view of developments since the creation of COMSAT General. We will particularly focus on whether Comsat's expansion into unregulated activities may lead to situations in which its INTELSAT and INMARSAT duties are compromised in favor of other corporate interests. However, we will consider the problems arising under Comsat's current structure with respect to both Comsat's regulated and unregulated non-INTELSAT and non-INMARSAT activities. Our object will be to consider whether any structural changes are required to prevent such problems.

(2) Comsat's Involvement in Regulated Activities

110. In our Domestic Satellite decision, we stated that the possible advantages and disadvantages resulting from

Comsat's relationship with INTELSAT are to be weighed in considering Comsat's involvement in other communications activities. *Domestic Communications Satellite Facilities, Appendix C*, 22 FCC 2d 86 at 133 (1970). The other communications activies in which Comsat has become involved (COMSTAR, MARISAT, SBS) have been separately authorized with certain regulatory restrictions or limitations imposed. Comsat's involvement in satellite subscription TV service is currently in the conceptual stage. Other activities that would require Commission authorization have yet to be declared by Comsat.

111. In view of Comsat's new INMARSAT role and the variety of non-INTELSAT activities in which Comsat and its subsidiaries have become engaged since COMSAT General's creation, and particularly in view of our initial findings in this proceeding regarding Comsat's corporate decision-making process, we will further examine the requirements and restrictions that we originally imposed on Comsat to achieve separation between Comsat's INTELSAT and other communications activities.[60] In doing so, we will consider what effect Comsat's involvement in other communications activities has on its fulfillment of its INTELSAT duties and may have on its fulfillment of its INMARSAT duties. We invite comments from interested parties on the potential for conflicts of interest and cross-subsidization that these activities may hold under Comsat's corporate structure. We request specific comments on the need for structural changes or additional safeguards to prevent conflicts of interest and cross-subsidization situations from occurring. We request general comments on the degree of separation that should be required between Comsat's INTELSAT and INMARSAT roles and other communications activities in which it is involved.

(3) Comsat's Plans for Expansion into Unregulated Activities

112. In a recent speech before the New York Society of Security Analysts, Comsat's President and Chief Executive Officer briefly outlined Comsat's plans for applying its corporate technology and expertise to the development of business opportunities in unregulated marketing areas.[61] He stated that Comsat's basic goal is "to increase the value of our company by applying our technology to new activities and undertakings that relate to our basic business or have satellite communications as an integral part." He indicated that Comsat is focusing on areas that "provide the basis for significant new services and products," some of which "will be in unregulated areas where grwoth and earnings can be higher and where flexibility for applications of our technical resources is also greater." Comsat's "to continue to play a leading role in the provision of international, domestic, and mobile satellite communications." However, he stated that Comsat has initiated a program to broaden its activities through internal development as well as acquisitions, and that Comsat will become a more "marketing oriented company" as it enters into a more competitive arena. Comsat's President cited Comsat's entry into the communications product and environmental information fields, and its continuing expansion of its satellite system consultative planning program and technical assistance services, as examples of new directions into unregulated areas. He also indicated that Comsat was actively considering other projects.

113. In accompanying remarks before the New York Society of Security Analysts, Comsat's Senior Vice President for Finance and Corporate Development indicated that Comsat's objective of increasing the proportion of its new investment in unregulated business areas is "a result of limits placed on our regulated business."[62] He stated that Comsat believes that the current rate of return now allowed on its earnings as well as the method by which that rate is determined is not reflective of the risks it incurs and does not permit its shareholders to participate adequately in improvements in technology, operating efficiency, or in the growth of consumer use of its services. He stated that Comsat would use its managerial, technical, and financial resources to seek higher returns in areas which are new to Comsat but closely related to Comsat's existing businesses. He also indicated that Comsat would consider acquisition opportunities to augment its internal development.[63]

114. We believe that Comsat's emphasis on expansion, particularly into unregulated areas, raises several important questions which should be addressed as part of this study. The threshold question raised is whether Comsat's entry into unregulated areas is permissible as a matter of law. Assuming no legal impediment under present law, three general policy questions are rasied:

(1) Whether the course Comsat is taking will adversely affect its ability to carry out its original mission and fulfill its statutory obligations and responsibilities;

(2) Whether adequate safeguards exist to protect the public interest against any adverse effects Comsat's unregulated business activities may have on fulfillment of its statutory obligations and responsibilities; and

(3) What measures should be taken, if any, to protect the public interest.

(4) Legal Considerations With Respect To Participation Into Unregulated Activities

115. At the outset, we note that neither the 1962 Satellite Act nor the 1978 Maritime Satellite Act contain language expressly precluding Comsat's entry into unregulated business activities. The legislative history surrounding the passage of either Act is not definitive as to whether the authority granted to Comsat extends to such activities.[64]

116. In the absence of both express statutory language and clear indications of Congressional intent to limit Comsat's activities, the issue of whether, as a matter of law, Comsat may engage in unregulated activities requires

[60] We emphasize that this further examination of our original separation requirements centers on any corporate structure changes or other safeguards to counter any potential cross-subsidization or conflict of interest situations. Such examination is not intended to revisit or revise any authorizations, or the basis thereof, which this Commission has granted to Comsat or any of its subsidiaries.

[61] See Remarks of Joseph V. Charyk before the New York Society of Security Analysts, New York, NY, July 11, 1979.

[62] See Remarks of Richard S. Bodman before the New York Society of Security Analysts, New York, NY, July 11, 1979.

[63] Mr. Bodman stated that Comsat has sufficient financial resources on hand to consider "the investment of $200 million in new activities including acquisitions."

[64] The legislative history of the 1962 Act contains only one discussion concerning the limits of Comsat's authority which may be interpreted as bearing on this question. In an attachment to House Report No. 1636 of the House Committee on Interstate and Foreign Commerce, Congressmen John Moss and John Dingell expressed their opinion that the Satellite Act "confines the corporation to the operation of satellites and the associated tracking stations" and "under certain circumstances" the operation of ground stations. H.R. No. 1636, 87th Cong. 2d Sess. (1962). The views expressed by Congressmen Moss and Dingell were based on their reading of section 102 of the 1962 Act declaring the purpose of the Act to be the establishment of a "commercial communications satellite system"; section 103(l) defining commercial communications satellite system; and section 305(a) conferring on Comsat certain powers to "achieve the objectives and carry out the purposes" of the Act. (See paragraphs 10–12.) Congressmen Moss and Dingell appear to be interpreting these sections as narrowly limiting the scope of Comsat's operations.

consideration of the scope of Comsat's authority in relation to the purposes for which it was created. As we have described, Comsat was created as the chosen instrument of the United States to establish a global Commercial communications satellite system in conjunction and cooperation with other countries and was given extraordinary powers to carry out this objective.[65] Additionally, Comsat was to have "the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act," 47 U.S.C. 735(c), and was to be subject to the provisions of the District of Columbia Business Corporation Act to the extent consistent with the Satellite Act, 47 U.S.C. 731. We note that the only purposes that are barred to a corporation that is created pursuant to the District of Columbia Business Corporation Act are "banking or insurance or the acceptance and execution of trusts, the operation of railroads, or building and loan associations." D.C. Code 29–903.[66] However, the District of Columbia Business Corporation Act does not give to a corporation subject to its provisions any substantive power beyond those powers for which it was created, as stated in its Articles of Incorporation.

117. Comsat's Articles of Incorporation are expressly made subject to the purposes and policies of the Satellite Act. Section 3.01 of Comsat's Articles of Incorporation states that the "purposes for which the Corporation is organized" are:

(a) to further and carry out the purposes and achieve the objectives of the Satellite Act; and

(b) to do everything necessary, desirable, advisable, or convenient for the furtherance and accomplishment of such purposes and the achievement of such objectives, and to do all other things incidental thereto or connected therewith which are not forbidden by applicable law or these Articles, including without limitation to acquire, own, use, convey, and otherwise dispose of and deal in real property or any interest therein.

Section 3.02 of the Articles enumerates the powers that Comsat is to have "in order to further and carry out the purposes and achieve the objectives of the Satellite Act." Subsection (a) gives Comsat "all the powers set forth in the Satellite Act as the powers of the corporation authorized to be created by said Act." Subsection (b) enumerates a number of additional powers which are made "subject to the Satellite Act." [67]

118. The fact that powers given to Comsat under the District of Columbia Business Corporation Act and Comsat's Articles of Incorporation are expressly made subject to the purposes of the Satellite Act is significant in considering the scope of Comsat's authority with respect to its entry into unregulated business areas. For example, section 3.02(b) of Comsat's Articles of Incorporation, which parallels section 4(g) of the D.C. Business Corporation Act, grants Comsat the power to acquire, own, vote, and dispose of shares of other corporations. On its face, this provision would be sufficient authority for the acquisition by Comsat of other corporations, thus permitting expansion into other business activities. However, as previously noted, section 3.02 of the Articles of Incorporation confers powers "in order to achieve and carry out the purposes and achieve the objectives of the Satellite Act," and section 3.01 limits Comsat to activities that "further and carry out the purposes and achieve the objectives of the Satellite Act" (section 3.01(a)), and to "all other things incidental thereto or connected therewith. . . ." (section 3.01(b)). Therefore, section 102 of the Satellite Act, which sets forth the policies, purposes, and objectives of the Act, appears to be the key to resolving the question of Comsat's legal authority to enter into other business activities.[68]

119. We therefore consider the question of Comsat's legal authority to enter into unregulated activities to be contingent upon a determination that such activities are consistent with the objectives of the Satellite Act and/or incidental to or connected with the purposes of the Act. Within this context, we note that the objectives and purposes of the Satellite Act have never been definitively construed by this Commission or by any court.[69] Furthermore, as we have previously noted, we found little in the legislative history of the Satellite Act to evidence

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[65] Comsat also was authorized to engage in five named activities, among others not specifically named, for *accomplishment of the purposes indicated in subsection (a) of Section 305 of the Act.* 47 U.S.C. 735(b), (emphasis added)

[66] Section 29–904 of the District of Columbia Business Corporations Act lists 16 general powers that are given to corporations subject to its provisions, the most relevant of which are the power to purchase, own, use, and dispose of shares of other corporations (subsection g); the power to invest its surplus funds and lend money for its corporate purposes (subsection i); and the general power to have and exercise all powers necessary or convenient to effect any or all the purposes for which the corporation is formed (subsection o).

[67] Comsat's incorporators, in drafting the Articles of Incorporation, did give consideration to whether it would be legally possible for the corporation's Articles of Incorporation to state a broader purpose than one that is expressly tied to the language of the Satellite Act. The incorporators were concerned that reference to the Satellite Act in the Articles might have the effect of limiting the Corporation to a system of telecommunications requiring earth satellites and ground terminal stations, under the definitions found in section 103 of the Act. The decision was made, however, that stating a broader purpose in the Articles of Incorporation would be ineffective as going beyond the grant to the Corporation from Congress as contained in the Satellite Act. The incorporators were of the opinion that if the language of the Act proved to be unduly restrictive of the Corporation's scope, relief could be obtained by an amendment of the law. It is for this reason that the term "Satellite Act," as used in the sections of the Articles of Incorporation in which the purposes of the Corporation are stated, is defined as the "Communications Satellite Act of 1962 as it may be amended from time to time". Thus any broad amendment of the Act would automatically broaden the purpose of the Corporation without the need for amendment of the Articels of Incorporation. *See Section-by-Section Annotations to the Articles of Incorporation of Communications Satellite Corporation,* March 1, 1963, prepared by Counsel for Comsat.

[68] Reference to the purposes and objectives of the Satellite Act becomes even more important when interpreting certain other provisions of the statute. Section 201(c)(8) for example, empowers the Commission to authorize Comsat to issue shares of stock or borrow moneys upon a finding that such issuance or borrowing is "compatible with the public interest, convenience and necessity and *is necessary or appropriate for or consistent with carrying out the purposes and objectives of this Act by the corporation."* (Emphasis added.) Section 403(a) of the Act confers jurisdiction on the federal district courts, upon petition of the U.S. Attorney General, to enjoin actions, practices, or policies of Comsat that are "inconsistent with the policy and purposes declared in section 102 of this Act." And section 305(a) of the Act grants certain listed powers to Comsat "in order to achieve the objectives and to carry out the purposes of this Act. . .". These sections of the Act, when read in conjunction with those sections which outline the purposes of the corporation, may evidence Congressional intent that Comsat *not* be a corporation of unlimited powers.

[69] We do not regard our decision permitting Comsat to engage in domestic satellite operations and non-INTELSAT activities through a separate subsidiary as definitive of the question of whether Comsat has authority to enter into activities involving non-communications services. In finding that Comsat is not legally disqualified from entering the domestic satellite field, we primarily relied on section 102(d) of the Satellite Act and did not need to reach the question of whether Comsat's provision of domestic satellite service was incidental to or otherwise required to carry out the purposes of the Satellite Act. Section 102(d) provides: It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest.

We stated in our Domestic Satellite decision that ". . . we see no merit to the contention that Comsat may be legally disqualified from entering the domestic field because of its involvement in INTELSAT. Since Congress did not intend to preclude use of the global system for domestic communication services, it follows *a fortiori* that such services may be provided by the United States participant in the global system. The possible advantages or disadvantages accuring from Comsat's relationship with INTELSAT are considerations to be weighed as a matter of policy, but we find no legal bar." See Domestic Communications Satellite Facilities, Appendix C, 22 FCC 2d 86, at 133 (1970).

Congressional intent on this issue. We therefore request public comment on (1) whether the 1962 Act posses any barrier to Comsat's expansion into unregulated business activities such as environmental information services and communications product manufacturing and marketing, and (2) whether the Commission should recommend to Congress that the Act be amended to define clearly the scope of Comsat's authority to engage in such activities.

(5) Effect of Participation in Unregulated Activities

120. Aside from the legal questions regarding Comsat's expansion into unregulated areas, we are concerned that this expansion not lead to situations in which Comsat's special INTELSAT and INMARSAT duties may be adversely affected. We believe that certain unregulated activities in which Comsat already engages demonstrate the potential for conflict of interest and cross-subsidization and raise significant public policy questions for discussion with respect to Comsat's current corporate structure.[70]

121. *Potential conflicts of interest.* At the outset, it is important to note that Comsat's general plans for expansion into unregulated marketing areas, as set forth in the speeches of Comsat's President and its Vice President for Finance and Corporate Development (See paragraphs 106 and 107), suggest the long-range potential for Comsat to emphasize development of ventures in unregulated marketing areas over its INTELSAT and other telecommunications services. We are particularly concerned about this prospect in view of Comsat's public statements regarding the "limits" placed on its regulated business and the incentives for higher growth and earnings associated with unregulated areas of business. While we recognize Comsat's stated commitment to its "core satellite business," we believe that emphasis of unregulated business ventures at the expense of INTELSAT or other telecommunications services would be inconsistent with the purposes for which Comsat was originally created.

[70] In discussing what we believe may be the potential for conflict of interest and cross-subsidization situations arising, we are not attempting to imply that Comsat is engaging in any intentional wrongdoing. Our objective is to raise public policy questions which we believe should be addressed in view of Comsat's unique obligations and responsibilities. This is an underlying purpose of the Congressional requirement for a Commission study of Comsat's corporate structure and operating activities. We note that Comsat has been cooperative in providing information to the Commission concerning its activities in unregulated areas.

122. Comsat's satellite system consultative program offers an immediate example of how an unregulated activity may lead to a potential conflict of interest situation with respect to its INTELSAT duties. As we have noted, Comsat is providing consultative services to the Arab Satellite Communications Organization for the purpose of establishing a regional satellite system (ARABSAT) for 21 Arab countries (See paragraph 53). Comsat's role in this venture, however, poses a potential conflict with its role as the U.S. Signatory in INTELSAT. It is INTELSAT's general policy, as well as the policy of the U.S. Government, to protect the technical and economic viability of the INTELSAT system and to promote maximum use of INTELSAT facilities for international communications. Pursuant to Article XIV(d) of the INTELSAT Agreement, those Arab countries participating in ARABSAT Which are also INTELSAT Parties or Signatories are required to consult with and furnish all relevant information regarding the proposed ARABSAT system to the INTELSAT Assembly of Parties for the purpose of (1) ensuring technical and operational compatability of the proposed system with existing or planned INTELSAT facilities, and (2) avoiding significant economic harm to the INTELSAT global system. After such consultation, and upon consideration of the advice of the INTELSAT Board of Governors, the Assembly of Parties will make its findings (in the form of recommendations) on the technical and economic compatibility of ARABSAT with existing or planned INTELSAT facilities.[71] Informal technical consultation between INTELSAT's representatives and the Director General of ARABSAT was initiated this year.

123. As a member of the Board of Governors, Comsat will participate in the Board's consideration of the ARABSAT question. In addition, as the member on the Board having the greatest proportionate voting power, Comsat will play an important role in formulating the Board's advice to the Assembly of Parties. We are therefore concerned with the potential influence Comsat's interest in ARABSAT may have on how it carries out its duty both to act in the best interests of the INTELSAT system and protect U.S. interests.[72] Comsat's financial interest in the ARABSAT contract is substantial. Comsat is to receive approximately $20 million for a five-year agreement. The extent of its involvement in establishing the ARABSAT system appears to include most of the major functions necessary for satellite system development, with the exception of actual manufacture of the spacecraft and the TTC&M station. The consultative program being provided to ARABSAT consists of three phases: (1) system definition (1½ years); (2) implementation (2½ years); and (3) operation (1 year). Comsat is to perform a number of specific services, including conducting traffic analysis and defining and designing the system, coordination of the system with other communications systems, preparing specifications and other procurement documents for spacecraft and a TTC&M station, providing assistance with proposal evaluation and contract negotiation, monitoring contractor's work on the TTC&M station and on the spacecraft, planning the operation of the system, training ARABSAT personnel, and assisting with the launch of the satellite and operation of the system for an initial period of time. There are about twenty additional services which the ARABSAT Organization may obtain from Comsat at additional cost after the five year contract is over. In view of the extent of Comsat's commitment to provide consultative services for the establishment of the ARABSAT system, we believe that Comsat's INTELSAT duties may have been compromised by its other corporate interests. We question whether Comsat can

[71] Article XIV(d) of the Agreement provides that: To the extent that any party or Signatory or Person within the jurisdiction of a party intends individually or jointly to establish, acquire or utilize space segment facilities separate from the INTELSAT space segment facilities to meet its international public telecommunications services requirements, such Party or Signatory, prior to the establishment, acquisition or utilization of such facilities, shall furnish all relevant information to and shall consult with the Assembly of Parties, through the Board of Governors, to ensure technical compatibility of such facilities and their operation with the use of radio frequency spectrum and orbital space by the existing or planned INTELSAT space segment and to avoid significant economic harm to the global system of INTELSAT. Upon such consultation, the Assembly of Parties, taking into account the advice of the Board of Governors, shall express, in the form of recommendations, its findings regarding the considerations set out in this paragraph, and further regarding the assurance that the provision or utilization of such facilities shall not prejudice the establishment of direct telecommunication links through the INTELSAT space segment among all the participants.

[72] We are also concerned that Comsat's role in ARABSAT development may place the U.S. Government in a difficult position with respect to issuance of instructions to Comsat on consideration of the ARABSAT question within the Board of Governors. If the U.S. Government should determine that the ARABSAT system will cause economic harm to the INTELSAT system, and as a result is contrary to U.S. interests, any instruction to Comsat in accordance with this determination may be in direct conflict with Comsat's corporate interests.

objectively view questions concerning economic harm to the INTELSAT system while actively involved in the establishment of the ARABSAT system pursuant to contractual arrangement.

124. Moreover, Comsat is clearly intending to expand its efforts to obtain other contracts for the provision of satellite system planning and technical services.[73] Comsat's President has stated that Comsat's technical services would come into greater demand for application to all kinds of telecommunications projects as satellite communications proliferates; that expansion of Comsat's technical service business could add significantly to the company's profitability; and that Comsat is embarking on a vigorous marketing effort toward that end.[74] We are concerned that this expansion effort may result in potential ARABSAT-type situations arising in which Comsat could find itself choosing between the overall interest of INTELSAT and its own corporate interest in aiding the development of a regional satellite system which could compete with INTELSAT for international communications traffic.[75] In addition, there is the potential that it could conflict with any program INTELSAT may decide to undertake to provide "planned" leased transponder service to serve the domestic or regional satellite service market in the future. We note that the INTELSAT Board of Governors authorized the Director General to study this possibility and is now considering his report.[76]

125. In addition to Comsat's satellite system planning and technical services program, we see at least one other major area of unregulated activity offering the potential for conflicts between Comsat's corporate interests and its INTELSAT and INMARSAT responsibilities. As we have described, Comsat has entered the communications product development field with the intention of manufacturing and marketing specialized telecommunications products (See paragraph 58). Presumably, these products will be designed for use in connection with the INTELSAT global system as well as other satellite systems. We are concerned with the effect Comsat's corporate interest in product development could have on positions it may take with respect to important technology questions that may come before INTELSAT or INMARSAT.[77] Such questions can involve consideration of which of several alternative technologies should be utilized in connection with the global system in order to accomplish a desired objective. As the U.S. signatory, Comsat has the duty to promote the alternative which would most effectively and efficiently carry out the objectives of the 1962 Satellite Act (i.e. reflecting the benefits of satellite technology in service quality and charges to meet the communications needs of the United States and other countries). However, if Comsat intends to manufacture and market a piece of equipment or component for use in connection with one alternative technology under consideration, the potential exists that Comsat's consideration of other alternatives could be colored by its corporate interests in product development. Also, in bidding against other entities for research and development contracts, there may be advantages to Comsat in submitting a bid at cost in order to secure ownership of patents on products with the intent of marketing the developed product through COMSAT General Telesystems.[78] This action would have the effect of reducing INTELSAT derived revenue with the expectation of receiving future revenue from an unregulated activity. We are particularly concerned with these prospects in view of Comsat's intention to use Comsat Labs to support both INTELSAT and corporate research and development.

126. *Potential cross-subsidization problems.* Comsat's expansion into unregulated areas raises the question of how it will apply its corporate resources to achieve its objectives in these areas. It is clearly Comsat's intention to utilize its technical expertise and its research and development capacity in support of its unregulated activities. Comsat's President has stated that the company's basic resources—capital, personnel, and technology—will "provide a strong foundation for [its] new activities."[79] Comsat Labs has developed products and systems which Comsat intends to market and manufacture through Comsat General Telesystems, Inc.[80] Comsat's Systems Technology Service Division (STS) is the principal corporate contracting unit for new business dealing with technology application and system development. STS supports Comsat's satellite system consultative program, including overseas satellite systems projects such as ARABSAT (see paragraph 68). In addition, Comsat intends to apply satellite communications technology toward the development of new environmental data collection, monitoring and analysis by ERT (see paragraph 57).[81]

127. The costs of support services provided to any other activities should not be borne by INTELSAT or INMARSAT ratepayers. Comsat should

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[73] The U.S. Government relies heavily on Comsat's advice and expertise in INTELSAT and INMARSAT matters. Therefore, Comsat's intention to expand its foreign consultative work, coupled with its existing foreign activities (investments in foreign earth stations and other contractual arrangements with foreign entities), must be of concern. Comsat's expansion intentions raise concerns about its continued ability to devote itself objectively to U.S. interests in implementing the purposes and objectives of INTELSAT and INMARSAT, especially when the U.S. Government's interests may not always coincide with Comsat's interests or the interests of foreign governments.

[74] See Remarks of Dr. Joseph V. Charyk before The New York Society of Security Analysts, July 11, 1979.

[75] Comsat clearly recognizes the potential threat of regional satellite systems to INTELSAT. Notwithstanding its current role in ARABSAT, Comsat has recently stated to the Commission that there are serious concerns and uncertainties about its future growth position and earnings potential which are reinforced by a number of factors, including "the possible proliferation of regional satellite systems with the potential to divert traffic from the INTELSAT system . . ." See letter to Chief, Common Carrier Bureau, from Lawrence M. Devore, Assistant General Counsel for Regulatory Affairs, dated July 24, 1979.

[76] Currently, INTELSAT provides leased transponders for domestic uses on a "pre-emptible" basis, using excess satellite capacity. However, the demand for leased transponders appears to be increasing so significantly that INTELSAT may not be able to meet the demand within a few years using only "pre-emptible" transponders. The Director General's study contains consideration of a program for providing leased transponders on a "planned" basis. Such a program could involve separate satellites dedicated to leased transponders or hybrid satellites which could be used for both leased transponders and meeting other INTELSAT traffic needs.

[77] INTELSAT has, from its inception, conducted a research and development program for the purpose of improving the efficiency and reliability of the INTELSAT global system and providing necessary technology for future spacecraft and earth station installations. The INTELSAT R&D program covers a range of research activities, extending from open-ended exploratory research and studies to specific fixed-time development projects aimed at providing technology for later generations of satellites. Some R&D projects which are now said to be nearing completion include: light-weight solar array; magnetic bearing momentum wheel; reconfigurable multi-beam antennas; microwave switch matrix for SS–TDMA; on-board waveform regenerators; multi-mode digital modem; nickel hydrogen battery; echo cancellers; and TDMA test bed. See INTELSAT Annual Report for 1979, page 17. New and continuing R&D projects involve (1) system related technologies which should have a direct bearing on the capacity and flexibility of future generation INTELSAT systems; (2) basic technologies which would enhance the capability and reliability of the INTELSAT system, independent of the particular system or spacecraft configuration; and (3) long-range applications aimed at systematic advancement of the state-of-the-art in specific areas. *Id* at 17.

[78] Comsat acquires ownership of inventories and technical data resulting from research and development work performed under contract with INTELSAT.

[79] See Remarks of Joseph V. Charyk Before the New York Society of Security Analysts, July 11, 1979.

[80] Id.

[81] Id.

not be permitted to burden its regulated communications services with costs properly allocable to its unregulated ventures to the detriment of users of its communications services; nor should Comsat be able to impose on the users of its communications services the risks of loss that attend ventures in unregulated areas, or sacrifice the quality or efficiency of its communications services. See *Computer Inquiry II*, 72 FCC 2d 358 (1979). In addition, Comsat may not properly consider costs of support services provided for unregulated activities in determining the rates for INTELSAT and INMARSAT communications services. This view is consistent with our general policy that the cost of providing communications services is at the heart of the statutory requirements of Sections 201 through 205 of the 1934 Communications Act for just, reasonable and nondiscriminatory rates.[82] We believe that this view is consistent with the objectives of the 1962 Satellite Act.[83]

128. In view of our statutory mandate under both the 1934 Act and the 1962 Act to ensure Comsat's accountability for rates, charges and practices for INTELSAT and INMARSAT communications services, we believe it necessary to explore in this proceeding the potential for cross-subsidization of Comsat's unregulated activities by its INTELSAT and IMARSAT services. We will also explore the potential for Comsat's unregulated services subsidizing its competitive communications services. The apparent scope of Comsat's expansion plans,[84] together with Comsat's clear intent to support its non-INTELSAT activities with the technical expertise and research and development it has established by virtue of the original statutory mandate granted to it, suggest a significant potential for cross-subsidization of various types. Absent appropriate safeguards, we believe that Comsat's customers for INTELSAT or INMARSAT services could be unfairly burdened by Comsat's ventures into areas of unregulated business activities. Such a result would be inconsistent with the intent of the 1962 Act.

(6) Safeguards To Protect the Public Interest

129. In view of the potential that exists for conflict of interest and cross-subsidization situations arising as a result of Comsat's expansion into unregulated areas, this proceeding will consider the need for statutory and regulatory safeguards to ensure that the objectives of the 1962 Act continue to be carried out and that the public interest is protected. Our on-premises review of Comsat's operations as part of the second phase of this study will serve to define further the scope of Comsat's expansion plans and identify how these plans will relate to its INTELSAT and INMARSAT functions. We believe that the comments we receive in response to this Interim Report and Notice of Inquiry will aid in our consideration of recommendations to Congress concerning measures to ensure that Comsat's INTELSAT and INMARSAT obligations and responsibilities are not compromised by its corporate interests in unregulated business activities.

130. We therefore invite comments from interested parties on the effect that Comsat's expansion into areas of unregulated business activities may have on the effective fulfillment of its INTELSAT and INMARSAT obligations and responsibilities, and whether these activities may result in the compromise of Comsat's statutory duties. Interested parties are invited to comment on both the potential conflict of interest and cross-subsidization issues we have raised and any potential problems that they may foresee. They are also invited to comment on the benefits that may accrue to the public interest from Comsat's involvement in unregulated activities. We seek views on whether Comsat should be prohibited from entering into unregulated areas as a matter of policy; and, if not, what structural or other measures should be taken to prevent conflicting corporate interests from adversely affecting Comsat's fulfillment of its statutory duties and its performance in the international and domestic telecommunications markets in which it is involved. Specifically, we request comments on whether current statutory and regulatory safeguards are adequate to protect the public interest, and/or whether new statutory or other safeguards should be imposed.

131. *Current statutory safeguards.* The 1962 Satellite Act gives the district courts of the United States power to grant, upon petition of the U.S. Attorney General, "such equitable relief as may be necessary or appropriate" to terminate any "action, practices, or policies" that Comsat may engage in which are inconsistent with the policy and purposes of the Act.[85] This provision appears to be the only remedy available in the 1962 Act if Comsat engages in a particular activity which violates the policy and purposes of the Act. Neither the Commission nor the President are authorized comparable remedial powers. The authority granted to the President generally concerns oversight of the development and operation of the global satellite system and Comsat's relationship with foreign governments and other entities (see paragraph 15). The authority granted to the Commission generally concerns traditional regulatory matters involving rates and services (see paragraph 14).[86] We therefore question whether the 1962 Act provides sufficient opportunity for expert agency review of the effect that Comsat's entry into an unregulated area may have on fulfillment of its statutory duties.

132. *Need for additional safeguards.* Assuming that Comsat has the legal capacity to enter into unregulated business activities, we believe that additional safeguards may be required to protect the public interest against any adverse effects that Comsat's unregulated activities may have on its INTELSAT and INMARSAT duties. We further believe that any new safeguards should ensure that the following

[82] See Private Linte Rate Cases, 34 F.C.C. 244 (1961); 34 F.C.C. 217, 231 (1962); In Re WADS, 35 F.C.C. 149, 153–56 (1963); In Re WATS, 37 F.C.C. 688 (1964); In Re Part 61 of the Rules, 25 F.C.C. 957, 965 (1970), 40 F.C.C. 2d 149, 154 (1973); In Re 48 kHz, 29 F.C.C. 2d 493 (1971); Hi-Lo, 55 F.C.C. 2d 224, 241 (1975), 58 F.C.C. 2d 362, 366 (1976); In Re WATS, 59 F.C.C. 2d 671, 678 (1976); 64 F.C.C. 2d 538 (1977); AT&T Private Linte Rate Cases, 61 F.C.C. 2d 587, 607 (1976); 64 F.C.C. 2d 971 (1977).

[83] See Section 401 of the Satellite Act defining Comsat as a common carrier subject to the provisions of Title II of the Communications Act.

[84] Comsat has indicated that it has "sufficient resources on hand or in sight" to consider the investment of at least $200 million in new activities including acquisitions. See Remarks of Richard S. Bodman before the New York Society of Security Analysts, July 11, 1979.

[85] Section 403 provides:

(a) If the corporation created pursuant to this Act shall engage in or adhere to any action, practices, or policies inconsistent with the policy and purposes declared in section 102 of this Act, or if the corporation or any other person shall violate any provision of the Act, or shall obstruct or interfere with any activities authorized by this Act, or shall refuse, fail, or neglect to discharge his duties and responsibilities under this Act, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, to grant such equitable relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability or sanction which may be imposed otherwise than under this Act.

(c) It shall be the duty of the corporation and all communications common carriers to comply, insofar as applicable, with all provisions of this Act and all rules and regulations promulgated thereunder.

[86] The Commission's authority to approve or disapprove any future issuance of stocks or borrowings by Comsat as yet has not been useful with respect to Comsat's expansion into unregulated areas, since no public issuance of stock or borrowings by Comsat have been involved.

objectives are achieved: (1) that Comsat's involvement in unregulated products and services markets not adversely affect its ability to carry out its INTELSAT and INMARSAT duties; (2) that such involvement not adversely affect Comsat's provision of efficient and economic common carrier services in the telecommunications market generally; (3) that the costs related to such involvement not be directly or indirectly passed on to users of common carrier services; (4) that the revenues derived from common carrier services not be used to subsidize any unregulated activities; and (5) that Comsat's involvement in unregulated products and services not inhibit free and fair competition between it and other entities involved with the same or related products and services, or otherwise result in activities contrary to the policy and prohibitions of the anti-trust laws.[87] We therefore request comments from interested parties on the imposition of changes in Comsat's corporate structure or other restrictions on Comsat's operating activities. In particular, we are concerned about the degree of separation that should be required between Comsat's regulated and unregulated activities. In commenting on this issue we urge interested parties to consider the unique nature of Comsat's INTELSAT and INMARSAT duties; the current corporate structure and decision-making process of Comsat; the effect of Comsat's current structure on the telecommunications markets in which it provides services; the potential influence that Comsat's unregulated interests may have on fulfillment of its INTELSAT and INMARSAT obligations and responsibilities; the potential influence that Comsat's unregulated interests may have on Comsat's other telecommunications services; and the apparent intent of Comsat to support its unregulated activities with its established corporate expertise and its research and development capacity.

133. We requested interested parties to comment upon whether "maximum separation" should be required between Comsat's regulated and unregulated activities.[88] Keeping in mind Comsat's unique statutory duties, comments on the following questions are solicited to determine what the specific elements of any such requirement should be: (1) should Comsat be limited to providing only INTELSAL and INMARSAT services and be required to create separate subsidiaries for its unregulated activities; (2) if so, and to the extent separate subsidiaries alreay exist for unregulated (ERT and COMSAT General Telesystems, Inc.), what degree of separation is required to prevent potential conflict of interest or cross-subsidization situations; [89] (3) should interlocking directorates or the sharing of officers and employees be permitted; (4) should subsidiaries be required to obtain their own financing; (5) should subsidiaries be required to maintain functional departments separate and distinct from Comsat; (6) on what basis should Comsat be permitted to provide support services and facilities, non-proprietary information, and equipment to the subsidiaries; (7) should an arms-length relationship be required in terms of prices and conditions for support services; (8) should each subsaidiary be required to maintain separate accounting records to fully disclose the actual costs and revenues attributable to unregulated products and services; (9) would an overall corporate cost accounting system be an adequate measure against potential cross-subsidization problems; (10) should Comsat be permitted to exchange proprietary INTELSAT or INMARSAT information (including patents) to its subsidiaries for their benefit in engaging in unregulated activities; (11) if so, should Comsat also be required to provide such information to any other member of the public (including competitors in the unregulated activity) and (12) what other restrictions, if any, should be placed on Comsat to protect the public interest? We request interested parties to comment on both the costs and benefits that would be involved in any of the foregoing questions. Also, in view of the apparent extent of support Comsat Labs provides to Comsat's non-INTERSAT and non-INMARSAT activities (see paragraphs 59, 60 and 69), we request specific comments concerning the Labs place within Comsat's corporate structure (i.e. should the Labs and other technical support activities be "spun-off" into a separate corporate subsidiary which bills INTELSAT directly for research and development work and bills Comsat and other corporate subsidiaries separately for research and development work?).

134. In considering the nature and degree of separation that may be required between Comsat's regulated and unregulated activities, we urge parties to comment on any economies or other benefits they see as resulting from Comsat's current vertically integrated structure which may benefit the public. We recognize that Comsat's current structure may allow Comsat and its subsidiaries to realize potentially significant savings through the sharing of personnel, officers, advertising and publicity, physical space, research and development, procurement, technical expertise and other corporate activities. We also recognize that such savings could benefit the public by being passed on to ratepayers. Consequently, any real or potential detriments that we find resulting from Comsat's current structure will be weighed against any real or potential economies flowing to the ratepayer, or other public benefit, as a result of that structure. Such comparison will aid us in our consideration of the need for additional safeguards.

Procedural Schedule

135. We will permit ample time for filing comments and replies in this proceeding. However, in view of the requirement of the International Maritime Satellite Telecommunications Act that we submit our report to Congress no later than May 1, 1980, we will strictly adhere to the procedural guidelines established in this Interim Report and Notice of Inquiry. Extensions of time for filing comments and reply comments will not be granted, except in extraordinary situations upon a showing of good cause as outlined in the Public Notice (No. 6963) of September 5, 1978. We instruct the Chief, Common Carrier Bureau to supplement the record by obtaining information necessary for the conduct of this proceeding and preparation of a report to Congress. We expect full cooperation from Commission licensees in providing any information, completely and expeditiously, that may be so requested.

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[87] *See* Computer Inquiry, 72 FCC 2d 358, at 419–420 (1979).

[88] The basic principle of "maximum separation" calls for the establishment of separate corporate entities in order to segregate communications services from other operations of a common carrier. The major reason for the general requirement of a separate corporate entity is to guard against the potential for the new subsidiary to engage in unfair competitive practices and cross-subsidization situations. *See* GTE-Telenet Merger, 72 FCC 2d 111 (1979); Computer Inquiry II, 72 FCC 2d 358 (1979). The Commission has applied the principle of "maximum separation" on numerous instances. Computer Inquiry I, 28 FCC 2d 267 (1971); Domestic Satellite Proceeding, 35 FCC 2d 844 (1972); U.S. Transmission Systems, Inc., 48 FCC 2d 859 (1974); ITT Domestic Transmissions, Inc., 62 FCC 2d 236 (1976); Communications Satellite Corporation, 45 FCC 2d 444 (1974); CML Satellite Corporation, 51 FCC 2d 14 (1975); RCA Global Communications, 56 FCC 2d 660 (1975); and Satellite Business Systems, et al, 62 FCC 2d 997 (1977).

[89] We are requesting views on the extent to which each subsidiary should provide for itself or rely on Comsat for the following functions: "a. accounting and auditing, b. advertising and other forms of product, service, and firm promotions, c. customer relations, d. legal, e. marketing and sales, f. research and development, g. technical engineering, including sales engineering, h. operations, i. personnel rescruitment and management, j. maintenance."

136. Accordingly, *It is ordered,* That, pursuant to sections 4(i), 4(j) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 403 (1971), section 505 of the Communications Salellite Act of 1962, as amended, 47 U.S.C. 754 (1978), and section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b) (1970), an inquiry into the above-captioned matter is instituted.

137. *It is further ordered,* That, interested parties may file comments on matters raised herein on or before November 30, 1979, and reply comments on or before December 21, 1979.

138. *It is further ordered,* That, in accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, N.W., Washington, D.C.

139. *It is further ordered,* That the instant Interim Report and Notice of Inquiry shall be transmitted to Congress as part of Commission compliance with Section 505 of the International Maritime Satellite Telecommunications Act.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-33533 Filed 10-29-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan Advisory Council; Meeting

Pursuant to Section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, November 19; Tuesday, November 20; and Wednesday, November 21, 1979. The meeting will commence at 9:00 a.m. on November 19, 20 and 21 at the Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC in the Sixth Floor Board Room.

Monday, November 19

9:00 a.m. General Discussion
- Effect of New Savings Instruments
- Title Examinations and Insurance
- Accounting for Lot Sale Profits
- Progress of Minority Association Development Programs
- Fidelity Bond Coverage by FSLIC

1:00 p.m. Asset based Net Worth Requirements, Inconsistencies in Reserve Provisions and Insurance Assessments
- Funds Acquisition
- Expanded Insurance Accounts
- Rollover Mortgages with Appropriate Consumer Safeguards
- Truth in Lending Restitution Guidelines
- Taxation of Savers and Thrift Industry
- District Bank Stock Requirements and Valuations

1:00 p.m. Credit Card Authority
- FHLBB Policy on Energy Related Problems

Tuesday, November 20

9:00 a.m. Continued discussion of Monday Afternoon Topics

1:00 p.m. General Discussion

Wednesday, November 21

9:00 a.m. General Discussion

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

Jay Janis,

Chairman.

[FR Doc. 79-33498 Filed 10-29-79; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreeement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 19, 1979. comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 10159-8.

Filing Party: Dominick H. Manfredi, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Summary: Agreement No. 10159-8 modifies the basic agreement of the American West African Freight Conference to extend the duration of the agreement through December 31, 1983.

Agreement No. 10378.

Filing Party: William H. Fort, Esq., Kominers, Fort, Schlefer & Boyer, 1776 F Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 10378, between Trailer Marine Transport Corporation (TMT) and Naviera Central, C.A. (Naviera), provides that TMT shall act as general agents for Naviera in the United States, Puerto Rico, the Dominican Republic, the Virgin Islands, Martinique, Guadaloupe, Barbados, and Trinidad in connection with the latter's service between Venezuela and the U.S. East Coast and Puerto Rico.

Dated: October 25, 1979.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-33510 Filed 10-29-79; 8:45 am]

BILLING CODE 6730-01-M

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 9, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

AGREEMENT NO.: LM–27–B.

FILING PARTY: J. Alton Boyer, Esq., Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006.

SUMMARY: Agreement No. LM–27–B constitutes the Articles of Incorporation of the Tampa Maritime Association, Inc. (Association), a non-profit association established to promote maritime interests in the Port of Tampa, Florida, to further the common interests of its members, to render assistance to the membership in the solution of their maritime problems, to promote and maintain good relationship between management and labor, to foster just and equitable principals and practices among those engaged in the maritime trade, to cooperate with public officials, other organizations and associations, who through the exercise of their authority or the conduct of their activities, govern, regulate, or promote any of the affairs of the Port, all directed to the betterment, expansion, development, and prosperity of the Port of Tampa, and all other purposes not contrary to the laws of Florida and the United States. The Association has two classes of membership, regular and associate members. Any business entity, firm, or corporation engaged actively in the maritime trade of the Port of Tampa as a stevedoring company, terminal operator, or steamship agent may apply for membership as a regular member. Any business entity, firm, or corporation not eligible for regular membership but which is actively engaged in the maritime trade in the Port of Tampa may apply for associate membership.

By Order of the Federal Maritime Commission.

Dated: October 25, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79–33509 Filed 10–29–79; 8:45 am]

BILLING CODE 6730–01–M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 24, 1979. 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 receipt.

The notice includes the title of the request received; the name of teh 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 ICC request 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 request, comments (in triplicate) must be received on or before November 19, 1979, 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, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Interstate Commerce Commission

The ICC requests an extension without change clearance of Annual Report Form W–1, required to be filed by 79 Class A and B water carriers on inland and coastal waterways, pursuant to Section 313, Part 3 of the Interstate Commerce Act. Data collected by Form W–1 are used for economic regulatory purposes. The ICC states that reporting requirements will remain the same and that reports are mandatory and available for use by the public. The ICC estimates that reporting burden for carriers averages 113 hours per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79–33588 Filed 10–29–79; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, November 16, 1979, from 9:00 a.m. to 3:00 p.m., Room 1033, GSA Center, 15th and C Streets SW., Auburn, WA. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for improvements and conversion of the U.S. Courthouse (New), Broadway and Main, Portland, OR. The meeting will be open to the public.

R. D. Casad,

Regional Administrator.

[FR Doc. 79–33584 Filed 10–29–79; 8:45 am]

BILLING CODE 6820–23–M

National Capital Region

Lease Acquisition of 1,000,000 Occupiable Square Feet of Office Space in Washington, D.C.; Intent To Prepare an Environmental Impact Statement

The General Services Administration, National Capital Region intends to prepare an Environmental Impact Statement on a proposal to acquire by lease 1,000,000 square feet of office space in Washington, D.C.

The Action and Possible Alternatives

The General Services Administration, National Capital Region is preparing a prospectus for submission through the Office of Management and Budget to the Senate Committee on Environmental and Public Works and the House Committee on Public Works and Transportation requesting approval under the Public Buildings Act of 1959, as amended, to acquire by lease 1,000,000 square feet of office space in Washington, D.C. Based on a review of the space available in the commercial market, the Environmental Impact Statement will assume that this action will result in the construction of 1,000,000 square feet of space.

Alternatives include: No action; expanding or contracting the delineated area; locations outside the National Capital Region; and different funding methods.

Because GSA will solicit competitive bids for the space, the EIS will be non-site specific and instead will discuss the potential impacts within a delineated area.

The Scoping Process

The scoping process for this EIS consists of a request for Federal, regional and local agencies to assist GSA in identifying the appropriate scope of this EIS. The agencies contacted will be those normally consulted with, under the Intergovernmental Cooperation Act and OMB Circular A–95 procedures. Other organizations concerned with development and environmental issues in Washington, D.C., will also be asked to identify the appropriate scope of this EIS. A scoping meeting will not be held.

Agency Contact

Suggestions on the scope of this EIS are welcome. The suggestions and questions should be directed to: Thurlow Tibbs or Jerry R. Shiplett, Planning Staff (WASP), National Capital Region, General Services Administration, 7th and D Streets, SW., Washington, DC 20407. Telephone (202) 472-1334.

Walter V. Kallaur,
Regional Administrator, National Capital Region.
October 16, 1979.
[FR Doc. 79-33581 Filed 10-29-79; 8:45 am]
BILLING CODE 6820-30-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No.79N-0269]

GRAS Safety Review of Iron and Iron Salts; Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that a public hearing will be held for the following food ingredients: reduced iron, electrolytic iron, carbonyl iron, ferric citrate, ferric phospate, ferric pyrophosphate, ferrous, fumarate, ferrous, carbonate, ferrous ascorbate, ferrous citrate, ferrous gluconate, ferrous lactate, ferric ammonium citrate, iron peptonate, iron polyvinyl pyrrolidone, sodium ferric EDTA, sodium ferricitropyrophosphate, and sodium ferric pyrophosphate for direct food use: elemental iron, ferric chloride, ferric sulfate, iron caprylate, iron linoleate, iron tallate, and oxides of iron for use in paper and paperboard products; and iron naphthenate for use as a drier in tin can coatings so that data, information, and views can be presented orally to determine if these iron sources are generally recognized as safe (GRAS) or subject to prior sanction.

DATE: The Hearing will be held at 10:45 a.m. on November 19, 1979.

ADDRESS: The hearing will be held in the Barn meeting room, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750, or

F. R. Senti, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, 301-530-7030.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 28, 1979 (44 FR 50414), the Food and Drug Administration issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at a public hearing to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee) concerning the safety of iron and iron salts as food ingredients and the Select Committee's tentative determination of whether or not they are GRAS or subject to prior sanction.

The Select Committee received requests from the following companies, organizations, and individuals asking for an opportunity to appear at a public hearing on iron and iron salts to make oral presentations:

1. Mead Johnson and Co., 2404 Pennsylvania Street, Evansville, IN 47721.

2. M. A. Krikker, M.D., 164 Colonial Avenue, Albany, NY 12208.

3. National Nutritional Foods Association, 7727 South Painter Avenue, Whittier, CA 90602.

A request was received from W. A. Crosby, M.D., Scripps Clinic Medical Group, Inc., 10666 North Torrey Pines Road, La Jolla, CA 92037, for the opportunity to make an oral presentation. This request was later withdrawn in favor of submission of a written statement.

A letter was received from Pfizer, Inc., 235 East 42d Street, New York, NY 10017, stating its intention to submit written comments in lieu of an oral presentation.

No other requests for a hearing on iron and iron salts were received.

In accordance with the procedures set forth in the August 28, 1979 **Federal Register** notice, the agency announces that a hearing on iron and iron salts will be held at 10:45 a.m., on November 19, 1979, at the Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. Those persons who have requested an opportunity to make oral presentations will be expected to complete their presentations within the period indicated and in accordance with the following schedule:

November 19, 1979, 10:45 a.m. to 12:15 p.m.

1. H. P. Sarett, Ph.D., Mead Johnson and Co., Evansville, IN, 20 minutes.

2. M. A. Krikker, M.D., Albany, NY., 30 minutes.

3. R. Ullman, Attorney for National Nutritional Foods Association, Whittier, CA, 10 minutes.

Dated: October 23, 1979.

William F. Randolph,
Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 79-33165 Filed 10-29-79; 8:45 am]
BILLING CODE 4110-03-M

[Docket No. 79N-0322]

GRAS Safety Review of Vitamin A, Vitamin A Acetate, and Vitamin A Palmitate; Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is announcing that a public hearing will be held for the following food ingredients: vitamin A, vitamin A acetate, and vitamin A palmitate for direct food use so that data, information, and views can be presented orally to determine whether they are generally recognized as safe (GRAS) or subject to prior sanction.

DATE: The hearing will be held at 8:30 a.m. on November 19, 1979.

ADDRESS: The hearing will be held in the Barn meeting room, Federation of American Societies for Experimental Biology, 9650, Rockville Pike, Bethesda, MD 20014.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug A ' inistration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750, or

F. R. Senti, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014, 301-530-7030.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 28, 1979 (44 FR 50412), the Food and Drug Administration issued a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at a public hearing to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (the Select Committee) concerning the safety of vitamin A, vitamin A acetate, and vitamin A palmitate as food ingredients and the Select Committee's tentative determination of whether or not they are GRAS or subject to prior sanction.

The Select Committee received requests from the following companies, institutions, and organizations asking for an opportunity to appear at a public

hearing on vitamin A, vitamin A acetate, and vitamin A palmitate to make oral presentation:

1. Hoffmann-LaRoche, Inc., Nutley, NJ 07110.

2. Council for Responsible Nutrition, 1707 N Street NW., Washington, DC 20006.

3. National Nutritional Foods Association, 7727 S. Painter Avenue, Whittier, CA 90602.

No other requests for a hearing on vitamin A, vitamin A acetate, and vitamin A palmitate were received.

In accordance with the procedures set forth in the August 28, 1979 **Federal Register** notice, the agency announces that a hearing on vitamin A, vitamin A acetate, and vitamin A palmitate will be held at 8:30 a.m. on November 19, 1979, at the Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MA 20014. Those persons who have requested an opportunity to make oral presentations will be expected to complete their presentations within the period indicated and in accordance with the following schedule:

November 19, 1979, 8:30 a.m. to 10:30 a.m.

1. M. Brin, Ph. D., Hoffmann-LaRoche, Nutley, NJ, 45 minutes.

2. B. Coleman, Executive Director, Council for Responsible Nutrition, Washington, DC, 30 minutes.

3. R. Ullman, Attorney for National Nutritional Foods Association, Whittier, CA, 30 minutes.

Dated: October 23, 1979.

William F. Randolph,

Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 79-33166 Filed 10-29-79; 8:45 am]

BILLING CODE 4110-03-M

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation; Statement of Organization, Functions and Delegations of Authority

This notice amends Part A of the statement of organization, functions and delegations of authority of the Department of Health, Education, and Welfare, Office of the Secretary by modifying certain parts of Chapter AE "Office of the Assistant Secretary for Planning and Evaluation" (41 FR 47275, dated 10-28-76).

These proposed changes separate medium and long-range research and evaluation activities from short term policy analysis, and place a newly established cost estimating team into the organizational structure of the Office of Planning and Evaluation/Health.

This notice effects the following changes:

(1) It changes the name of the Division of Health Financing and Cost Analysis to the Division of Health Care Financing Policy Analysis.

(2) It changes the name of the Division of Health Evaluation and Prevention Programs to the Division of Health Program Evaluation.

(3) It changes the name of the Division of Health Resources and Services to the Division of Health Resources and Services Analysis.

(4) It establishes a new Division of Economic Analysis, Policy Research and Cost Estimation and includes the cost estimating team in the new division.

The revised section AE.20.B reads as follows:

B. The Office of Planning and Evaluation/Health is the principal office within the Office of the Assistant Secretary which directly interfaces with the Department's health agencies to coordinate the health related issues of the planning, policy analysis and legislative formulation process and which conducts research, analyses and evaluation activities in the health area.

1. The Division of Health Care Financing Policy Analysis performs quantitative studies, evaluations and policy analyses of the Department's health financing programs, primarily Medicare and Medicaid. Functions include: formulating and analyzing alternative legislative and regulatory proposals; preparing quantitative short term policy analyses and evaluations on the efficacy of existing and potential programs in terms of cost, effectiveness and other variables; and synthesizing technical analyses performed outside of the Government in a manner that is relevant to policy formulation. The Division is responsible for overseeing, within the Department, the development of the Administration's policies and proposals for National Health Insurance, Hospital Cost Containment and other legislative health initiatives.

2. The Division of Health Program Evaluation is responsible for: assurance of the development and execution of an effective program to assess the performance of the Department's health activities; review of proposed health regulations for concurrence and for compatibility with other programs and legislation; analysis and review of the annual budget and legislative packages developed by the Health Care Financing Administration and the Public Health Service; and assessment of the adequacy, appropriateness and efficiency of health promotion and prevention programs. Evaluation functions include: identifying policy issues relevant to current program experiences; conducting, sponsoring and/or reviewing analysis of these policy issues; and coordinating preparation of the annual Health Evaluation Plan of the Department. In addition to the above regulatory review functions, the Division is responsible for the development of preliminary specifications for legislative initiatives for which the Office has primary responsibility, in coordination with the General Counsel. In its budget and legislative analysis and review functions, the Division has primary responsibility for coordination and synthesis of the Department's annual package of legislative proposals.

3. The Division of Health Resources and Services Analysis is responsible for assessing the adequacy, appropriateness and efficiency of health resources in meeting the real demands for health care services. This responsibility entails the monitoring, review, evaluation, planning and development of the Department's health resources and services programs. Specific responsibilities include: preparation of studies on the distribution and adequacy of health resoruces and services, and the effects of these resources and services on costs, access to care and health status; formulation and analysis of alternative legislative and regulatory proposals; performance of research and evaluation studies of health resources and services, both in-house and through contracts; and synthesis of these studies into special initiatives and new legislation.

4. The Division of Economic Analysis, Policy Research and Cost Estimation has responsibility for: the performance of economic analyses of the Department's existing and proposed health care financing and reimbursement programs, policies and proposed legislation; performance of in-house medium range (one to six month) economic research and analysis, as well as development, coordination and monitoring of health research and evaluation contracts in the areas of financing and reimbursement; and the estimation and analysis of the costs of existing and proposed Departmental health programs for use in the development of health policy. This last function requires the development and maintenance of sophisticated models of the health care system by a team of economists and mathematical statisticians.

Dated: October 24, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-33580 Filed 10-29-79; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

Health Information and Health Promotion; Delegations of Authority

Notice is hereby given that, pursuant to the authority delegated by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health on September 28, 1979, the Assistant Secretary for Health has made the following delegations of authority regarding the Health Information and Health Promotion Program under Title XVII of the Public Health Service Act, as amended (42 U.S.C. 300u *et seq.*):

1. Delegation to the Deputy Assistant Secretary for Health (Disease Prevention and Health, Promotion), Office of the Assistant Secretary for Health, with authority to redelegate, of the authorities which were delegated to the Assistant Secretary for Health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the Office of Disease Prevention and Health Promotion. The delegation includes, but is not limited to, the authorities under:

(a) Section 1701(a) (1) and (2) for assisting in the formulation of national goals, and a strategy to achieve such goals, and in analyzing the necessary and available resources for implementing those goals and strategy;

(b) Section 1702(b) for considering the findings of surveys for the purpose of assisting in the formulation of policy respecting health information and health promotion, preventive health services, and education in the appropriate use of health care; and

(c) Section 1705(a) for preparing the required report, upon the basis of material developed by those organizations within the Public Health Service which have authority to carry out functions under Title XVII of the Public Health Service Act.

2. Delegation to the Deputy Assistant Secretary for Health Research, Statistics, and Technology, Office of the Assistant Secretary for Health, with authority to redelegate, of the authorities which were delegated to the Assistant Secretary for Health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the Office of Health Research, Statistics, and Technology. The delegation includes, but is not limited to, the authorities under Section 1702(a) (1), (4), (5), and (6); Section 1703(a) (1), (2), and (4); Section 1703(b); Section 1704 (1), (2), (4), (5), and (6); and Section 1705(b).

3. Delegation to the Director, Office on Smoking and Health, Office of the Assistant Secretary for Health, without authority to redelegate, of the authorities which were delegated to The Assistant Secretary for Health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the Office on Smoking and Health. The delegation includes, but is not limited to, the authorities under Section 1702(a)(3); Section 1703(a) (1), (2), (3), and (4); Section 1703(c); and Section 1704 (1), (2), and (6).

4. Delegation to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, with authority to redelegate, of the authorities delegated to the Assistant Secretary for health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the Alcohol, Drug Abuse, and Mental Health Administration. The delegation includes, but is not limited to, the authorities under Section 1702(a) (1) and (3); Section 1703(a) (1,) (2), (3)(A), and (4); and Section 1704 (1), (2), and (6).

5. Delegation to the Director, Center for Disease Control, with authority to redelegate, of the authorities delegated to the Assistant Secretary for Health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to the functions assigned to the Center for Disease Control. The delegation includes, but is not limited to, the authorities under Section 1702(a) (2), (3), (4) (A) and (C); Section 1703(a) (1), (2), (3), and (4); Section 1703(c); Section 1740 (1), (2), (3), and (6).

6. Delegation to the Commissioner of Food and Drugs, with authority to redelegate, of the authorities delegated to the Assistant Secretary for health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the Food and Drug Administration. The delegation includes, but is not limited to, the authorities under Section 1702(a) (1) and (3); and Section 1704 (1), (2), and (6).

7. Delegation to the Administrator, Health Resources Administration, with authority to redelegate, of the authorities delegated to the Assistant Secretary for Health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the health Resources Administration. The delegation includes, but is not limited to, the authorities under Section 1703(a)(3); and Section 1704 (1), (2), and (6).

8. Delegation to the Administrator, Health Services Administration, with authority to redelegate, of the authorities delegated to the Assistant Secretary for Health under Title XVII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the Health Services Administration. The delegation includes, but is not limited to, the authorities under Section 1703(a) (1), (2), and (4); and Section 1704 (1), (2), and (6).

9. Delegation to the Director, National Institutes of health, with authority to redelegate, of the authorities delegated to the Assistant Secretary for health under Title VXII of the Public Health Service Act, as amended, insofar as the authorities pertain to functions assigned to the National Institutes of Health. The delegation includes, but is not limited to, the authorities under Section 1702(a) (1) and (3); Section 1703(a) (1), (2), (3)(A), and (4); and Section 1704 (1), (2), and (6).

The above delegations became effective September 28, 1979.

Dated: September 28, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-33505 Filed 10-29-79; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 12164]

Oregon; Order Providing for Opening of Public Land

1. By order dated March 6, 1975, the Federal Energy Regulatory Commission vacated the land withdrawals in their entirety for Power Project No. 683 of December 12, 1925, and Proposed Power Project No. 942 of December 1, 1928, as to the following described land:

Willamette Meridian, Oregon

Malheur National Forest

T. 14 S., R. 34 E.,
Sec. 19, SE¼SE¼.,
Sec. 20, N½SW¼ and SW¼SW¼;
Sec. 29, NW¼NW¼;
Sec. 30, N½NE¼, SW¼NE¼, SE¼NW¼, SE¼SW¼, and W½SE¼;
Sec. 31, Lots 2, 3, and 4, NW¼NE¼, and E½NW¼.

The area described contains 729.13 acres in Grant County.

2. The SW¼SW¼SE¼ of Sec. 30, and NW¼NW¼NE¼ of Sec. 31, are withdrawn for a Forest Service recreation area by PLO 2974 of March

18, 1963, and are segregated from appropriation under the United States mining laws.

3. Lots 3 and 4 of Sec. 31, are withdrawn for wilderness purposes by the Act of September 3, 1964 (Public Law 88–577), and remain segregated from all forms of appropriation under the public land laws.

4. Under the authority delegated by Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, it is ordered that at 10:00 a.m. on November 28, 1979, the land described in paragraph 1 (except as provided in paragraphs 2 and 3 hereof) shall be open to such forms of appropriation as may be made of National forest lands, including the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

5. The land described in paragraph 1 has been and remains open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addresed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 23, 1979.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-33327 Filed 10-29-79; 8:45 am]

BILLING CODE 4310-84-M

Utah; Announcement of Initial Wilderness Inventory Decisions on Units Protested

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces that on October 4, 1979, a **Federal Register** notice was published indicating that the final decision on the initial inventory within the State of Utah became effective, except for the following units on which formal protests were filed: UT–040–076, 077, 078, 079, 223, 245, 246, 247, 248, 254, 041B, 041C, UT–060–164, 178, and 179.

The final decision on the above units is now in effect as follows: Units UT–040–041C, UT–060–178 and 179 have been dropped from further wilderness review and the restrictions imposed by section 603 of the Federal Land Policy and Management Act are no longer in effect.

The original decision on Unit UT–060–164 was to drop the entire unit, but based on the protest and information submitted, 7,300 acres of the unit will be intensively inventoried.

Units UT–040–076, 077, 078, 079, 223, 245, 246, 247, 248, 252, and 041B will be intensively inventoried.

Any person adversely affected by the decision on the above units may appeal the decision by following normal administrative procedures applicable to formal appeals to the Interior Board of Land Appeals which are published in 43 CFR Part 4.

FOR FURTHER INFORMATION CONTACT: Kent Biddulph, Utah BLM State office, 801–524–5316.

Dated: October 22, 1979.

Gary J. Wicks,

State Director.

[FR Doc. 79-33506 Filed 10-29-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

[INT-FES 79-55]

Municipal and Industrial System Bonneville Unit, Central Utah Project; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed water development plan that would provide municipal and industrial water to Salt Lake County and northern Utah County in northcentral Utah and, secondarily, supply supplemental irrigation water, generate hydroelectric power, provide flood control, and improve recreation opportunities.

Copies are available for inspection at the following locations:

Department of the Interior, Office of Communications, Room 7220, Washington, DC 20240, Telephone: (202) 343–9247.

Department of the Interior, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991.

Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone: (303) 234–3006.

Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, Telephone: (801) 524–5404.

Central Utah Projects Office, Bureau of Reclamation, P.O. Box 1338, Provo, Utah 84601.

Single copies of the statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: October 25, 1979.

James Rathlesberger,

Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 79-33590 Filed 10-29-79; 8:45 am]

BILLING CODE 4310-09-M

Fish and Wildlife Service

Migratory Bird Hunting and Conservation Stamp Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of judging

SUMMARY: The Service hereby announces the date and location of the Migratory Bird Hunting and Conservation Stamp Contest to select the design for the 1980-81 Migratory Bird Hunting and Conservation Stamp. This event will be open to the public.

DATES: The contest will be conducted on November 8, 1979. The display of entries will begin at 9:00 a.m. on that date.

ADDRESS: The contest will take place in the Main Auditorium, Department of the Interior, 18th and C Streets, NW, Washington, DC, 20240.

FOR FURTHER INFORMATION CONTACT: Bob Hines, Chief, Office of Audio-Visual, U.S. Fish and Wildlife Service, Washington, DC, 20240 (202) 343–8770.

SUPPLEMENTARY INFORMATION: The Migratory Bird Hunting and Conservation Stamp is authorized and required by the Migratory Bird Hunting Stamp Act of 1934, as amended (16 U.S.C. § 718a). Annually, the stamp design for the coming hunting season is selected for the Service from entries submitted in this contest, the only such art contest sponsored by the Federal Government. The rules for the contest are found at 50 CFR Part 91. The stamps, commonly referred to as "Duck Stamps", are required to be carried by each migratory waterfowl hunter sixteen years of age or older. They are sold through post offices and certain wildlife refuges. All revenues from the sale of these stamps, less printing and handling costs, are used for the acquisition of refuge land for migratory birds. The primary author of this document is Bob Hines.

Robert S. Cook,

Acting Director, U.S. Fish & Fish and Wildlife Service.

October 22, 1979.

[FR Doc. 79-33534 Filed 10-29-79; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 19, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by November 9, 1979

Carol Shull,

Acting Chief, Registration Branch.

ALASKA

Haines Division

Haines, *Government Indian School,* 1st St.

Seward Division

Seward, *St. Peter's Episcopal Church,* 2nd Ave. and Adams St.

CALIFORNIA

Kern County

South Lake Vicinity, *Long Canyon Village Site.*

DELAWARE

New Castle County

Mt. Cuba, *Mt. Cuba Historic District,* SR 261 and DE 82

Yorklyn, *Garrett Snuff Mills Historic District,* DE 82 and Yorklyn Rd.

Yorklyn, vicinity, *Auburn Mills Historic District,* W. of Yorklyn on DE 82 and DE 253

Yorklyn vicinity, *Graves Mill Historic District,* E. of Yorklyn on Way Rd.

Sussex County

Dagsboro, *Dagworthy, Gen. John, Mansion Site,* Off *DE 26*

Lewes vicinity, *Fisher Homestead,* W of Lewes

GEORGIA

Bibb County

Macon, *Railroad Overpass at Ocmulgee,* Ocmulgee National Monument

Fulton County

Atlanta, *Brookwood Hills Historic District,* Off U.S. 19 and GA 9

Gwinnett County

Dacula vicinity, *Winn, Elisha, House,* N of Dacula at 908 Dacula Rd.

Mitchell County

Camilla, *McRee, James Price, House,* 181 E. Broad St.

Talbot County

Talbotton, *Weeks-Kimbrough House,* Washington Ave.

GUAM

Yona vicinity, *Light Model Tank No. 95,* SW of Yona on Cross Island Rd.

IOWA

Cerro Gordo County

Mason City, *Rock Crest-Rock Glen Historic District,* Off U.S. 18

Jackson County

Maquoketa vicinity, *Hurstville Historic District,* N of Maquoketa on U.S. 61

Acadia Parish

Crowley, *Colorado Southern Railroad Depot,* N. Ave. G and E. Front St.

Avoyelles Parish

Evergreen vicinity, *Oakwold Plantation House,* W of Evergreen off LA 29

Calcasieu Parish

Lake Charles, *Waters Pierce Oil Company Stable Building,* 1019 Lakeshore Dr.

East Baton Rouge Parish

Baton Rouge, *Florence Coffee House,* 130 Main St.

Baton Rouge, *French House, The,* Louisiana State University campus

East Carroll Parish

Lake Providence, *Fischer House,* 15 Lake St.

East Feliciana Parish

Jackson vicinity, *Center Building of East Louisiana State Hospital,* E of Jackson on LA 10

Jackson vicinity, *Thompson House,* E of Jackson

Pointe Coupee Parish

New Roads vicinity, *Bonnie Glen,* SW of New Roads on LA 1

Rapides Parish

McNutt vicinity, *Bayouside,* of McNutt off LA 121

St. James Parish

Convent vicinity, *Colomb House,* NW of Convent on River Rd.

St. Landry Parish

Grand Coteau, *Grand Coteau Historic District,* LA 93

St. Tammany Parish

Manderville, *Morel-Nott House,* Lakefront Dr.

Terrebonne Parish

Houma vicinity, *Orange Grove Plantation House,* W of Houma on U.S. 90

Washington Parish

Bogalusa, *Bogalusa Railroad Station,* 400 Austin St.

West Feliciana Parish

Weyanoke vicinity, *St. Mary's Episcopal Church,* NW of Weyanoke on LA 66

MICHIGAN

Wayne County

Detroit, *First Presbyterian Church,* 2930 Woodward Ave.

Detroit, *Kresge, S. S., World Headquarters,* 2727 2nd Ave.

MISSISSIPPI

Adams County

Natchez, *Ailes, William, House,* 657 S. Canal St.

Natchez, *Dooley Place (Mulvihill House)* 111 Winchester Rd.

Natchez, *Weymouth Hall,* 1 Cemetery Rd.

Natchez vicinity, *Montpellier,* SE of Natchez on MS 551

Holmes County

Pickens, *Tye House,* 2440 N. 1st St.

Jefferson County

Church Hill vicinity, *Pecan Grove,* N of Church Hill off MS 551

Lincoln County

Brookhaven, *Guess, Sarah Love, House,* 216 Justice St.

Montgomery County

Winona, *Wisteria Hotel,* Central Ave.

MONTANA

Silver Bow County

Butte, *U.S. Post Office,* 400 N. Main St.

NEVADA

Washoe County

Steamboat vicinity, *Alamo Ranchouse,* SW of Steamboat at 20205 S. Virginia St.

NEW HAMPSHIRE

Cheshire County

Richmond, *Richmond Town Hall,* NH 32

Hillsborough County

Manchester, *Currier Gallery of Art,* 192 Orange St.

Merrimack County

Newbury, *Center Meetinghouse,* NH 103

NEW JERSEY

Hudson County

Weehawken, *Hackensack Water Company Complex,* 4100 Park Ave.

NEW MEXICO

Taos County

Taos, *Fechin, Nicholai, House,* NM 3

NEW YORK

STONE HOUSES OF BROWNVILLE THEMATIC RESOURCES. Reference—see individual listings under Jefferson County.

Jefferson County

Brownville, *Archer, William, House, (Stone Houses of Brownville Thematic Recources)* 112 Washington St.

Brownville, *Brown, Gen. Jacob, Mansion (Stone Houses of Brownville Thematic Resources)* Brown Blvd.

Brownville, *Brownville Hotel (Stone Houses of Brownville Thematic Resources)* Brown Blvd. and W. Main St.
Brownville, *Vogt House (Stone Houses of Brownville Thematic Resources)* 110 Main St.
Brownville, *Walrath, Arthur, House (Stone Houses of Brownville Thematic Resources)* 114 Corner Pike

New York County

New York, *Alwyn Court Apartments*, 180 W. 58th St.

NORTH CAROLINA

Catawba County

Hickory vicinity, *Yoder's Mills Historic District*

Hoke County

Edinburgh vicinity, *Mill Prong*

Randolph County

Asheboro vicinity, *Mount Shepherd Pottery Site*, 8 mi. NW of Asheboro

OKLAHOMA

Comanche County

Lawton, *First Presbyterian Church of Lawton*, 8th St. and D Ave.

Payne County

Stillwater vicinity, *Cottonwood Community Center*, NW of Stillwater

Pushmataha County

Clayton vicinity, *Tuskahoma Female Institute Site*, N of Clayton off OK 2

OREGON

Linn County

Brownsville vicinity, *Brown, Hugh Leeper, Barn*, SE of Brownsville on OR 228

PENNSYLVANIA

Lackawanna County

Scranton, *Delaware, Lackawanna and Western Railroad Station*, Lackawanna and Jefferson Aves. (boundary increase)

TENNESSEE

Greene County

Chuckey, *Chuckey Depot*, SR 2391

Knox County

Knoxville, *Talahi Improvements*, Off U.S. 129

Shelby County

Memphis, *Boyce-Gregg House*, 317 S. Highland St.
Memphis, *Bradford-Maydwell House*, 648 Poplar Ave.

WASHINGTON

King County

Renton vicinity, *Pacific Coast Company House No. 75*, N of Renton at 7210 138th St. SE.
Seattle, *Thompson, Will H., House*, 3119 S. Day St.
Seattle, *U.S. Marine Hospital*, 1131 14th Ave. S.
Tukwila, *Tukwila School*, 14475 59th Ave. South

Pacific County

Knappton vicinity, *Columbia River Quarantine Station*, SW of Knappton on WA 401
Raymond, *Raymond Public Library*, 507 Duryea St.

Pierce County

Tacoma, *Bowes Building (Tacoma Savings and Loan Building)* 100 S. 9th St.

[FR Doc. 79-32977 Filed 10-29-79; 8:45 am]
BILLING CODE 4310-03-M

National Park Service

Availability of Assessment of Alternatives for Proposed General Management Plan and Wilderness Suitability Analysis; Congaree Swamp National Monument; South Carolina

An Assessment of Alternatives considering alternatives formulated for the general management of Congaree Swamp National Monument and for Wilderness suitability/non-suitability is available for inspection at the Southeast Regional Office of the National Park Service, 75 Spring Street, Atlanta, Georgia 30303, or the Office of the Project Manager, Congaree Swamp National Monument, P.O. Box 11938, Columbia, South Carolina 29211.

In addition to the alternatives, the assessment considers the nature of the resource, impacts of the various alternatives, mitigating measures to soften the effects of an alternative on the human environment and adverse effects that cannot be avoided should an alternative be implemented.

Public comments on the assessment and its alternatives are solicited and will be received at the offices listed above until December 31, 1979.

Dated: October 19, 1979.

Neal G. Guse,

Regional Director, Southeast Region.

[FR Doc. 79-33589 Filed 10-29-79; 8:45 am]
BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Grants for Training, Education, and Related Assistance Capabilities; Extension of Application Submission Deadline

In the August 10, 1979, **Federal Register** (FR Docket Number 79-24733, 44 FR 47176), the Occupational Safety and Health Administration announced the availability of $2.3 million for grants to develop institutional competence in nonprofit organizations for providing training, education, and related assistance to employees and employers. This announcement briefly described the scope and objectives of the grant program, and provided information on application procedures. The deadline for submission of applications was described as October 29, 1979. That deadline has been extended until 6 p.m., December 3, 1979.

Organizations or institutions that meet the eligibility requirements as described in the August 10, 1979 **Federal Register** notice and that are interested in conducting project activities as described therein, may request a grant application package from: Office of Training and Education, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 523-7266. Applications are to be mailed to that Office. Applications should not be submitted without first obtaining the detailed application package.

Any organization desiring to revise an application submitted by 6 p.m., October 29, may request to have that application returned. Revised applications will be accepted until the December 3, 1979 deadline.

Signed at Washington, D.C., this 26th day of October, 1979.

Eula Bingham,

Assistant Secretary, Occupational Safety and Health.

[FR Doc. 79-33711 Filed 10-29-79; 8:45 am]
BILLING CODE 4510-26-M

Federal Contract Compliance Programs

Reinstatement of Uniroyal, Inc., as an Eligible Bidder on Government Contracts and Subcontracts

On June 28, 1979, the Secretary of Labor issued a Decision and Administrative Order which ordered that:

Uniroyal's present Government contracts and subcontracts be cancelled, terminated or suspended and that Uniroyal be declared ineligible from further contracts and subcontracts, and from extensions or modifications of any existing contracts and subcontracts, until such time it can satisfy the Director of OFCCP that it is in compliance with Executive Order 11246 and the Secretary of Labor's regulations issued pursuant thereto.

Subsequently, Uniroyal filed a complaint in the Federal district court at Washington, D.C., seeking to enjoin the debarment order. After a hearing, that court stayed execution of the debarment order for a period of 10 days.

On July 20, 1979, the district court issued an opinion and order which

stated that the debarment order shall stand effective until such time as Uniroyal comes into compliance with the regulations implementing Executive Order 11246 in the manner described in the court's opinion. Accordingly, on July 27, 1979, the debarment order was reinstated.

Uniroyal, on October 23, 1979, entered into a memorandum of agreement with the Department of Labor which resolved the legal dispute between the Government and the Company at its Mishawaka, Indiana, facility. The memorandum established the principles and timeframes for negotiating a consent decree which will make a final disposition of the Department's legal proceeding against Uniroyal under Executive Order 11246.

Based on the memorandum of agreement, Uniroyal was reinstated as an eligible bidder on Government contracts and subcontracts effective at the close of business October 23, 1979, Washington, D.C.

Dated: October 24, 1979.

Weldon J. Rougeau,

Federal Contract Compliance Programs.

[FR Doc. 79-33553 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-27-M

[TA-W-5860]

Bradohm, Inc., Vestal, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 14, 1979 in response to a worker petition received on August 8, 1979 which was filed on behalf of workers and former workers producing inductors and resistors at Bradohm, Incorporated, Vestal, New York. It is concluded that all of the requirements have been met.

The value of U.S. imports of both inductors and fixed wirewound resistors increased in 1978 compared to 1977 and in the first half of 1979 compared to the like 1978 period.

The Department conducted a survey of some of the customers of inductors and resistors of Bradohm, Incorporated. The respondents reported that their purchases from Brâdohm, as well as from other U.S. suppliers, declined both in 1978 compared to 1977 and in the first seven months of 1979 compared to the like 1978 period while purchases of imported resistors and inductors increased in both of the above periods.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the inductors and wirewound resistors produced at Bradohm, Incorporated, Vestal, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bradohm, Incorporated, in Vestal, New York who became totally or partially separated from employment on or after March 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-33555 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6049]

C & P Sportswear, Bricktown, N.J.: Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979, in response to a worker petition received on September 14, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's coats and children's raincoats at C & P Sportswear of Bricktown, New Jersey. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

C & P Sportswear is a garment contractor that moved its operations from Paterson, New Jersey to Bricktown, New Jersey in June 1978. From July through November of 1978, women's fall and winter coats were produced and seasonal layoffs occurred in December 1978 and the first two weeks of January of 1979. From January through June of 1979, children's raincoats were produced while the company started another production run in May of women's fall and winter coats. Production and employment at C & P Sportswear in Bricktown, New Jersey increased in the third quarter of 1979 compared with the third quarter of 1978. Seasonal layoffs may recur in December of 1979.

Conclusion

After careful review, I determine that all workers of C & P Sportswear in Bricktown, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-33556 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6227]

Consolidation Coal Co., Rowland Operation, Beckley, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 18, 1979, in response to a worker petition received on October 10, 1979 which was filed on behalf of workers and former workers producing metallurgical coal at Consolidation Coal Company's Rowland Mine, Workman Creek, West Virginia. The investigation revealed that the mine is known as the Rowland Operation and its mailing address is Beckley, West Virginia.

On September 27, 1979, a petition was filed on behalf of the same group of workers (TA-W-6138).

Since the identical group of workers is the subject of the ongoing investigation TA-W-6138, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 24th day of October, 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-33557 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5923]

Firestone Tire & Rubber Co., South Gate, Calif.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 29, 1979 in response to a worker petition received on August 27, 1979 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing bias-ply passenger car and truck tires at the South Gate, California plant of the Firestone Tire and Rubber Company. In the following determinations, without regard to whether any of the other criteria have been met for workers producing truck tires the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed major customers of Firestone. Customers who increased imports and decreased purchases of truck tires from Firestone in 1978 compared with 1977 and in the first eight months of 1979 compared with the like period of 1978 were not significant in relation to the company's sales of this product.

Company sales of truck tires increased in 1978 compared with 1977 and in the first seven months of 1979 compared with the like period of 1978.

For workers producing passenger car tires all of the criteria have been met.

U.S. imports of passenger car tires increased relatively from 1977 to 1978 and increased absolutely and relatively in the first half of 1979 compared with the like period of 1978.

Firestone substantially increased its imports of passenger car tires in the first seven months of 1979 compared with the like period of 1978.

The Department surveyed Firestone's major customers. Customers accounting for most of Firestone's decline in sales of passenger car tires in the first seven months of 1979 compared with the like period of 1978 indicated that they increased imports of passenger car tires during this period. Customers also indicated increased imports and decreased purchases from Firestone from 1977 to 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the bias-ply passenger car tires produced at the South Gate, California plant of the Firestone Tire and Rubber Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of passenger car tires of the South Gate, California plant of the Firestone Tire and Rubber Company who became totally or partially separated from employment on or after January 6, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration, and Planning.

[FR Doc. 79-33558 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6026]

Florsheim Shoe Co., Chaffee, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 17, 1979 in response to a worker petition received on September 11, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union, Shoe Division on behalf of workers and former workers producing men's boots and shoes at the Chaffee, Missouri plant of the Florsheim Shoe Company. The investigation revealed that only men's shoes are produced. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that the separations at the Chaffee, Missouri plant of Florsheim Shoe Company resulted solely from the roof collapsing on February 25, 1979.

All production workers were laid off at that time. There were no significant separations at the plant prior to the collapse of the roof. The average number of production workers at the Chaffee plant increased from 1977 to 1978 and in the first 2 months of 1979 compared with the same period of 1978.

The company completed repairs at the plant in late July of this year. Since the completion of the repairs, the company has been recalling workers.

Conclusion

After careful review, I determine that all workers of the Chaffee, Missouri plant of the Florsheim Shoe Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33559 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5889]

Goodyear Tire & Rubber Co., Inc., Los Angeles, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 23, 1979 in response to a worker petition received on August 21, 1979 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing truck tires at the Los Angeles, California plant of the Goodyear Tire and Rubber Company, Incorporated. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Goodyear domestic sales and production of truck tires, Western Region Sales of truck tires, and prouction of truck tires at the Los Angeles plant increased in quantity in 1978 compared with 1977 and in the first half of 1979 compared with the first half of 1978.

The Los Angeles, California plant produces bias truck tires that are distributed throughout the United States. In August, 1979, Goodyear announced that it plans to phase out operations at its Los Angeles plant over the next six months. The reduced output of the Los Angeles plant is being replaced by truck tire output from other domestic Goodyear facilities. In early 1980, Goodyear will close the Los Angeles plant and expand truck tire production capacity at another plant.

Conclusion

After careful review, I determine that workers producing truck tires at the Los Angeles, California plant of the Goodyear Tire and Rubber Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33560 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 5, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 5, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bethlehem Steel Corp. (USWA)	Lebanon, Pa	10/16/79	10/5/79	TA-W-6,255	Steel industrial fasteners.
Brown Shoe Co. (workers)	Potosi, Mo	10/18/79	10/12/79	TA-W-6,256	Women's shoes.
Crane Co. (USWA)	Indian Orchard, Mass	10/10/79	10/2/79	TA-W-6,257	Steam and water valves.
Eastmoor Co., Inc. (ILGWU)	Michigan City, Ind	10/22/79	10/11/79	TA-W-6,258	Ladies' pants and skirts, blouses, and jackets.
Ford Motor Co., Cleveland Engine Plant #1 (IBEW).	Cleveland, Ohio	10/10/79	10/1/79	TA-W-6,259	Large 8 cylinder engines.
Ford Motor Co., Cleveland Engine Plant #2 (IBEW).	Cleveland, Ohio	10/10/79	10/1/79	TA-W-6,260	Large 8 cyclinder engines.
Ford Motor Co., Casting Plant (IBEW)	Cleveland, Ohio	10/10/79	10/1/79	TA-W-6,261	Large 8 cylinder engines.
Humphreys Mining Co., Division of Humphreys Engineering Co. (International Brotherhood of Boilermaker, Iron Ship Builders, Blacksmiths, Forgers & Helpers..	Folkston, Ga	10/3/79	9/27/79	TA-W-6,262	Titanium, zircon, and monazite ores.
Keystone Uniform Manufacturing Co., Inc. (ACTWU).	Philadelphia, Pa	10/9/79	9/11/79	TA-W-6,263	Uniforms—police, schools, and firemen.
New Haven Coat Co. (ILGWU)	West Haven, Conn	10/22/79	10/17/79	TA-W-6,264	Contractor of women's coats.
Suburban Casuals (workers)	Beebe, Ark	10/19/79	10/11/79	TA-W-6,265	Ladies' skirts, pants, blouses, jackets, and coats.
Textron, Inc., Talon Division (workers)	Meadville, Pa	10/5/79	9/18/79	TA-W-6,266	Talon zippers.

[FR Doc. 79-33554 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5901]

Ira S. Bushey & Sons, Inc., Brooklyn, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Ira S. Bushey and Sons, Brooklyn, New York, engaged in conversion, repair, overhaul, and maintenance of marine vessels. The investigation revealed that the legal title of the firm is Ira S. Bushey and Sons, Incorporated.

Ira S. Bushey and Sons, Incorporated is engaged in providing the service of repairing ships.

Thus, workers of Ira S. Bushey and Sons, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Ira S. Bushey and Sons, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Ira S. Bushey and Sons, Incorporated is a wholly owned subsidiary of an integrated oil company. The subject firm wholly owns a company which is engaged in towing and transportation and the wholesale fuel oil business. Neither the subject firm nor its subsidiary direct a substantial amount of their services toward the parent firm of Ira S. Bushey and Sons, Incorporated. There is no identity of ownership or control between Ira S. Bushey and Sons, Incorporated and any customer other than its subsidiary.

All workers engaged in repairing ships at Ira S. Bushey and Sons, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Ira S. Bushey and Sons, Incorporated. All employee benefits are provided and maintained by Ira S. Bushey and Sons, Incorporated. Workers are not, at any time, under employment or supervision by customers of Ira S. Bushey and Sons, Incorporated. Thus, Ira S. Bushey and Sons, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Ira S. Bushey and Sons, Incorporated, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-33561 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5953]

Packaging Corp. of America, Clifton, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 4, 1979 in response to a worker petition received on August 27, 1979 which was filed on behalf of workers and former workers producing corrugated boxes at the Clifton, New Jersey plant of Packing Corporation of America. The investigation revealed that the correct name of the company is Packaging Corporation of America. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Although the Clifton plant of Packaging Corporation of America, which produced corrugated containers, permanently closed in July 1979, Packaging Corporation currently operates 29 plants throughout the United States, producing corrugated containers. Despite the fact that the Clifton plant closed, total sales of corrugated containers by Packaging Corporation of America increased in each quarter of 1978 compared to the corresponding quarter of 1977 and in the January through September period of 1979 when compared to the same period in 1978. Since sales of corrugated boxes has increased even after the Clifton plant closed, imports have not had an adverse affect on sales of Packaging Corporation of America.

The ratio of U.S. imports of corrugated boxes to domestic production was less than one half of one percent in each year from 1974 through 1978. It generally is not practical to ship corrugated boxes long distances because they are very bulky in relation to their value. This acts as a barrier to imports. The imports that do exist generally come from Canada or Mexico and go to destinations close to the border.

Conclusion

After careful review, I determine that all workers of the Clifton, New Jersey plant of Packaging Corporation of America are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-33562 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5892]

Penn State Clothing Corp., Philadelphia, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the

results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 23, 1979, in response to a worker petition received on August 21, 1979, which was filed on behalf of workers and former workers producing men's tailored suits and sportcoats at Penn State Clothing Corporation, Philadelphia, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boy's tailored suits declined absolutely and relative to domestic production in 1978 compared to 1977 and declined absolutely in the first six months of 1979 compared to the like period of 1978. U.S. imports of men's and boys' tailored dress coats and sportcoats declined absolutely in the first six months of 1979 compared to the like period of 1978.

The Department surveyed customers of Penn State Clothing Corporation. Most of the respondents to the survey did not purchase imported men's suits or sportcoats. Those respondents who did purchase imported suits or sportcoats accounted for an insignificant proportion of company sales.

Conclusion

After careful review, I determine that all workers of Penn State Clothing Corporation, Philadelphia, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33583 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6129]

Prestige Shoe Co., Wilkes-Barre, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on October 1, 1979 in response to a worker petition received on September 24, 1979 which was filed on behalf of workers and former workers producing women's shoes at Prestige Shoe Company, Wilkes-Barre, Pennsylvania. In the Following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Prestige Shoe Company is a manufacturer of women's shoes. Production at the company is subject to changes depending on the style of shoe ordered by a customer. From about July 1979 the plant has been primarily producing sandals and other styles which require less labor input. As a result some workers have experienced reduced hours or temporary layoffs. This factor has been the predominant cause of employment declines at the Prestige Shoe Company in 1979.

Total company sales of women's shoes increased in value from 1977 to 1978 and increased in the first eight months of 1979 compared to the same 1978 period. Production of shoes at Prestige increased in quantity from 1977 to 1978 and continued to increase in the first three quarters of 1979 compared to the same 1978 period.

Conclusion

After careful review, I determine that all workers of the Prestige Shoe Company, Wilkes-Barre, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33564 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6018]

Russell, Burdsall, & Ward Corp., Coraopolis, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 12, 1979, in response to a worker petition received on September 10, 1979, which was filed by the United Steelworkers of America on behalf of workers and former workers producing industrial fasteners at the Coraopolis, Pennsylvania plant of the Russell, Burdsall and Ward Corporation. The investigation revealed that the plant produces primarily nuts.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, of threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that the only employment declines that occurred at the Coraopolis, Pennsylvania plant of RB&W Corporation were the result of an anticipated strike by a major customer.

Sales, production and employment at the Coraopolis, Pennsylvania plant remained relatively constant from 1977 to 1978 and then increased in the first seven months of 1979 compared to the first seven months of 1978. A significant number of workers were temporarily laid off in August 1979 due to an anticipated strike by a major customer. These workers were subsequently recalled when the anticipated strike did not occur.

Conclusion

After careful review, I determine that all workers of the Coraopolis, Pennsylvania plant of the Russell, Burdsall and Ward Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-33565 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5894]

Serval Slide Fasteners, Inc., Flushing, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 23, 1979 in response to a worker petition received on August 21, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing zippers at Serval Slide Fasteners, Inc., Flushing, New York.

Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that of those Serval Slide Fastener's customers who were surveyed only one increased purchases of imports while decreasing purchases from Serval. This customer accounted for an insignificant portion of Serval's sales.

Conclusion

After careful review, I determine that all workers of Serval Slide Fasteners, Inc., Flushing, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33566 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6059, 6059A]

Sharon Jay Togs, Inc., and New Bedford, Mass., New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on September 19, 1979, in response to a worker petition received on September 17, 1979 which was filed on behalf of workers and former workers producing childrens sportswear at Sharon Jay Togs, Incorporated, New Bedford, Massachusetts. The investigation revealed that the plant produces primarily girls' pants, skirts and vests. The investigation was expanded to include Sharon Jay's New York, New York sales office. in is concluded that all of the requirements have been met.

Sharon Jay Togs, Incorporated is owned by the same individuals who own Eastern Sportswear Manufacturing Company, Incorporated. The firms operate as a single entity with sales made under both names.

U.S. imports of Women's, Misses' and Children's slacks and shorts increased both absolutely and relative to domestic production in 1978 compared to 1977.

U.S. imports of Women's, Misses' and Children's skirts increased both absolutely and relative to domestic production in 1978 compared to 1977.

Girls' knit vests are included in the import and production category of Women's, Misses' and Children's sweaters. Girls' woven vests are included in the import and production category of Women's, Misses' and Children's suits.

U.S. imports of Women's, Misses' and Children's sweaters increased relative to domestic production in 1978 compared to 1977. U.S. imports of Women's, Misses' and Children's suits increased both absolutely and relative to domestic production in 1978 compared to 1977.

In a survey conducted by the Department of Commerce, customers accounting for a significant proportion of Sharon Jay/Eastern's sales declines indicated that they decreased purchases from Sharon Jay/Eastern and had increased purchases of imported girls' sportswear. The Department of Commerce on May 30, 1979 certified Sharon Jay/Eastern eligible to apply for firm adjustment assistance.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' pants, skirts and vests produced at Sharon Jay Togs, Incorporated, New Bedford, Massachusetts contributed importantly to the decline in sales or production and to total or partial separation of workers of that plant and of the New York, New York sales office of Sharon Jay Togs, Incorporated. In accordance with the provisions of the Act, I make the following certification:

All workers of the New Bedford, Massachusetts and the New York, New York facilities of Sharon Jay Togs, Incorporated who became totally or partially separated from employment on or after August 31, 1978 are eligibe to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24nd day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33567 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 5791 — 5796]

Slab Fork Coal Co. et. al.; Negative Determination Regarding Application for Reconsideration

In the matter of Slab Fork Coal Company, Gaston Mine (TA-W-5791), preparation plant No. 3 (TA-W-5792), Wyoming County, West Virginia and preparation plants No. 2 and No. 1 (TA-W—5793-5794), Slab Fork No. 8 and No. 10 mines (TA-W-5795-5796), Raleigh County, West Virginia.

By an application dated October 9, 1979, the petitioning union requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers mining and cleaning metallurgical coal for the Slab Fork Coal Company at the following locations: The

Gaston Mine and Preparation Plant #3 in Wyoming County, West Virginia; and Preparation Plants #1 & #2 and Slab Fork #8 and #10 mines in Raleigh County, West Virginia. The determination was published in the **Federal Register** on September 21, 1979, (44 FR 54789).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning union claims in its application for reconsideration that a major customer of the Slab Fork Coal Company has within the period of investigation decreased its purchases from the Slab Fork Coal Company while importing foreign coke so as to contribute importantly to the worker separations.

The Department's review revealed that workers at the Slab Fork Coal Company's mines and preparation plants in Wyoming and Raleigh Counties, West Virginia did not meet the "contributed importantly" test of Section 222 of the Trade Act of 1974. The Department's survey of Slab Fork's customers represented the major portion of Slab Fork's sales in 1976, 1977 and 1978. The major customer mentioned in the union's application for reconsideration was also included in the Department's survey. The Department's survey showed that customers either increased their purchases of coal from Slab Fork in 1978 compared to 1977 and in the first half of 1979 compared with the first half of 1977 while decreasing purchases of imported coke or never utilized foreign sources of coke. Coal purchase data from Slab Fork was used for the first half of 1977 instead of the first half of 1978 to eliminate any bias caused by the UMW strike in the first quarter of 1978. The Department's survey indicated that the petitioner's claim regarding the major customer in 1979 was not correct. That customer provides no basis for a certification of Slab Fork workers.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. This application is, therefore, denied.

Signed at Washington, D.C., this 23rd day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-33568 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5897]

Wilton Tanning Co., East Wilton, Maine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 23, 1979 in response to a worker petition received on August 29, 1979 which was filed on behalf of workers and former workers producing lambskin grain and suede leather at Wilton Tanning Company, East Wilton, Maine. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Wilton Tanning Company produces finished lambskin and sheepskin grain and suede leather for the leather apparel and accessory industries. The petitioners allege, in part, that increased import of leather garments and handbags contributed importantly to the decline in sales or production and to the separation of workers producing lambskin suedes and grain leather at Wilton Tanning Company. Imported leather wearing apparel and accessories cannot be considered like or directly competitive with finished lambskin and sheepskin grain and suede leather. Imports of all types of tanned and finished sheepskin and lambskin leather must be considered in determining import injury to workers producing finished lambskin and sheepskin grain and suede leather at Wilton Tanning Company, East Wilton, Maine.

U.S. imports of tanned and finished sheepskin (including lambskin) increased absolutely and decreased relative to domestic production in 1978 compared to 1977 and decreased absolutely in the first six months of 1979 compared to the first six months of 1978.

Wilton Tanning Company is a wholly-owned subsidiary of Willard Helburn, Inc., of Danvers, Massachusetts. The sole function of Willard Helburn, Inc. is the warehousing and marketing of leather produced at Wilton Tanning Company. A survey of customers of Willard Helburn, Inc. was conducted by the Department. Results indicate that none of the customers who responded to the survey decreased purchases from Willard Helburn during the first seven months of 1979 while increasing purchases of imported lambskin and sheepskin grain and suede leather. One customer of Willard Helburn increased purchases of imports in 1978 while decreasing purchases from Willard Helburn; during this period Willard Helburn's sales were increasing.

Conclusion

After careful review, I determine that all workers of Wilton Tanning Company, East Wilton, Maine are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-33569 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Application No. D-1293]

Proposed Exemption for Certain Transactions Involving the William E. Dill, D.D.S., P.A. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of real property by the William E. Dill, D.D.S., P.A. Profit Sharing Plan (the Plan) to a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of

the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 30, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20216, Attention: Application No. D–1293. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, DC 20216.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen, of the Department, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by William E. Dill, D.D.S., P.A. (the Employer), William E. Dill (the Trustee) and Dill Properties Inc. (Dill Properties), pursuant to section 408(a) of the Act of section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the conplete representations of the applicants.

1. This application was filed by the Employer, the Trustee and Dill Properties requesting an examption to allow Dill Properties, a member of a controlled group of the Employer, to purchase a citrus grove (the Property) consisting of 18 acres which is owned by the Plan. The Property is legally described as Lots 22 and 23 of Lakeview Heights, in Orange County, Florida. The Property represents approximately 54% of the total Plan assets based on the fair market value of Plan assets at September 30, 1978.

2. The Property was purchased by the Plan on May 25, 1972 for $57,500. Dill Properties is in the business of farming, and owns several citrus properties as well as a cattle ranch. Dill Properties proposes to purchase the Property from the Plan for cash at its current fair market value of $60,500 on December 20, 1978. Fair market value has been determined by R. E. Duchworth, Jr., M.A.I., S.R.P.A. of Winter Park, Florida. The crop growing on the Property, the value of which is $2,150, is not included in the purchase.

3. There are two participants in the Plan, William E. Dill, 100% stockholder of the Employer, Trustee of the Plan and 25% direct and 25% indirect stockholder (through spouse) of Dill Properties; and Royce H. Tishken an employee of the Employer.

4. No attempt has been made by the Plan to sell the Property to a third party because it is contiguous with the other citrus properties owned by Dill Properties. This contiguity would enable Dill Properties to cultivate, harvest and market the citrus products more economically than a third party. The Plan has had a negative rate of return on the Property since it was purchased in 1972.

5. The Plan has not engaged in any joint use or lease of the Property with any party in interest.

6. The applicants represent that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because (1) it is a one time sale for cash; (2) it will enable the Trustee to invest in marketable securities which will provide liquidity to the Plan assest; (3) it will allow the assets of the Plan to be more diversified; (4) the Plan will be divesting itself of a non-income producing asset which comprises approximately 54% of the Plan's assets; and (5) the fair market value of the property has been determined by an independent appraisal.

Notice to Interested Persons

Notice of the pending exemption will be given to all interested persons including participants and beneficiaries of the Plan within 10 days after publication of the proposed exemption in the **Federal Register.** Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing regarding the proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of Section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writier's interest in the pending exemption.

Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale of a citrus grove, not to include the growing crop, legally described as Lots 22 and 23 of Lakeview Heights, Orange County, Florida, by the Plan to Dill Properties for cash consideration of $60,500 provided that this amount is not less than the fair market value of the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-33322 Filed 10-29-79; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee; Postponed Meeting

The November 1, 1979 meeting of the Informal Executive Subcommittee of the Space Systems and Technology Advisory Committee has been postponed until mid-December.

Notice of this meeting was published in the **Federal Register** as NASA Notice 79–84 on Friday, October 12, 1979, page 59021, FR Doc. 79–31478.

For further information, please contact Mr. C. Robert Nysmith, Executive Secretary (202) 755–3252, NASA Headquarters, Code RP–4, Washington, DC 20546.

Dated: October 24, 1979.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

[FR Doc. 79-33064 Filed 10-29-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice (79–88)]

NASA Advisory Council (NAC), Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Geodynamics and Geology of the NAC–STAAC will meet on November 27 and 28, 1979 at the Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91003 in Building No. 180, Room No. 101. The meeting will be open to the public. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 80 persons.

This Subcommittee, chaired by Dr. Michael Chinnery, is comprised of twelve members of the NAC-STAAC and will review and discuss status of both the Geodynamics and the Non-Renewable Resources Programs including various specific activities within these programs as indicated in the approved agenda below:

November 27, 1979

Time and topic

9:00 a.m.—Chairperson's Remarks.
9:30 a.m.—NASA's Response to Subcommittee's Concerns.
10:00 a.m. Geodynamics Program Status.
10:45 a.m. Crustal Dynamics Project: Site Locations.
11:45 a.m. Mobile Very Long Baseline Interferometer (VLBI) Plans and Status.
1:30 p.m. Non-Renewable Resources Program Status.
2:30 p.m. Scientific Applications of Stereosat.
3:15 p.m. Status of Planning for the Earth Resources Synthetic Aperture Radar System.
4:00 p.m. Tour of Mobile VLBI Facilities.
5:00 p.m. Adjourn.

November 28, 1979

8:30 a.m.—Overview of JPL Activities in the Non-Renewable Resources Program.
9:15 a.m.—Current Research in Thermal Infrared Remote Sensing Techniques.
10:15 a.m.—History and Results of the Joint NASA/GEOSAT Test Case Project.
1:00 p.m.—Subcommittee Discussion on Program Activities and Future Plans.
3:00 p.m.—Chairman's Summary of Conclusions and Findings of the Subcommittee.
3:15 p.m.—Adjourn.

Note.—Arrangements have been made for a briefing on the status and summary of Voyager 2 results for those members and attendees who are interested.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. (202) 755–7450.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

October 22, 1979.

[FR Doc. 79-33328 Filed 10-29-79; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on the General Electric Test Reactor (GETR); Meeting

The ACRS Subcommittee on the General Electric Test Reactor (GETR) will hold a meeting on November 14, 1979 at the Airport Marina Hotel, 1380 Bay Shore Boulevard, San Francisco, CA to discuss seismic design requirements that may be imposed as a result of recent geologic investigation. Notice of this meeting was published October 18, 1979 (44 FR 60178).

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), 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: *Wednesday, November 14, 1979, 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 General Electric Company, and their consultants, pertinent to the above topics. 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 Public Law 92–463, that, shoud such sessions be required, it is necessasry 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 therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne (telephone 202/634–3314) between 8:15 a.m. and 5:00 p.m., EST.

Dated: October 23, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79–33291 Filed 10–29–79; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–5089]

Chicago Community Ventures, Inc.; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Chicago Community Ventures, Inc. (CCVI), 19 South La Salle Street, Chicago, Illinois 60603, a Federal licensee under Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has filed an application pursuant to 13 CFR 107.1004 (1979) for approval of a conflict of interest transaction.

CCVI was licensed by the Small Business Administration (SBA) on June 14, 1972. The licensee's voting stock is owned by 17 large Chicago-based businesses.

CCVI is currently considering financing Peter Carlton Enterprises, Ltd., engaged in establishing a chain of "Popeyes Famous Fried Chicken" fast food restaurants, by purchasing $100,000 of the preferred stock of Peter Carlton Enterprises, Ltd. Mr. William C. Goodall is an officer, director, and holder of 52 percent of the common stock of Peter Carlton Enterprises, Ltd. Mr. Goodall is also is a director of CCVI.

The proposed transaction falls within the purview of Section 107.1104 by reason of fact that Mr. Goodall is an associate of the licensee through his dual directorships.

Notice is hereby given that any interested person may submit to SBA written comments, no later than 15 days from the date of publication of this notice, on this proposed financing. Any such communication should be addressed to: Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the licensee in a newspaper of general circulation in Chicago, Illinois.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 22, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79–33596 Filed 10–29–79; 8:45 am]

BILLING CODE 8025–01–M

[Proposed License No. 08/08–5052]

Colorado Equity Capital Corp.; 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 Colorado Equity Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Edward R. Lucero, 10370 W. 18th Place, Lakewood, Colorado 80215; President, Director, General Manager; 100 percent Stockholder.

James R. Krendl, 1121 Humboldt, Denver, Colorado 80218; Secretary-Treasurer, Director.

Roger C. Cohen, 4949 South Birch Street, Littleton, Colorado 80121; Director.

The applicant, a Colorado corporation with its principal place of business located at 2000 Arapahoe Street, Denver, Colorado 80202, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock.

The applicant will conduct its activities primarily in the State of Colorado.

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 contempleted 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 owners and management, and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting 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 in a newspaper of general circulation in Denver, Colorado.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79–33551 Filed 10–29–79; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area No. 1719]

Illinois; Declaration of Disaster Loan Area

White County and adjacent counties within the State of Illinois constitute a

disaster area as a result of natural disaster as indicated:

County, Natural Disaster(s), and Date(s)

White, flooding, beginning on July 30, 1979, through August 9, 1979.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 21, 1980 and for economic injury until the close of business on July 21, 1980 at: Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Illinois 60604.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 19, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-33595 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1673]

Indiana; Declaration of Disaster Loan Area

Johnson and Putnam counties and adjacent counties within the State of Indiana constitute a disaster area as a result of damage caused by heavy rain and flooding which occurred on July 13, 1979. Applications will be processed under the provisions of Public Law 96-38. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 14, 1980 and for economic injury until the close of business on May 14, 1980, at: Small Business Administration, District Office, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204.

or other locally announced location.

(Catalog of Federal Domestic assistance Program Nos. 59002 and 59008)

Dated: August 19, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-33452 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1688]

Kansas; Declaration of Disaster Loan Area

Graham, Hodgeman and Pawnee Counties and adjacent counties within the State of Kansas constitute a disaster area as a result of natural disaster as indicated:

County, Natural Disaster(s), and Date(s)

Graham, wind, hail and rain, 7/7/79 and 7/21/79
Graham, wind, hail, rain , and tornadoes, 7/13/79-7/15/79 and 7/24/79
Hodgeman, excessive rainfall, flooding, hailstorm, and winds, 7/22/79-7/30/79
Pawnee, excessive rainfall and flooding, 7/22/79-7/28/79

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 13, 1980, and for economic injury until the close of business on June 13, 1980, at: Small Business Administration, District Office, Main Place Building, 110 East Waterman Street, Wichita, Kansas 67202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 13, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-33543 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 5409]

Mississippi; Declaration of Disaster Loan Area

Hancock, Harrison and Jackson Counties in the State of Mississippi constitute a disaster area under Section 7(b)(2)(d) of the Small business Act because of substantial economic injuries to the oyster industry resulting from an abnormal increase in fresh water during the late winter and early spring of 1979 in the western portion of the Mississippi Sound. Eligible persons, firms and organizations may file applications for loans for economic injury until the close of business on July 14, 1980 at: Small Business Administration, Branch Office, Gulf National Life Insurance Bldg.—2nd Floor, 111 Fred Haise Boulevard, Biloxi, Mississippi 39530.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program No. 59008)

Dated: October 12, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-33544 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1681]

Nebraska; Declaration of Disaster Loan Area

The following 26 counties and adjacent counties within the State of Nebraska constitute a disaster area as a result of natural disaster as indicated.

County, Natural Disaster(s), and Date(s)

Antelope, Hail, 7/14/79
Boyd, Hail, High winds, 7/14/79
Furnas, Hail, 7/26/79
Gosper, Hail, severe wind, 7/26/79
Harlan, Hail, wind, 7/13/79
Holt, Hail, 7/14/79
Howard, Hail, 7/14/79
Keya Paha, Hail, wind, 7/14/79
Knox, Hail, wind, tornado, and water, 7/14/79 and 7/19/79
Lincoln, Hail, 7/14, 24, and 27/79
Logan, Hail, winds, 7/14/79
Nance, Hail, wind, 7/15, 25/79
Pierce, Wind, rain, tornado, and hail, 7/14, 30/79
Stanton, Hail, wind, 7/14/79
Adams, Hail, rain, flood, 6/21/79
Antelope, Hail, tornado, wind, 6/19/79
Box Butte, Hail, 6/15, 16/79
Buffalo, Wind, hail, 6/19/79
Gage, Hail, 6/26/79
Kimball, Hail, 6/16, 18, 19, 27, 28/79
Loup, Tornado, 7/7/79
Pierce, Hail, wind, 6/19/79
Red Willow, Hail, 6/21/79
Rock, Wind, hail, 7/7/79
Saline, Hail, 6/19 and 27/79
Scottsbluff, Severe rain, hail, and wind, 6/16, 18, 22, 26, 27, 28/79
Sherman, Hail, wind, tornado, 6/19/79
Thayer, Hail, wind, heavy rain, 6/19 and 21/79

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on February 29, 1980, and for economic injury until the close of business on May 29, 1980, at: Small Business Administration, Disaster Office, Empire State Building, 19th and Farnam Streets, Omaha, Nebraska 68102.

or other locally annouced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 29, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-33545 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1715]

North Carolina; Declaration of Disaster Loan Area

Guilford and Rockingham Counties and adjacent counties within the State of North Carolina constitute a disaster area as a result of damage caused by severe rainstorms and flooding which occurred on September 21-23, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 20, 1979, and for

economic injury until the close of business on July 21, 1980, at: Small Business Administration, District Office, 230 South Tryon Street, Suite 700, Charlotte, North Carolina 28202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-33594 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1705]

South Carolina; Declaration of Disaster Loan Area

Beaufort, Charleston, Colleton, Georgetown and Horry Counties and adjacent counties within the State of South Carolina constitute a disaster area as a result of damage caused by Hurricane David beginning on or about September 4, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 26, 1979, and for economic injury until the close of business on June 27, 1980, at: Small Business Administration, District Office, 1835 Assembly Street, 3rd Floor, Columbia, South Carolina.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 27, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-33546 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaraction of Disaster Loan Area No. 1706]

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Aransas, Brazoria, Galveston, Harris, Matagorda and San Patricio Counties and adjacent counties within the State of Texas, constitute a disaster area because of damage resulting from severe storms and flooding beginning on September 17, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 26, 1979, and for economic injury until the close of business on July 25, 1980, at:

Small Business Administration, District Office, One Allen Center, Suite 705, 500 Dallas, Houston, Texas 77002

Small Business Administration, District Office, 222 E. Van Buren, Suite 500, Harlingen, Texas 78550

or other locally announced location.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 3, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-33547 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Cancellation of Meeting

The Small Business Administration Region VII Adisory Council, located in the geographical area of St. Louis, Missouri, public meeting scheduled at 9:00 a.m., Tuesday, November 13, 1979, in the Palladium Room of the Cheshire Inn & Lodge, 6306 Clayton Road, St. Louis, Missouri has been cancelled.

For further information, write or call Thomas L. Holling, District Director, U.S. Small Business Administration, One Mercantile Center, Suite 2500, St. Louis, Missouri 63101—(314) 425-4191.

Dated: October 24, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-33541 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1690]

Virgin Islands; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that the St. Croix, St. John and St. Thomas Islands in the Virgin Islands, constitute a disaster area because of damage resulting from Hurricane David and Tropical Storm Frederic during the period of August 29, 1979, through September 7, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 15, 1979, and for economic injury until the close of business on June 16, 1980, at:

Small Business Administration, District Office, Chardon and Bolivia, P.O. Box 1915, Hato Rey, Puerto Rico 00919

Small Business Administration, POD, U.S. Federal Office Bldg., Veteran Drive, Room 283, St. Thomas, Virgin Islands 00801

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 11, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-33548 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1712]

Virginia; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration, I find that Patrick County and adjacent counties within the State of Virginia constitute a disaster area because of damage resulting from severe storms and flooding beginning on September 21, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 29, 1979, and for economic injury until the clsoe of business on June 30, 1980, at: Small Business Administration, District Office, Federal Building—Room 3015, 400 North Eighth Street, Richmond, Virginia 23240, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 15, 1979.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 79-33549 Filed 10-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-5371]

Watchung Capital Corp.; 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 Watchung Capital Corporation (applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders of the applicant are as follows:

Becky Hsue-Hso Lee, 42-11 67th Street, Woodside, New York 11377, Chairman of the Board, President—20% Stockholder.

Albert Der-Fu Chang, 40-13 73rd Street, Woodside, New York 11377, Secretary, Treasurer, Director—20% Stockholder.

Jiaun Jang Houng, 47-50 59th Street, #2A, Woodside, New York 11377, Director.

Sheng Tsong Jeng, No. 30-1 Alley 144, Lane

67, Lin-Sen N. Road, Taipei, Taiwan, 20% Stockholder.
Chin-Pao Huang, 2243 Calle Cordoba, Buenos Aires, Argentina, 20% Stockholder.
Richard Yih-Pi Jan, Calle J. B. Alberdi 2163, 1636 Olivos, Buenos Aires, Argentina, 11% Stockholder.

The applicant, a New York Corporation, with its principal place of business at 80–19 Broadway, Elmhurst, New York 11373, will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of 5,000 shares of common stock.

The applicant will conduct its activities initially in the State of New York and eventually on a national basis.

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 the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Elmhurst, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 22, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79–33550 Filed 10–29–79; 8:45 am]

BILLING CODE 8025–01–M

VETERANS ADMINISTRATION

120-Bed Nursing Home Care Unit, VAMC, San Francisco, Calif.; Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement, 120-Bed Nursing Home Care Unit, Veterans Administration Medical Center, San Francisco, California" dated October 1979, has been prepared as required by Section 102(2)(C) of the National Environmental Policy Act of 1969.

The preferred location for the 120-Bed Nursing Home Care Unit is at the present 29-acre Veterans Administration Medical Center, San Francisco, California. The new facility will add 120 nursing home beds to the existing 357-bed medical facility.

The draft statement discusses the environmental impact of the 120-Bed Nursing Home Care Unit in two alternate locations at the present Veterans Administration Medical Center as well as the "No Action" alternative. The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Single copies of the draft statement are available by request to the above office.

Dated: October 24, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79–33511 Filed 10–29–79; 8:45 am]

BILLING CODE 8320–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–6 Sub-57]

Burlington Northern, Inc., Abandonment Between Fergus Falls and Pelican Rapids in Otter Tail County, Minn.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 4, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB–37 (Sub-No. 2), *Oregon Short Line Railroad Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit abandonment by the Burlington Northern, Inc. of its line of railroad extending from milepost 0.00 near Fergus Falls, MN, to milepost 21.37 near Pelican Rapids, MN, all in Otter Tail County, MN, a distance of 21.37 miles, *provided,* that applicant shall keep intact all of the right-of-way underlying the track, including all bridges and draingage structures, for a period of 120 days from the issuance of certificate in this proceeding to allow any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of abandonment will be issued to the Burlington Northern, Inc. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a govenment entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement,

with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33501 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[FD. No. 23856 (Sub-1)]

Chesapeake & Ohio Railway Co. and Baltimore & Ohio Railroad Co.; Notice

Finance Docket No. 23856 (Sub-No. 1) (Supplemental) *Chesapeake & Ohio Railway Co.—Trackage Rights Between Cinn., OH and Cottage Grove, IN—Baltimore & Ohio Railroad Co.*, filed October 27, 1965, under former section 5(2) of the Act, recodified at 49 U.S.C. 11343, granted by the Commission, Finance Board No. 3 by decision served February 15, 1966.

Because of necessary track and related modifications at Cottage Grove, IN, C&O requires the use of approximately 761 feet of additional B&O trackage. For this purpose, C&O and B&O have submitted a supplemental agreement filed September 4, 1979, dated August 30, 1979, which amends their earlier agreement subject of the original application. The supplemental agreement which would grant C&O the use of the additional 761 feet of B&O trackage makes no other modifications to the terms and conditions of the earlier agreement. The terms of the supplemental agreement will not result in an increase in fixed charges of the guarantee or assumption of the payment of fixed charges or dividends.

Interested persons may participate formally in the proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29066 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date of notice of the filing of the application is published in the **Federal Register.** Such written comments shall include the following; the persons position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and informations they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation, and the Attorney General. Applicants' attorneys: Rene J. Gunning, 2 North Charles St., Baltimore, MD 21202; Peter J. Shudtz, Suite 840, Washington Bldg., 15th St. & New York Ave., Washington, DC 20005.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33502 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 196]

Permanent Authority Decisions; Decision—Notice

Decided: October 16, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identify of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminary, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminary and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplications shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

MC 4024 (Sub-4F), filed March 12, 1979. Applicant: HORN TRUCKING CO., a Corporation, 300 Schmetter Rd., Highland, IL 62249. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703. Transporting *metals* (except iron and steel), and *iron and steel articles*, between Union and St. Louis, MO, and Chicago, IL, on the one hand, and, on the other, points in IL, MO, AR, TN, KY, LA, MI, AL, GA, TX, IN, OH, IA, WI, MS, OK, and FL. (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 29934 (Sub-23F), filed May 22, 1979. Applicant: LoBIONDO BROTHERS MOTOR EXPRESS, INC., P.O. Box 160, Bridgeton, NJ 08302. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting *plastic containers*, from Havre de Grace, MD, to Bridgeton, NJ. (Hearing site: Philadephia, PA.)

MC 42405 (Sub-39F), filed May 23, 1979. Applicant: MISTLETOE EXPRESS SERVICE, a Corporation, P.O. Box 25614, Oklahoma City, OK 73125. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *general commodities* (except classes A and B explosives), moving in express service, over regular routes, (1) between Little Rock, AR, and Fordyce, AR, over U.S. Hwy 167, (2) between Springdale AR, and Alpena, AR, over AR Hwy 68, (3) between Harrison and Conway, AR, over U.S. Hwy 65, (4) between junction U.S. Hwys 65 and 62, and junction U.S. Hwys 63 and 61, from junction U.S. Hwys 65 and 62 over U.S. Hwy 62 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction U.S. Hwy 61, and return over the same route, (5) between Little Rock, AR, and Piggott, AR, from Little Rock over U.S. Hwy 67 to Corning, AR, then over U.S. Hwy 62 to Piggott, and return over the same route, (6) between Walnut Ridge, AR, and Paragould, AR, over AR Hwy 25, (7) between Piggott, AR, and Caruthersville, MO; from Piggott over U.S. Hwy 62 to junction AR Hwy 139, then over AR Hwy 139 to junction AR Hwy 90, then over AR Hwy 90 to junction MO Hwy 84, then over MO Hwy 84 to Caruthersville, and return over the same route, (8) between Caruthersville, MO, and junction County Hwy U and Interstate Hwy 55, over County Hwy U, (9) between junction Interstate Hwy 55 and MO Hwy 84, and Memphis, TN, over Interstate Hwy 55, (10) between Piggott, AR, and Forrest City, AR, over AR Hwy 1, (11) between Brinkley, AR, and Jonesboro, AR, over AR Hwy 39, (12) between Blytheville, AR, and West Memphis, AR: from Blytheville over U.S. Hwy 61 to junction AR Hwy 77, then over AR Hwy 77 to West Memphis, and return over the same route, (13) between Bald Knob, AR, and Marion, AR, over U.S. Hwy 64, (14) between Little Rock, AR, and Memphis, TN, (a) over Interstate Hwy 40, and (b) over U.S. Hwy 70, (15) between Tecumseh, OK, and junction OK Hwy 3E and OK Hwy 39: from Tecumseh over U.S. Hwy 270 to junction OK Hwy 9A, then over OK Hwy 9A to junction OK Hwy 39, then over OK Hwy 39 to junction OK Hwy 3E, and return over the same route, (16) between junction OK Hwy 58 and U.S. Hwy 270, and junction OK Hwy 58 and U.S. Hwy 60, over OK Hwy 58, and (17) between Canton, OK and junction OK Hwy 51 and U.S. Hwy 270, over OK Hwy 51, in (1) through (17) above serving all intermediate points. (Hearing site: Memphis, TN.)

MC 85255 (Sub-65F), filed May 21, 1979. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, Seattle, WA 98124. Representative: Clyde H. MacIver, 1900 Peoples National Bank Bldg., 1415 Fifth Ave., Seattle, WA 98171. Transporting *paper and paper products*, from the facilities of Ridgway Packaging Corporation, at or near Redmond, WA, to points in OR. (Hearing site: Seattle, WA.)

MC 106074 (Sub-107F), filed May 22, 1979. Applicant: B & P MOTOR LINES, INC., Oakland Road and U.S. Highway 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs* (except in bulk), from Milwaukee, WI, to the facilities of Carnation Company at Chattanooga, TN. NOTE: Dual operations may be involved. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 109294 (Sub-27F), filed April 5, 1979. Applicant: COMMERCIAL TRUCK COMPANY LIMITED. 90 Leeder Ave., Coquitlam, B.C., Canada V3J6Z9. Representative: Michael B. Crutcher, 2000 IBM Bldg., Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *lumber, building board, poles, pilings*, and *wood products* (except wood chips in bulk), between ports of entry on the international boundary line between the United States and Canada, in WA, on

the one hand, and, on the other, points in WA. (Hearing site: Seattle, WA.)

Note.—Applicant has requested in writing coincidental cancellation of Certificates Nos. MC 109294 Sub 2, 6, 8, 11, 13, and 18, issued April 13, 1953, December 23, 1966, March 11, 1968, August 15, 1969, March 5, 1971, and September 10, 1974 respectfully, upon issuance of this certificate.

MC 110525 (Sub-1303F), filed May 22, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Transporting (1) *liquid silicone,* from the facilities of General Electric Co., at or near Waterford, NY, to ports of entry on the international boundary line between the United States and Canada, on the Niagara River, restricted to the transportation of traffic moving in foreign commerce, and (2) *molding sand,* in bulk, in tank vehicles, from Oregon and Wedron, IL, to Schenectady, NY. (Hearing site: Boston, MA.)

Note.—Dual operations may be involved.

MC 117574 (Sub-334F), filed May 21, 1979. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same address as applicant). Transporting *pulpboard, fiberboard, pressboard* and *transformer board,* from St. Johnsbury, VT, to points in the United States (except AK and HI). (Hearing site: Boston, MA.)

MC 117574 (Sub-338F), filed May 21, 1979. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same address as applicant). Transporting (1) *water treating equipment, pollution control equipment, metal fabrications,* and *machinery,* and (2) *parts, attachments, and accessories* for the commodities named in (1) above, between the facilities of Belco Pollution Control Corp., at Fairfield, NJ, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Washington, DC.)

MC 119654 (Sub-73F), filed May 21, 1979. Applicant: HI-WAY DISPATCH, INC., 1401 West 26th St., Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *foodstuffs* (except frozen foods), and (2) *materials, equipment, and supplies* (except commodities in bulk) used in the manufacture and distribution of foofstuffs, between the facilities of Stokely-Van Camp, Inc., at or near (a) Gibson City, Hoopeston and Rochelle, IL, (b) Indianapolis and Tipton, IN, (c) Hart and Scottville, MI, (d) Fairmont and Lakeland, MN, (e) Norwalk and Paulding, OH, and (f) Appleton, Columbus, Cumberland, Frederic and Plymouth, WI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at and destined to the above-named points. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 119974 (Sub-82F), filed May 21, 1979. Applicant: L. C. L. TRANSIT COMPANY, a Corporation, 949 Advance St., Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. Transporting (1) *prepared foods packinghouse products, dairy products, starch, vegetable oil,* in bulk, in tank vehicles, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in bulk, in tank vehicles, (a) between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, and (b) between points in IL, IN, IA, KY, MI, MN, MO, OH, and WI, on the one hand, and, on the other, points in KS, NE, NY, PA, and TN, restricted in (a) and (b) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 127974 (Sub-18F), filed May 21, 1979. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Avenue, Trenton, NJ 08610. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *Iron and steel articles,* from the facilities of United States Steel Corporation, in Allegheny and Westmoreland Counties, PA, to points in NJ. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 128205 (Sub-78F), filed May 21, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *flour* in bulk, from Columbus, OH, to points in MI, IL, IN, KY, VA, WV, PA, NY, MD, NJ, DE, CT, MA, RI, TN, and NC. (Hearing site: Minneapolis, MN.)

MC 128205 (Sub-82F), filed May 21, 1979. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Avenue, Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *flour,* in bulk, from Winona, Wabasha, New Ulm, New Prague, and St. Paul, to points in MN, WI, IA, MO, IL, IN, MI, KY, OH, PA, NY, MA, NJ, WV, VA, and MD. (Hearing site: Chicago, IL.)

MC 134064 (Sub-28F), filed May 21, 1979. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *such commodities* as are dealt in by retail stores, discount stores and department stores (except commodities in bulk), from points in GA, NJ, NY, PA, MA, RI, CT, MD, and VA, to the facilities of Wal-Mart Stores, Inc., at or near Bentonville, Searcy, and Ft. Smith, AR. (Hearing site: Little Rock, AR.)

MC 134145 (Sub-75F), filed May 21, 1979. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *computing machine parts* and (2) *materials and supplies* used in the manufacture and operation of computing machines (except commodities in bulk), between points in the United States (except AK and HI), on the one hand, and, on the other, the facilities of Control Data Corporation, at or near (a) Merced, Los Angeles, LaJolla, San Francisco, and San Diego, CA, (b) Campton, KY, (c) Arlington, TX, (d) Rochester, MI, (e) Omaha and Lincoln, NE, (f) Rapid City, SD, (g) Washington, DC, (h) Baltimore, MD, (i) Manchester, CT, (j) Norristown, PA, (k) Minneapolis, MN and (l) Oklahoma City, OK, under continuing contract(s) with Control Data Corporation, of Minneapolis, MN. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 134775 (Sub-11F), filed May 21, 1979. Applicant: GUNTER BROTHERS, INC., 19060 Frager Road, Kent, WA 98031. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by manufacturers and distributors of household furnishings (except commodities in bulk),* between points in CA, ID, MT, OR, and WA, under continuing contract(s) with William Volker & Co., of Burlingame, CA. (Hearing site: Seattle, WA.)

Note.—Dual operations may be involved.

MC 135444 (Sub-6F), filed May 21, 1979. Applicant: SOUTHERN OHIO TRUCK LINES, INC., 3585 Hamilton-Trenton Rd., Hamilton, OH 45011. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215.

Transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between points in KY and OH, on the one hand, and, on the other, points in IN, KY, NJ, NY, and PA; and (2) *zinc and zinc products* (except commodities in bulk), between the facilities of St. Joe Zinc Company, at or near Josephtown (Beaver County), PA, and points in IN, KY, NY, and OH. (Hearing site: Columbus, OH.)

MC 136315 (Sub-77F), filed May 21, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, Post Office Box 22628, Jackson, MS 39205. Transporting *iron and steel articles*, from the facilities of Jones and Laughlin Steel Corporation, in Putnam County, IL, to Kansas City, MO, and points in AR, MS, OK, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 136315 (Sub-78F), filed May 21, 1979. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *adhesives* (except in bulk), from the facilities of General Adhesives and Chemical Company, in Davidson County, TN, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TX, VA, and WV. (Hearing site: Nashville, TN, or Jackson, MS.)

Note.—Dual operations may be involved.

MC 139495 (Sub-468F), filed April 5, 1979, previously published September 11, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Muscatine and Iowa City, IA, to point in KS, and MO, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—This republication includes the destination of State of MO.

MC 143085 (Sub-5F), filed May 21, 1979. Applicant: THE DANIEL COMPANY OF SPRINGFIELD, a corporation, 3725 West Division, Springfield, MO 65803. Representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. Transporting *such commodities* as are dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, GA, IA, ID, IL, IN, KS, KY, MI, MN, MO, MS, NC, NE, NY, OH, PA, TN, TX, UT, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 143555 (Sub-5F), filed May 21, 1979. Applicant: RIVERSIDE TRANSPORTATION CO., INC., 1903 Canal Drive, Wilson, NC 27893. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *lumber and landscape timbers*, from the facilities of Weyerhaeuser Company, at Lewiston, Plymouth, Jacksonville and Askin, NC, to points in DE, MD, NJ, NY, PA, VA, and DC. (Hearing site: Raleigh, NC, or Washington, DC.)

MC 144345 (Sub-12F), filed May 21, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, ID 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *such commodities as are dealt in by grocery and food business houses* from points in CA, OR, UT, and WA, to the facilities of American Strevell, Inc., at Boise, ID. (Hearing site: Boise, ID, or Portland, OR.)

MC 145525 (Sub-7F), filed May 21, 1979. Applicant: ERIEVIEW CARTAGE, INC., 100 Erieview Plaza, P.O. Box 6977, Cleveland, OH 44144. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *aluminum powder, aluminum ingots, water reactive solids, manganese powder, paint materials, bronze powder, tin powder, nickel powder, and copper powder*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Alcan Aluminum Corporation, at or near (a) Berkeley, CA, and (b) Union, NJ, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Alcan Aluminum Corporation, of Cleveland, OH. (Hearing site: Cleveland, OH.)

MC 147205 (Sub-1F), filed May 21, 1979. Applicant: RUSSELL E. BASTIAN, d.b.a. BASTIAN TRUCKING, P.O. Box 1143, Aurora, UT 84620. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, *sea coal and clay*, in bags, from Aurora, UT, to points in CA, WA, and AZ, under a continuing contract(s) with Western Clay, of Aurora, UT. (Hearing site: Salt Lake City, UT.)

Passengers

MC 2835 (Sub-42F), filed May 21, 1979. Applicant: ADIRONDACK TRANSIT LINES, INC., 18 Pine Grove Avenue, P.O. Box 1758, Kingston, NY 12401. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th St. NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, between Saranac Lake, NY, and Tupper Lake, NY, over NY Hwy 3, serving all intermediate points. (Hearing site: Tupper Lake, NY.)

[FR Doc. 79-33495 Filed 10-29-79; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: October 23, 1979.

In our decisions of September 11, 18, 25, and October 2, 9, and 16, 1979, a 9.5-percent surcharge was authorized on all owner-operated traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Although the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 9.8 percent, we are authorizing that the 9.5 percent surcharge on this traffic remain in effect. All owner-operators are to continue to receive compensation at the 9.5-percent level. In addition, no change will be made in the existing authorization of a 1.7-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators. Moreover, the bus carriers are authorized to publish a maximum 3.7-percent surcharge.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate

Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the **Federal Register**, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m., October 26, 1979.

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

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)
January 1, 1979 ..... 63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)
October 22, 1979 ..... 100.4
Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From transportation performed by owner operators (Apply to all truckload rated traffic)	(2) Other (Including less-truckload traffic)	(3) Bus carriers
16.9%	2.9%	6.3%
Percent Surcharge Developed		
9.8%	1.7%	3.7%
Percent Surcharge Allowed		
9.5%	1.7%	3.7%

[FR Doc. 79-33494 Filed 10-26-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-49)] [1]

Illinois Central Gulf Railroad Co. Abandonment Between Kosciusko and Fentress, In Attala and Choctaw Counties, MS; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided July 10, 1979, a finding, which is administratively final, was made by the Commission, Division 1, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line Railroad Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit abandonment by the Illinois Central Gulf Railroad Company of its line of railroad extending from railroad milepost 21.9 north of Kosciusko to milepost 47.5 near Fentress, a distance of 25.6 miles, all in Attala and Choctaw Counties, MS.

A certificate of abandonment will not be issued to the Illinois Central Gulf Railroad Company based on the above-described finding of abandonment until final determination of the proceeding by the United States Court of Appeals. During the interim, however, the procedures specified in 10905 will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment 30 days after publication of this notice unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or aquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However, as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33497 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[1] This proceeding is pending on a petition for judicial review in the United States Court of Appeals for the Fifth Circuit.

[Directed Service Order No. 1398; Authorization Order No. 2]

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

Decided: October 22, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. § 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398 (decided and served September 26, 1979; published in the **Federal Register** on October 1, 1979 at 44 FR 56343).

RI owns numerous freight cars which are in need of repair. DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds $250 per unit. *See* DSO No. 1398, at page 25 [44 FR 56345, 1st and 2nd columns]. Accordingly, the DRC submitted a list of 55 cars requiring repairs costing more the $250 per car. *See* "DRC Report No. 2" (dated October 10, 1979).

The DRC sought Commission authorization to repair these cars on the grounds that: (1) such rehabilitation of rolling stock is essential to the provision of directed-service operations; (2) the repairs will permit goods frozen in transit to resume their movement; and (3) the repairs will free more equipment for shippers and clear needed track of barriers.

Since DRC Report No. 2 was filed, the Commission has issued Supplemental Order No. 4 (served October 15, 1979) [44 FR 61127, October 23, 1979] which raised the monetary threshold for "substantial" rehabilitation, requiring prior Commission approval to $1,200 per unit. Accordingly, no Commission approval is required for the 37 cars listed in the appendix to DRC Report No. 2 as to which the cost of rehabilitation and repairs would not exceed $1,200 per car.

However, the cost of repairs to the other 18 cars listed in DRC Report No. 2 is more than $1,200 per car. These 18 cars consist of 3 covered hoppers, 8 DF boxcars, 4 plain boxcars, 1 gondola, and 2 tri-level flat cars.

RI is reporting a substantial shortage of covered hopper cars, boxcars and gondola cars. However, RI does not load tri-level flat cars on its railroad, and there is a surplus of these cars on other railroads. Accordingly, we will take the

following action regarding the DRC's car rehabilitation requests in DRC Report No. 2.

We find:

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

It is ordered:

(1) The DRC is authorized to make repairs to the following freight cars at the maximum cost listed for each freight car:

Description	Car initials	Car number	Cost
Covered Hopper	RI	130688	$1,800
Box-DF	RI	62976	2,500
Box-DF	RI	32946	1,300
Box-DF	RI	6259	1,500
Box-DF	RI	33293	1,600
Box	RI	50534	1,600
Box-DF	RI	6105	1,500
Box	RI	29346	2,000
Box-DF	ROCK	506378	1,700
Box-DF	RI	6970	1,600
Covered Hopper	RI	8582	3,000
Box	ROCK	530000	1,500
Covered Hopper	ROCK	801130	2,000
Box-DF	ROCK	516305	2,060
Gondola	RI	3057	1,500
Box	RI	14064	2,800
Total			29,900

(2) The DRC requested authority to make repairs to two tri-level flat cars: ROCK-990089 (cost $3,000) and RI-903062 (cost $2,250). Since these cars are not loaded on RI lines and there is a surplus of this type of equipment on other lines, the DRC is not authorized to make repairs to these two tri-level flat cars.

(3) The repairs authorized above shall be completed well within 45 days, unless otherwise authorized by the Commission. *See* DSO No. 1398, page 35 [44 FR 56350, 1st and 2nd columns].

(4) This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33496 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

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

October 22, 1979

Notice to the Parties:

This notice is to advise the parties that, on all future letters, pleadings and other submissions in this proceeding, clear reference should be made to the words:

"Directed Service Order No. 1398"
or simply
"DSO No. 1398"

This notation is necessary to ensure proper filing of all official materials in the docket.

In addition, copies of all submissions in this proceeding should be sent to the following Commission offices in the Commission's headquarters building at 12th and Constitution Avenue, NW, Washington, DC 20423:

Office of the Secretary (original) (Room 2215).

Secton of Finance (Room 5417), Office of Proceedings.

Section of Rail Services Planning (Room 7372), Office of Policy and Analysis.

Railroad Service Board (Room 7115), Bureau of Operations.

Bureau of Accounts (Room 6133).

This action is necessary to ensure expeditious handling of urgent matters related to the directed-service operation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33503 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-21F)]

Seaboard Coast Line Railroad Co. Abandonment Near Tarboro and Kelford in Edgecombe, Halifax, and Bertie Counties, NC; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided August 16, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), Oregon Short Line Railroad Co.—Abandonment Goshen, 360 I.C.C. 91 (1979); provided, however, that applicant shall keep intact all the right-of-way for a period of 120 days from the effective date of the certificate in this proceeding, to permit any Government agency or other interested party, to acquire all, or any portion of the property, for public use, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of its existing line of railroad known as the Kelford to Tarboro Line, extending from railroad milepost 161.73 near Kelford to milepost 137.30 near Tarboro, a distance of 24.43 miles, in Bertie, Halifax, and Edgecombe Counties, NC. A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a Government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33499 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-7 (Sub-75F)]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Debtor, Abandonment Near Roscoe to Linton, in Edmunds, McPherson, and Campbell Counties, SD, and McIntosh and Emmons Counties, ND; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 7, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line Railroad Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit abandonment by Stanley E. G. Hillman, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, of the line of railroad from railroad milepost 0.0 near Roscoe to railroad milepost 75.6 near Linton, a distance of 75.6 miles, in Edmunds, McPherson and Campbell Counties, SD, and McIntosh and Emmons Counties, ND. A certificate of abandonment be issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company based on the above-described finding of abandonment 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or aquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33500 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29132]

Western Railroad Properties, Inc.—Acquisition of One-half Interest in Line of Railroad Owned in Part by Chicago & North Western Transportation Co., Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 10901 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Exemption.

SUMMARY: Western Railroad Properties, Incorporated (WRPI) intends to take title to an undivided one-half interest in a line of railroad to be constructed jointly by its parent company, Chicago and North Western Transportation Company (North Western) and Burlington Northern, Inc. WRPI will take title to the one-half interest of North Western. A petition has been filed with the Interstate Commerce Commission on September 13, 1979, seeking exemption from 49 U.S.C. § 10901 and § 11343. These sections, from which exemption is sought, require the approval for the construction of or acquisition of control of a line of railroad. WRPI and North Western are seeking exemption from these sections under 49 U.S.C. § 10505 on the basis that Commission review of the transaction is unnecessary.

DATES: Comments must be received on or before November 29, 1979.

ADDRESSES: Send comments to: Interstate Commerce Commission, 12th Street and Constitution Ave., NW., Washington, DC 20423.

All written submissions will be available for public inspection during regular business hours at the same address. All submissions should refer to F.D. 29132.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275-7245.

SUPPLEMENTARY INFORMATION: WRPI and North Western have filed a petition for exemption under 49 U.S.C. § 10505 on September 13, 1979, in order that their anticipated transaction may be exempted from the requirements of obtaining prior Commission approval under 49 U.S.C. § 10901 and § 11343.

Petitioners claim that the proposed transaction will not adversely affect railroads or employees. It is alleged that since WRPI is a wholly-owned subsidiary of North Western, no useful public purpose would be served to develop, reproduce, and otherwise conform to the Commission's detailed application requirements under the statutory requirements in question. These assertions should be addressed in the comments.

The Transaction

WRPI is a wholly-owned subsidiary of North Western, and is authorized to do business in Nebraska and Wyoming. North Western is a common carrier by railroad operating in 11 States.

By report in Finance Docket No. 27579, *Burlington Northern, Inc.-Construction and Oper.* 348 I.C.C. 388 (1976), the Commission authorized North Western and Burlington Northern, Inc. (BN) jointly to construct, own and operate approximately 106.5 miles of a new line of railroad. On May 22, 1975, North Western and BN entered into an agreement defining the respective rights and obligations of each during construction and operation. The agreement permitted either carrier to create a wholly-owned subsidiary to own its undivided one-half interest in the joint line. The purpose of the instant application is to permit the subsidiary to take title to the interests of North Western in order to insulate the assets of the joint line from the reach of North Western's general mortgage.

WRPI and North Western state that the usual regulatory requirements contained in 49 U.S.C. § 10901 and § 11343 would serve no useful purpose.

The Statute

The construction and operation of a line of railroad requires the approval and authority of the Commission under 49 U.S.C. § 10901. The acquisition of control of a line of railroad by another railroad requires the approval and authority of the Commission under 49 U.S.C. § 11343. WRPI and North Western have requested an exemption from 49 U.S.C. § 10901 and § 11343 so

that they will not have to file applications under those sections.

The petitioners believe that this construction and acquisition is the type of transaction which Congress intended the Commission to exempt when it adopted 49 U.S.C. § 10505. It maintains that the legislative history of the *Railroad Revitalization and Regulatory Reform Act* of 1976 reflects a Congressional purpose to exempt from regulation those transactions in which regulation would serve little or no useful public purpose. It acknowledges that the exemption will be limited to this transaction and that railroads would continue to be subject to Commission regulation.

Before granting an exemption, we are required to provide the opportunity for a proceeding. This request for comments on a requested exemption of the proposed transaction is that opportunity. All comments filed in response to this notice, along with petition for exemption, will be used to determine whether or not the exemption under 49 U.S.C. 10505 should be granted.

This proceeding is instituted under the authority of 49 U.S.C. § 10505 and pursuant to 5 U.S.C. §§ 553, 559.

This proceeding is not a major Federal action significantly affecting energy consumption or the quality of the human environment.

Dated: October 16, 1979.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-33504 Filed 10-29-79; 8:45 am]

BILLING CODE 7035-01-M

[No. 37183 (Sub-1)]

Port of Lake Charles—Petition for Rulemaking—Freight Car Demurrage and Car Utilization and Beaumont Chamber of Commerce—Petition for Rulemaking—Freight Car Demmurrage and Car Utilization

Correction

In FR Doc. 79-29966, appearing on page 55692, in the issue of Thursday, September 27, 1979, make the following change.

On page 55710, in the third column, in the third paragraph, MC 134838 (Sub-24F) the correct MC number should read "MC 134838 (Sub-25F)."

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Steel Tripartite Committee; Working Group on Modernization and Capital Formation; Meeting

The Steel Tripartite Committee was established under the Federal Advisory Committee Act, 5 U.S.C. Appr. (1976), to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor and the public.

Notice is hereby given that the Steel Tripartite Committee's Working Group on Modernization and Capital Formation will meet at 3:30 p.m. on November 16, 1979, in room 4125, U.S. Department of the Treasury, 15th and Pennsylvania Ave., N.W., Washington, D.C.

Items to be discused are the status of modernization and capital formation in the U.S. steel industry and the future work of the Working Group. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

For additional information contact:

Mr. David L. Mallino, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C., 20210, telephone (202) 523-7481; or Mr. A. M. Brueckmann, Director, Iron and Steel Division, Office of Basic Industries and Trade Administration, U.S. Department of Commerce, Washington, D.C., 20230, telephone (202) 377-4412.

Official records of the meeting will be available for public inspection at room N5651, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of October 1979.

Herbert N. Blackman,

Deputy Under Secretary for International Affairs (acting), U.S. Department of Labor.

[FR Doc. 79-33811 Filed 10-29-79; 12:09 am]

BILLING CODE 4510-28-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 211
Tuesday, October 30, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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[M–253, Oct. 25, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., November 1, 1979.

PLACE: Room 1027 (Open), Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Docket 32485, *Baltimore/Washington-St. Louis Route Proceeding*—Opinion and Order. (OGC)

3. Docket 33237, California-Arizona Low-Fare Route Proceeding; Motion of Western Air Lines, Inc. for correction of Board order 79–9–178. (OGC)

4. H.R. 4185—a bill to require certificated air carriers to provide service at essential air service levels. (Memo No. 9216, OGC)

5. H.R. 3568 and H.R. 5027—The Federal Aviation Regulatory Review Act. (OGC)

6. Comments on S. 1460, S. 1463 and H.R. 4769. (OGC)

7. Docket 32566, *Alice D. Wallace* v. *Capitol International Airways, Inc.*, discretionary review on Board initiative (no petitions for review filed) of Chief ALJ's dismissal of proceeding on Part 252 "no-smoking" violation. (OGC)

8. Dockets 26368 *et al., Eastern Airlines, Inc., Enforcement Proceeding*, discretionary review on Board initiative (no petitions for review filed) of ALJ's approval of consent settlement for Part 252 "no-smoking" violations. (Memo No. 9230, OGC)

9. Final rule delegating authority to Director, BDA, to issue show-cause orders proposing to grant and final orders granting unopposed applications for interstate or overseas certificate authority and to issue orders stating Board's intention to process such applications under show-cause procedures. (BDA, OGC)

10. Dockets 35868, 36131, 36470, and 36471; application and petition of Alaska Airlines for Anchorage/Fairbanks-Bethel/Kenai/Barrow/Prudhoe Bay authority; application of Northwest for Anchorage-Fairbanks authority and motion to consolidate; application, petition and exemption request of Sea Airmotive for Anchorage-Bethel, Bethel-bush points and Barrow-Deadhorse-Nuiqsut authority. (BDA)

11. Docket 35532, Air Florida's application for Philadelphia-Washington, D.C authority and petition for an order to show cause. (Memo No. 9199, BDA)

12. Docket 35329, National's Petition for a Show-Cause Order for unrestricted Authority Between the Terminal Point Dallas/Fort Worth and the co-terminal points Denver, Colorado Springs, Portland, and Seattle. (Memo No. 9198, BDA)

13. Dockets 36322, 36422, and 36468, Applications of Continental, Westen and USAir (formerly Allegheny Airlines) for Denver-Tucson authority. (BDA)

14. Dockets 36114, 36261, and 36232; American Samoa Show-Cause Proceeding; applications of Continental and DHL for authority to serve American Samoa. (Memo No. 7651–H, BDA)

15. Docket 36253, application of Cascade Airways, Inc., for a certificate of public convenience and necessity, and a petition for an order to show cause for an expedited fitness hearing. (Memo No. 9228, BDA)

16. Dockets 32126, 36459, 36661, and 36887; *Twin Cities*-Kansas City-Oklahoma-Texas Route Proceeding, Order on discretionary review; Applications of TWA and USAir for certificate authority; Application of TXI for an exemption. (OGC)

17. Docket 36613, Application of Hughes Airwest,for an exemption so as to be able to operate nonstop between Boise and Reno effective October 28, 1979. (Memo No. 9219, BDA)

18. Dockets 36568 and 36692, applications of Air Illinois and Gem State, commuter air carriers, for exemption to permit them to suspend service at certain points on less than the 90-days' notice required in connection with joint fares. (BDA)

19. Docket 33026—expansion of commuter replacement agreement between USAir and Britt Airlines to include service to Kokomo. (Memo No. 8502–D, BDA)

20. Dockets 31013 and 35183, ATC Agreement permitting intrastate carriers to participate in Standard Agent's Ticket and Area Settlement Plan; Agreement among ATC Members permitting non-member air carriers to participate in the Area Settlement Plan; and J5068, ATC Agreement permitting commuter air carriers to participate in the Area Settlement Plan. (Memo No. 7750–E, BDA, OGC, BCP, OEA)

21. Docket 3451, Agreements 25132, 5044 and 27131, Travel Agent Commissioner Program. (Memo No. 8394–A, BDA)

22. Section 419 subsidy. (BDA, OCCR, OGC, OC, OEA)

23. Docket 36535—Advance compensation for losses for Pioneer Airways, Inc., in providing essential air service at McCook, Kearney, Hastings, and Columbus, Nebraska. (BDA, OCCR)

24. Docket 34802, Petition of Wien Air Alaska, Inc., to establish increased final intra-Alaska service mail rates. (Memo No. 9210, BDA)

25. Docket 35392, Part 223 of the Board's Economic Regulations—Proposed rule permitting free and reduced-rate transportation in connection with promotional tours and barter transactions. (Memo No. 9224, BDA, OGC, BIA)

26. Dockets 32047 and 34798, Petition of Airlift International for reconsideration of Order 78–7–147 granting temporary all-cargo exemption authority to Conner Air Lines between Miami and various Caribbean and South American points; Application of Conner Air Lines for expansion of exemption authority granted by Order 78–7–147. (Memo No. 8087–A, BIA, OGC)

27. Dockets 36300 and 36507; application of TWA and U.S. Air for authority to engage in foreign air transportation between Pittsburgh-Toronto. (BIA)

28. Docket 30870, Aerotour Dominicano, C. por A., application for an initial foreign air carrier permit. (Memo No. 9205, BIA, OGC, BALJ)

29. Dockets 34861, 35930, 36543, 36666, and 36838; applications of Braniff, Continental, Air Florida, Republic and Eastern for U.S.-Latin America exemptions (BIA, OGC, BALJ)

30. Dockets 35542, 36185, 33369, 35377, 35929, 32616, 35455, 36157, 36472, 31146, 36716, 31137, 36629, 29780, 31170, 36177, 36373, 35939, and 36832; Applications by various air carriers for certificates of public convenience and necessity for service between points in the U.S. and points in Central/South America. (BIA, OGC, BALJ)

STATUS: Open (Items 1–29). Closed (Item 30).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Consideration of these applications will involve aspects of our relationships with virtually every country in Latin America and our negotiations with many of them. Public disclosure of the opinions, evaluation, and strategies of the Board and its staff could seriously compromise the ability of the United States to further its aviation policies in Latin America. Accordingly, we believe that public observation of this item would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the

exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.
Managing Director.—Mr. Cressworth Lander.
Executive Assistant to the Managing Director.—Mr. John R. Hancock.
Office of the General Director.—Mr. Michael E. Levine, and Mr. Steven A. Rothenberg.
Office of the General Counsel.—Ms. Mary Schuman, Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, and Mr. Michael Schopf.
Bureau of International Aviation.—Mr. Stanford Rederer, Mr. Ivars V. Mellups, Mr. Peter H. Rosenow, Mr. Jerome Nelson, Mr. Richard M. Loughlin, Mr. Robert Kneisley, Ms. Patricia DePuy, Mr. Vance Fort, Mr. Douglas Leister, Mr. Donald Litton, and Ms. Carolyn Coldren.
Bureau of Administrative Law Judges.—Judge Joseph Saunders.
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. Robert Preece.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson and Mr. John T. Golden.
Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Deborah A. Lee, and Ms. Louise Patrick.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting may be closed to public observation.

Gary J. Edles,
Deputy General Counsel.

[S-2113-79 Filed 10-26-79; 3:39 pm]
BILLING CODE 6320-01-M

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October 24, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., October 31, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

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) 357-8400.

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 Public Information.

Power Agenda—344th Meeting, October 31, 1979, Regular Meeting (10 a.m.)

CAP-1. Project No. 382, Southern California Edison Co.
CAP-2. Docket No. E-7777 (II), Pacific Gas & Electric Co. Docket No. E-7796, Pacific Power & Light Co.
CAP-3. Docket No. ER79-537, Lockhart Power Co.
CAP-4. Docket Nos. ER76-131, et al., Kansas City Power & Light Co.
CAP-5. Docket No. ER76-285 (Phase II), Public Service Co. of New Hampshire.
CAP-6. Docket No. ER76-828, Nantahala Power & Light Co. Docket No. EL78-18, *Town of Highlands et al.*, v. *Aluminum Company of America et al.*
CAP-7. Docket No. EL78-28, *City of Homestead, Florida* v. *Florida Power & Light Co.*

Miscellaneous Agenda—344th Meeting, October 31, 1979, Regular Meeting

CAM-1. Docket No. RM80- , order revising annual reporting of officers' salaries.
CAM-2. Docket No. RM79-40, procedures for evaluating the economic practicability and reasonable availability of alternative boiler fuel for large boiler facilities. Docket No. RM79-15, final regulation for the implementation of section 401 of the NGPA.
CAM-3. Docket No. RM76-35, revision of policy statement regarding transportation of natural gas for high priority customers.

Gas Agenda—344th Meeting, October 31, 1979, Regular Meeting

CAG-1. Docket No. RP73-14 (PGA No. 79-2), Michigan-Wisconsin Pipe Line Co.
CAG-2. Docket Nos. RP80-3 and CP78-134, Michigan-Wisconsin Pipe Line Co.
CAG-3. Docket Nos. RP73-97 and RP76-93 (PGA No. 79-2), Kentucky-West Virginia Gas Co.
CAG-4. Docket No. RP74-97 (PGA No. 80-1), Montana-Dakota Utilities Co.
CAG-5. Docket No. RP73-3 (PGA No. 79-3), Transcontinental Gas Pipe Line Corp.
CAG-6. Docket No. RP74-85 (PGA No. 79-2), Western Gas Interstate Co.
CAG-7. Docket No. RP80-4, Locust Ridge Gas Co.
CAG-8. Docket Nos. RP73-14, RP73-102 and RP76-100 (PGA Nos. 76-3, 76-3a, 76-4, 76-4a and 77-1a), Michigan-Wisconsin Pipe Line Co.
CAG-9. Docket No. RP75-98, McCulloch Interstate Gas Corp.
CAG-10. Docket No. RP77-62, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.
CAG-11. Docket No. RI66-273, Southwestern Refining Co. (Operator), et al.
CAG-12. Docket No. RI77-53, CRA, Inc.
CAG-13. Docket No. CI72-145, Gulf Oil Corp.
CAG-14. Docket Nos. CI77-729 and CI77-755, Amoco Production Co.
CAG-15. Docket No. CI79-415, Continental Oil Co., Docket No. CI79-532, Exxon Corp.
CAG-16. Docket No. CI79-501, The Offshore Co.
CAG-17. Docket Nos. CS66-108, et al., Energy Resources Oil & Gas Corp., Docket Nos. CS71-912, et al., Cusack Interests, c/o John Patrick Cusack, Jr., et al., Docket No. CI79-597, Anadarko Production Co., Docket No. CI78-1237, Gulf Oil Corp. (successor to Kewanee Oil Co.), Docket No. CI78-979, The Louisiana Land and Exploration Corp., Docket No. CI79-421, Marathon Oil Co., Docket Nos. CI78-1147 and CI78-1156, Helmerich & Payne, Inc., Docket No. CI78-1163, Estate of H. L. Hunt, Docket No. CI78-1189, Southland Royalty Co., Docket Nos. CI78-1238, CI78-1253 and CI79-89, Gulf Oil Corp.
CAG-18. Docket Nos. AR61-2, et al., and AR69-1, et al., Area Rate Proceeding, et al. (South Louisiana area).
CAG-19. Docket No. CP75-221, El Paso Alaska Co.
CAG-20. Docket No. CP74-94 (phase I), *United Gas Pipe Line Company* v. *Billy J. McCombs, et al.*
CAG-21. Southwest Gas Corp.
CAG-22. Docket No. CP78-92, Texas Gas Transmission Corp.
CAG-23. Docket No. CP-78-301, Texas Gas Transmission Corp.
CAG-24. Docket No. CP77-40, El Paso Natural Gas Co.
CAG-25. Docket No. CP79-397, Southern Natural Gas Co.
CAG-26. Docket No. CP79-352, Tennessee Gas Pipeline Co., a division of Tenneco Inc.
CAG-27. Docket No. CP79-145, Columbia Gas Transmission Co., Tennessee Gas Pipeline Co., a division of Tenneco Inc. and Northern Natural Gas Co., Docket No. CP79-282, Transcontinental Gas Line Corp.
CAG-28. Docket No. CP-350, United Gas Pipe Line Co.
CAG-29. Docket No. CP79-110, Northern Natural Gas Co., Docket No. CP79-135, Columbia Gas Transmission Corp., Docket No. CP79-273, Panhandle Eastern Pipe Line Co.
CAG-30. Docket No. CP78-546, Northwest Pipeline Corp.
CAG-31. Docket No. G-7007, Cities Service Co.
CAG-32. Docket No. CP75-110, Washington Natural Gas Co.
CAG-33. Docket No. CP78-346, El Paso Natural Gas Co.
CAG-34. Docket No. CP74-177, Washington Natural Gas Co., as project operator.
CAG-35. Docket No. CP78-541, Transcontinental Gas Pipe Line Corp.
CAG-36. Docket No. CP78-522, El Paso Natural Gas Co.
CAG-37. Docket No. CP79-268, United Gas Pipe Line Co.
CAG-38. Docket No. CP79-327, Natural Gas Pipeline Co. of America, United Gas Pipe Line Co., Michigan Wisconsin Pipe Line Co. and Transcontinental Gas Pipe Line Corp.

Power Agenda—344th Meeting, October 31, 1979, Regular Meeting

I. Licensed Project Matters

P-1. Project No. 96, Pacific Gas & Electric Co.
P-2. Docket No. EL78-24, *Municipal Electric Utilities Association of the State of New York* v. *Power Authority of the State of New York. Docket No. EL78-37, Village of*

Ilion, New York v. *Power Authority of the State of New York.*

II. Electric Rate Matters

ER-1. Docket No. ER79-642, Missouri Utilities Co.
ER-2. Docket No. ER76-167, Long Island Lighting Co.
ER-3. Docket Nos. ER77-525 and ER77-426, Appalachian Power Co.
ER-4. Docket Nos. E-8641, et al., New England Power Co., Docket Nos. ER76-304, et al., New England Power Co.
ER-5. Docket No. E-7704, *The Electric and Water Plant Board of the City of Frankfort, Kentucky* v. *Kentucky Utilities Co., Docket No. E-7669, Public Service Co. of Indiana, Docket No. E-7937, Indianapolis Power & Light Co., Docket No. E-8053, Kentucky Utilities Co.*
ER-6. Docket No. EL78-4, *Florida Cities* v. *Florida Power & Light Co.*

Miscellaneous Agenda—344th Meeting, October 31, 1979, Regular Meeting

M-1. Docket No. RM79-79, Price squeeze—procedural rules.
M-2. Docket No. RM79-60, Price discrimination and anti-competitive effect—substantive rule.
M-3. Docket No. RM80-, Interlocking directorates under section 211 of the Public Utility Regulatory Policies Act of 1978.
M-4. Docket No. RM80-, Comprehensive interperiod tax allocation (tax normalization).
M-5. Docket No. RM80-, Interlocutory appeals from presiding officers.
M-6. Docket No. RM79-77, Rule required under section 202 of the Natural Gas Policy Act of 1978.
M-7. Docket No. RM80-, Statement of policy on distributor access to outer continental shelf gas.
M-8. Docket No. RM79-75, Final part 284 regulations under the Natural Gas Policy Act of 1978.
M-9. Docket No. RM79-67, Procedures governing applications for special relief under sections 104, 106 and 109 of the Natural Gas Policy Act of 1978.
M-10. Docket No. RM79-72, Final rule amending regulations on natural gas from new, onshore production wells and amendment to the filing requirements in section 274.204 of the interim regulations.
M-11. Docket No. GP79-51-79, Dugan Production Corp. OJO—HE—HE #4 USGS Docket No. NM-103-78, FERC No. JD79-8055.
M-12. Docket No. GP79-68, State of New Mexico Section 108 NGPA determination Texas Pacific Oil Co., Inc., Glen Farmers No. 1 JD79-9548.
M-13. Docket No. GP79-48, United States Geological Survey (New Mexico) section 108 NGPA determination, San Jacinto No. 4 Well JD79-7926.
M-14. Docket No. GP79-41, State of New Mexico section 102 NGPA determination Harvey E. Yates, Co. two wells.
M-15. Docket No. GP79-52, Commonwealth of Virginia section 108 BGPA determination ray resources, division of Flying Diamond Oil Corp. consol ray #9 well API well No. 45-185-20005-03.
M-16. Docket No. GP80-, Mississippi State Oil and Gas Board section 107 NGPA Determination JD79-20793 and 20794 Callon Petroleum Co.
M-17. Well category determinations.
M-18. Docket No. GP80-, State of West Virginia NGPA determinations section 108 consolidated gas supply corporation JD79-20967 though 79-20971, 79-20973 through 79-20975 and JD79-21361.
M-19. Docket No. GP80-, State of West Virginia NGPA determinations section 108 JD79-20890 through 21273, JD79-21833.
M-20. Docket No. GP80-, State of New Mexico section 108 NGPA determination El Paso Natural Gas Company San Juan 28-5 unit well No. 15 JD79-20881.
M-21. Well category determinations.

Gas Agenda—344th Meeting, October 31, 1979, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP80-1, Hampshire Gas Co.
RP-2. Docket Nos. RP80-2 and RP79-20, Alabama-Tennessee Natural Gas Co.
RP-3. Docket Nos. RP78-10 and RP72-32 (PGA77-2a), Kansas-Nebraska Natural Gas Co., Inc.
RP-4. Docket No. RP78-12, East Tennessee Natural Gas Co.

II. Producer Matters

CI-1. Docket No. CI 79-41, Texas Oil and Gas Corp.

III. Pipeline Certificate Matters

CP-1. Docket No. CP78-312, Transcontinental Gas Pipe Line Corp.
CP-2. Docket No. CP78-198, Iowa Power & Light Co.
CP-3. Docket Nos. CP78-123, et al., (Phase I), Northwest Alaskan Pipeline Co., Docket No. CP79-56 (Phase I), Northwest pipeline Corp., Docket No. CP79-57 (Phase I), El Paso Natural Gas Co. Docket No. CP79-58 (Phase I), Pacific Interstate Transmission Co., Docket No. CP79-59 (Phase I), Northwest Alaskan Pipeline Co., Docket No. CP79-60 (Phase I), Pacific Gas Transmission Co., Docket No. CP79-170 (Phase I), Northwest Alaskan Pipeline Co., Docket No. CP79-124 (Phase I), Northern Border Pipeline Co.

Kenneth F. Plumb,
Secretary.

[S-2104-79 Filed 10-26-79; 9:20 am]
BILLING CODE 6450-01-M

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Pub. 10/25/79; 44 FR 61514.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., October 29, 1979.

CHANGE IN MEETING: The meeting scheduled for October 29, 1979, at 2:00 p.m. has been changed to October 30, 1979 at 10:00 a.m.

Kenneth F. Plumb,
Secretary.

[S-2111-79 Filed 10-26-79; 2:47 pm]
BILLING CODE 6450-01-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR 61304, October 24, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 25, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin D. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following items were added to the agenda for the open meeting:

Application for Bank Membership and Insurance of Accounts—Southside Savings & Loan Association, Austin, Texas.
FHL Banks Dividend Policy.
Regulation on Reduction in Liquidity Requirements.
No. 284, October 25, 1979.

[S-2106-79 Filed 10-26-79; 2:47 pm]
BILLING CODE 6720-01-M

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Friday, November 2, 1979.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: October 25, 1979.

Theodore E. Allison,
Secretary of the Board.

[S-2106 Filed 10-26-79; 11:05 am]
BILLING CODE 6210-01-M

6

[USITC SE-79-42]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 2:00 p.m., Monday, October 29, 1979.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Emergency meeting—less than ten days' prior notice. (Open to the public.)

MATTERS TO BE CONSIDERED: 1. Petitions and complaints: a. Powered tire changers (Docket No. 598)—further consideration.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–2107–79 Filed 10–26–79; 2:47 pm]

BILLING CODE 7020–02–M

7

[USITC SE–79– 39B and –40A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 58600 (10/10/79) and 44 FR 60198, 99 (10/19/79).

PREVIOUSLY ANNOUNCED TIMES AND DATES OF THE MEETINGS: 10:00 a.m., Friday, October 26, 1979, and 10:00 a.m., Thursday, November 1, 1979.

CHANGES IN THE MEETING: Amendments to subject notices as follows:

Delete item No. 1 [Nonelectric Cooking Ware (Inv. TA–201–39)—vote on remedy] from the agenda for Friday, October 26, 1979; and add to the agenda for Thursday, November 1, 1979, as follows:

9. Nonelectric cooking ware (Inv. TA–201–39)—vote on remedy.

Note.—Commissioners Parker, Alberger, Moore, Bedell, and Stern determined by recorded vote that Commission business requires the change in subject matter by rescheduling of the agenda item, and affirmed that no earlier announcement of the change in the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–2105–79 Filed 10–26–79; 11:05 am]

BILLING CODE 7020–02–M

8

NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 60892.

TIME AND DATE: October 23 (changes) and October 31, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Tuesday, October 23; 3:45 p.m.

1. Affirmation Session (approximately 10 minutes, public meeting):

a. Export of Certain Minor Quantities of Nuclear Material (postponed),

b. Waiver of Section 145b for Employment (additional item),

c. Extension of Pat Down Search (additional item).

2. Continuation of Discussion of Enforcement Actions at TMI (continued from 10/22), approximately 1 hour, closed—exemption 10).

3. Discussion of FY 80 Domestic Safeguards Technical Assistance & Research Contractual Projects (was cancelled).

Wednesday, October 31; 1:30 p.m.

1. Briefing by IE on TMI Lessons Learned (approximately 2 hours, public meeting).

ADDITIONAL INFORMATION: By a vote of 5–0 on October 23, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that items b and c of the Affirmation Session, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

October 23, 1979.

[S–2109–79 Filed 10–26–79; 2:47 pm]

BILLING CODE 7590–01–M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: October 25 and November 1, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Thursday, October 25; 9:30 a.m.

1. Continuation of Discussion of Enforcement Actions at TMI (2 hours, closed—exemption 10) continued from 10/23/79.

2. Affirmation Session (approximately 5 minutes, public meeting)—Approval under Section 145b for Employment.

Thursday, November 1; 9:30 a.m.

1. Discussion of Personnel Matter (approximately 2½ hours, closed—(exemption–6).

Thursday, November 1; 1:30 p.m.

1. General Administrative Meeting (approximately 1½ hours, public meeting).

2. Briefing on Reactor Licensing Schedules (approximately 1 hour, public meeting).

3. Affirmation Session (approximately 10 minutes, public meeting), items are tentative:

a. Oconee/McGuire Spent Fuel Shipment,

b. Order in Shearon Harris.

ADDITIONAL INFORMATION: By a vote of 3–0 (Commissioners Gilinsky and Kennedy not present) on October 25, the Commission determined pursuant to 5 U.S.C. b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Affirmation Session, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Roger M. Tweed,

Office of the Secretary.

October 25, 1979.

[S–2110–79 Filed 10–26–79; 2:47 pm]

BILLING CODE 7590–01–M

10

POSTAL SERVICE (BOARD OF GOVERNORS).

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 a.m. on Tuesday, November 6, 1979, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. The meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

Agenda

1. Minutes of the previous meeting.

2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of the miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather, or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly Report on Service Performance. (Mr. Benson, Senior Assistant Postmaster General (Operations Group) will present the quarterly summary of service performance.)

4. Report on Employee and Labor Relations. (Senior Assistant Postmaster General Ulsaker and members of the Employee and Labor Relations Group staff will report to the Board on developments in the E&LR area. This report is one of the regularly scheduled reports to the Board which are made yearly by each of the Headquarters Groups and separate Departments.)

5. Capital Investment Project: Procurement of M–36 Facer Cancelers. (Mr. Del Grosso, Assistant Postmaster General (Engineering and Technical Support Department), will present a proposal for the procurement of 100 M–36 Facer Canceler Systems.)

W. Allen Sanders,

Acting General Counsel.

[S–2112–79 Filed 10–26–79; 3:15 pm]

BILLING CODE 7710–12–M

federal register

Tuesday
October 30, 1979

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Community Planning and Development

Urban Development Action Grants; Revised Minimum Standards for Physical and Economic Distress for Small Cities

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-79-955]

Urban Development Action Grants; Revised Minimum Standards for Physical and Economic Distress for Small Cities

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: The Department is providing Notice of the most current minimum standards of physical and economic distress for small cities for the Urban Development Action Grant program, based on new data from the Bureau of the Census as required by § 570.452(b)(2), as published on June 8, 1979, (44 FR 33372). We are also providing a list of those small cities which meet the minimum standards of physical and economic distress, a list of those small cities which meet the minimum standards for the first time, and a list of those small cities which no longer meet the minimum standards.

EFFECTIVE DATE: October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Catherine Hare or Jane Hilot, Office of Urban Development Action Grants, 451 Seventh Street, S.W., Washington, D.C. (202) 472-3980.

SUPPLEMENTAL INFORMATION: On June 8, 1979 (44 FR 33372), the Department published interim regulations deleting the specific minimum standards of physical and economic distress for Fiscal Year 1978 for small cities. Section 570.452(b)(2) was thereby amended to require that HUD issue, from time to time, in Notice form the minimum standards for each category of distress. This Notice accommodates that requirement.

As a result of new data from the Bureau of the Census showing revised population estimates and recent annexation changes, three of the four standards relying on Census data have changed. The standard for age of housing constructed prior to 1940 is revised from 34.15 percent to 33.77 percent. The percent of the population which is at or below the poverty level is changed from 11.24 percent to 11.07 percent. Population lag/decline, which accounts for the percentage rate of population change is revised from −0.31 to +0.32. Lastly, the category of per capita income change is revised to include newly available 1975 per capita income data.

Furthermore, the Department wishes to call to the attention of all small cities the interim rule published October 30, 1978 (43 FR 50668). Section 570.452(c) added a provision allowing those cities and urban counties which become ineligible due to changes in the data to submit an Action Grant application during the two quarters following the announcement of a change in the data used to establish minimum standards of distress.

The following Notice is published to § 570.452(b)(2) (44 FR 33372):

I. The most current minimum standards of physical and economic distress are:

A. *Age of housing.* At least 33.77 percent of the applicant's year-round housing units were constructed prior to 1940, based on U.S. Census data.

B. *Per capita income.* The net increase in per capita income for the period 1969–1975 was $1762 or less, based on U.S. Census data.

C. *Poverty.* Based on 1976 population data and 1970 poverty data from the U.S. Census, 11.07 percent or more of the persons within the applicant's jurisdiction are at or below the poverty level.

D. *Population lag/decline.* For the period 1970–1976 the percentage rate of population growth (based on corporate boundaries in 1970 and 1976) was 0.32 or less, based on U.S. Census data.

E. *Job lag/decline.* The rate of growth in retail and manufacturing employment for the base period 1967–1972 was 7.06 or less, based on U.S. Census data. If only retail data are available, then the standard will be the median of the retail employment for those cities where both data sources are available (14.1 percent or less). If neither data source is available, this standard will not be considered.

II. The following small cities meet the current minimum standards of physical and economic distress appropriate to their class:

Alabama

Arbeville, Akron, Aliceville, Altoona, Andalusia, Ardmore, Ariton, Ashford, Ashland, Ashville, Atmore, Attalla, Autaugaville
Baileyton, Banks, Bayou La Batre, Bear Creek, Beatrice, Beaverton, Belk, Benton, Berry, Bessemer, Billingsley, Black, Boligee, Branchville, Brantley, Brent, Brewton, Bridgeport, Brighton, Brilliant, Brookside, Brundidge
Calera, Camp Hill, Carbon Hill, Cardiff, Carolina, Carrollton, Carrville, Castleberry, Cedar Bluff, Centre, Centreville, Chatom, Clanton, Clayhatchee, Clayton, Clio, Coffee Springs, Collinsville, Columbia, Coosada, Cordova, Cottonwood, County Line, Courtland, Cowarts, Cuda
Dadeville, Daleville, Daphne, Dayton, Demopolis, Detroit, Dora, Dozier
Eclectic, Edwardsville, Elba, Eldridge, Elkmont, Epes, Ethelsville, Eufaula, Eutaw, Eva, Evergreen
Fairfield, Fairview, Faunsdale, Five Points, Flomaton, Florala, Forkland, Fort Deposit, Fort Payne, Franklin, Frisco City, Fruithurst, Fulton
Gainesville, Gantt, Garden City, Gaylesville, Geiger, Geneva, Georgiana, Geraldine, Gilbertown, Glen Allen, Glenwood, Goldville, Goodwater, Gordo, Gordon, Graysville, Greensboro, Greenville, Grimes, Gurley, Guwin
Hackleburg, Haleburg, Haleyville, Hammondville, Harpersville, Hartford, Hayden, Hayneville, Headland, Heflin, Hillsboro, Hobson City, Hodges, Hurtsboro Ider
Jacksonville
Kennedy, Kinsey, Kinston
Lafayette, Lanett, Leesburg, Leighton, Lester, Libertyville, Lincoln, Linden, Lineville, Lipscomb, Livingston, Loachapoka, Lockhart, Louisville, Luverne, Lynn
Madrid, Malvern, Maplesville, Margaret Marion, McKenzie, McMullen, Memphis, Mentone, Midland City, Midway, Millport, Millry, Monroeville, Mooresville, Mountainboro, Mulga, Myrtlewood
Nauvoo, Nectar, New Brockton, Newbern, Newville, North Johns, Notasulga
Oak Hill, Oakman, Ohatchee, Opp, Orrville, Owens Cross Roads
Paint Rock, Parrish, Pell City, Pennington, Petrey, Phenix City, Phil Campbell, Pickensville, Piedmont, Pinckard, Pine Apple, Pine Hill, Pollard, Powells Crossroads, Prichard, Providence
Rainsville, Red Bay, Red Level, Reform, Repton, Ridgeville, River Falls, Riverside, Riverview, Roanoke, Rockford, Roosevelt City, Rosa, Russellville, Rutledge
Samson, Sanford, Section, Selma, Sheffield, Shilo, Silas, Slocomb, Somerville, St Florian, Stevenson, Sulligent, Summerdale, Sylacauga
Talladega, Talladega Springs, Tallassee, Tarrant City, Thomaston, Thomasville, Town Creek, Toxey, Trafford, Triana, Troy, Tuscumbia, Tuskegee
Union Grove, Union Springs, Uniontown
Valley Head, Vina, Vincent, Vredenburgh
Wadley, Walnut Grove, Waterloo, Waverly, Wedowee, West Blocton, West Point, Wetumpka, Wilmer, Wilton, Woodland York

Alaska

Akhoik, Akiachak, Akiak, Akolmiut, Alakanuk, Aleknagik, Allakaket, Anaktuvuk Pass, Angoon, Aniak, Anvik
Brevig Mission
Chefornak, Chevak, Chuathbaluk
Deering
Eek, Elim Emmonak
Fortuna Ledge
Gambell, Golovin, Goodnews Bay, Grayling
Holy Cross, Hooper Bay, Hydaburg
Kake, Kaltag, Kivalina, Klawock, Kobuk, Kotlik, Kwethluk
Lower Kalskag
Manokotak, Mekoryuk, Mountain Village

Napakiak, New Stuyahok, Newtok, Nightmute, Nikolai
Old Harbor, Ouzinkie
Pelican, Pilot Station, Port Helden
Quinhagak
Saint Michael, Savoonga, Scammon Bay, Selawik, Shageluk, Shaktoolik, Sheldon Point, Shishmaref, St. Mary's, Stebbins
Teller, Tenakee Springs, Togiak, Toksook Bay, Tuluksak, Tununak
Upper Kalskag
Wainwright, Wales, White Mountain

Arizona

Avondale
Buckeye
Clarkdale, Cottonwood
Douglas, Duncan
El Mirage, Eloy
Florence, Fredonia
Gila Bend, Globe, Guadalupe
Hayden
Jerome
Marana, Miami
Nogales
Patagonia, Pima
Somerton, South Tucson, St. Johns, Surprise
Thatcher, Tolleson, Tombstone
Williams, Winslow

Arkansas

Adona, Alexander, Alicia, Allport, Alma, Almyra, Alpena, Altherimer, Altus, Amagon, Amity, Antoine, Arkadelphia, Arkansas City, Ash Flat, Ashdown, Atkins, Aubrey, Augusta, Austin, Avoca,
Bald Knob, Banks, Bassett, Batesville, Bearden, Beebe, Beedeville, Bellefonte, Belleville, Beroman, Big Flat, Bigelow, Biggers, Biscoe Town, Black Oak, Black Rock, Blevins, Blure Mountain, Bluff, Blytheville, Bodcaw, Bonanza, Booneville, Bradford, Bradley, Branch, Brinkley, Buckner, Burdette
Caldwell, Cale, Calico Rock, Calion, Camden, Caraway, Carisle, Carthage, Casa, Cash, Caulksville, Cave City, Cave Springs, Centerton, Central City, Charleston, Cherry Valley, Chester, Chidester Clarendon, Clarksville, Clinton, Coal Hill, Corning, Cotter, Cotton Plant, Cove, Crawfordsville, Cushman
Daisy, Damascus, Dardanelle, Datto, De Valls Bluff, De Witt, Decatur, Delight, Dell, Denning, Dermott, Dierks, Dover, Dumas, Dyer, Dyess
Earle, Edmondson, El Dorado, Elaine, Emerson, Emmet, England, Enola, Eudora, Eureka Springs, Evening Shade, Everton
Fifty Six, Fisher, Flippin, Fordyce, Foreman, Forrest City, Fouke, Fountain Hill, Friendship, Fulton
Garfield, Garland, Garner, Gateway, Gentry, Gilbert, Gilmore, Glenwood, Gould, Grady, Grannis, Gravette, Green Forest, Greenland, Greenway, Griffithville, Gum Springs, Gurdon, Guy
Hackett, Hamburg, Hardy, Harrell, Harrisburg, Harrison, Hartford, Hartman, Hatfield, Havana, Hazen, Heber Springs, Hector, Helena, Hermitage, Hickory Ridge, Higginson, Highfill, Holly Grove, Hope, Horatio, Hot Springs, Houston, Hoxie, Hughes, Humnoke, Humphrey, Hunter, Huntington, Huntsville, Huttig
Imboden
Jacksonport, Jasper, Jerome, Joiner, Judsonia, Junction City
Kensett, Keo, Kibler, Kingsland, Knobel
Lafe, Lake City, Lake View, Lake Village, Lakeview, Lamar, Leachville, Leola, Leslie, Letona, Lewisville, Lincoln, Little Flock, London, Lonoke, Louann, Lowell, Luxora, Lynn
Madison, Magazine, Magness, Magnolia, Malvern, Mammoth Spring, Manila, Mansfield, Marianna, Marie, Marked Tree, Marshall, Marvell, Maynard, McCaskill, McDougal, McGehee, McNeil, McRae, Mena, Menifee, Mineral Springs, Minturn, Mitchellville, Monette, Monticello, Montrose, Moorefield, Moro, Morrilton, Mount Pleasant, Mount Vernon, Mountain Pine, Mountainburg, Mountainview, Mulberry, Murfreesboro,
Nashville, Newark, Nimmons, Norfolk, Norman, Norvell,
Oak Grove, Oden, Ogden, Oil Trough, Okolona, Ola, Omaha, Osceola, Ozan, O'Kean
Palestine, Pangburn, Paragould, Paris, Parkdale, Parkin, Paimos, Patterson, Peach Orchard, Perla, Perry, Perryville, Piggott, Plainview, Pleasant Plains, Pocahontas, Pollard, Portia, Portland, Pottsville, Powhatan, Poyen, Prairie Grove, Prescott, Pruitt, Pyatt
Quitman
Ratcliff, Ravenden, Reader, Rector, Redfield, Reed, Reyno, Rison, Roe, Rondo, Rose Bud, Rosston, Russell
Salem, Scranton, Sedgwick, Sherrill, Shirley, Sidney, Siloam Springs, Smackover, Smithville, South Lead Hill, Sparkman, St. Charles, St. Francis, St. Paul, Stamps, Stephens, Strong, Stuttgart, Subiaco, Success, Sulphur Rock, Sulphur Springs, Sunset, Swifton
Tillar, Tinsman, Tonititown, Tuckerman, Tupelo, Tyronza
Valley Springs, Van Buren, Vandervoort, Victoria, Vilonia, Viola
Wabbaseka, Waldenburg, Waldo, Waldron, Ward, Warren, Washington, Watson, Weiner, Weldon, West Fork, West Helena, West Memphis, West Point, Western Grove, Wheatley, Whelen Springs, Wickes, Widener, Williford, Willisville, Wilmar, Wilmot, Wilson, Wilton, Winslow, Winthrop, Wooster
Yellville

California

Adelanto, Amador, Ariesia, Azusa
Baldwin Park, Bell, Bell Gardens
Calexico, Calipatria, Calistoga, Chico, Coachella, Colfax, Colton, Commerce, Cudahy
Dinuba, Dorris, Dunsmuir
Etna, Exeter
Farmersville, Ferndale, Fowler
Gonzales, Grass Valley, Gridley, Guadalupe
Healdsburg, Huntington Park
Imperial Beach, Industry, Ione, Irwindale, Isleton
King City
Lake Elsinore, LaPuente, Lawndale, Lindsay, Live Oak, Loyalton, Lynwood
Maricopa, Maywood, Monrovia
Nevada City, Newman
Orange Cove, Oroville
Pacific Grove, Paramount, Parlier, Pittsburg, Placerville, Point Arena, Porterville, Portola
Rio Dell, Rosemead
San Fernando, San Joaquin, San Juan Bautista, Sand City, Santa Paula, Sebastopol, Selma, Soledad, South El Monte, Suisun City
Tehama, Tulare, Tulelake
Waterford, Watsonville, Weed, Westmorland, Wheatland, Willits, Woodlake

Colorado

Aguilar, Alma, Antonito, Arriba, Ault
Bayfield, Bennett, Blanca, Boone, Branson, Brush
Campo, Canon City, Center, Central City, Cheyenne Wells, Cokedale, Commerce City, Crawford, Creede, Cripple Creek, Crook, Crowley,
De Beque, Deer Trail, Del Norte, Delta, Dolores, Durango
Eads, Eagle, Eaton, Eckley, Erie
Flagler, Fleming, Florence, Fowler, Fraser, Fruita
Garden City, Genoa, Granada, Gunnison
Hartman, Haxtun, Hillrose, Holly, Holyoke, Hooper, Hotchkiss, Hugo
Ignacio, Iliff
Jamestown
Kim, Kit Carson
La Jara, La Junta, La Veta, Lamar, Las Animas, Leadville, Lyons
Manassa, Mancos, Manitou Springs, Manzanola, Mead, Milliken, Minturn, Moffat, Montrose
New Castle, Norwood, Nucla, Nunn
Oak Creek, Olaihe, Ordway, Otis, Ouray, Ovid
Palisade, Paoli, Paonia, Pierce, Pitkin Platteville, Pritchett, Prospect Heights
Ramah, Ridgway, Rockvale, Rocky Ford, Romeo, Rosedale, Rye
Saguache, Salida, San Luis, Sanford, Sedgwick, Seibert, Severance, Simla, Starkville, Sugar City
Trinidad
Victor
Walsenburg, Walsh, Wiggins, Wray

Connecticut

Ansonia
Danielson, Derby
Putnam
Torrington

Delaware

Blades, Bowers, Bridgeville
Cheswold
Dagsboro, Delmar
Felton, Frankford, Frederica
Harrington, Henlopen Acres
Kenton
Laurel, Leipsic, Lewes, Little Creek
Middletown, Milford, Milton
Newport
Ocean View
Seaford, Selbyville, Smyrna
Viola
Wyoming

Florida

Alachua, Alford, Altha, Apalachicola, Arcadia Archer, Avon Park
Bell, Belle Glade, Belleview, Blountstown, Bonifay, Bowling Green Branford, Bristol, Bronson, Bunnell Bushnell
Campbellton, Carrabelle, Caryville, Cedar Key, Chattahoochee, Chiefland, Chipley,

Cottondale, Crescent City, Crestview, Cross City
Dade City, Davenport, De Funiak Springs, De. Land, Dunnellon
Eatonville, Esto, Fellsmere
Florida City, Fort Meade, Fort Pierce, Fort White, Frostproof
Glen St Mary, Graceville, Grand Ridge, Green Cove Springs, Greensboro, Greenville, Greenwood, Gretna, Groveland
Haines City, Hampton, Hastings, Havana, Hawthorne, High Springs, Horseshoe Beach
Indian Creek, Inverness
Jasper, Jennings
Key West
La Crosse, Labelle, Lake, Lake Butler, Lake Helen, Lake Wales, Laurel Hill, Lawtey, Lee
Madison, Malone, Marianna, Mascotte, Mayo, McIntosh, Micanopy, Minneola, Monticello, Mulberry,
Newberry
Oak Hill, Oakland, Otter Creek, Oviedo
Pahokee, Palatka, Palm Shores, Penney Farms, Perry, Pierson, Plant City, Pomona Park, Ponce De Leon, Port St Joe
Quincy
Raiford, Reddick, Sanford, Sebring, Sneads, Sopchoppy, South Bay, South Flomaton, South Miami, St. Augustine, St. Cloud, St. Leo, St. Lucie, St. Marks, Starke
Trenton
Umatilla
Vernon
Waldo, Wasau, Wauchula, Webster, Westville, Wewahitchka, White Springs, Williston, Worthington Springs
Zolfo Springs

Georgia

Abbeville, Adel, Adrain, Ailey, Alamo, Alapaha, Alma, Alston, Alto, Ambrose, Americus, Andersonville, Arabi, Aragon, Argyle, Arlington, Arnoldville, Ashburn Attapulgus, Auburn, Avera
Baconton, Bainbridge, Ball Ground, Barnesville, Bariow, Barwick, Baxley, Bellville, Berlin, Bethehem, Bibb City, Bishop, Blackshear, Blairsville, Blakely, Bluffton, Blythe, Bogart, Boston, Bostwick, Bowdon, Bowman, Braswell, Bronwood, Broxton, Brunswick, Buckhead, Buena Vista, Butler, Byromville
Cairo, Calhoun, Camak, Camilla, Canon, Canton, Carlton, Carnesville, Carrollton, Cartersville, Cedartown, Chauncey, Chester, Chickamauga, Claxton, Clayton, Clermont, Cleveland, Cobbtown, Cochran, Cohutta, Coleman, Collins, Colquitt, Comer, Commerce, Concord, Coolidge, Cordele, Corinth, Covington, Crawfordville, Culloden, Cusseta, Cuthbert
Daisy, Dallas, Damascus, Danielsville, Danville, Darien, Davisboro, Dawson Desoto, Decatur, Demorest, Denton, Dillard, Doerun, Donalsonville, Douglas, Du Pont, Dublin, Dudley
East Ellijay, Eatonton, Edge Hill, Edison, Elberton, Ellaville, Ellenton, Enigma, Ephesus, Euharlee
Fairmount, Fitzgerald, Flemington, Flovilla, Flowery Branch
Folkston, Forsyth, Fort Gaines, Fort Valley, Funston
Gay, Geneva, Georgetown, Gibson, Gillsville, Girard, Gleenville, Glenwood, Good Hope, Gordon, Grantville, Greensboro, Greenville, Griffin, Guyton
Hagan, Hahira, Hamilton, Hampton, Haralson, Harrison, Hartwell, Hawkinsville, Helena, Hiawassee, Hilltonia, Hiram, Hoboken, Hogansville, Homer, Homerville, Hoschton
Ideal, Ila, Industrial City, Irwinton
Jackson, Jacksonville, Jakin, Jefferson, Jeffersonville, Jersey, Jesup, Junction City
Kingston, Kite
La Fayette, La Grange, Lake Park, Lakeland, Lavonai, Leary, Leesburg, Lenox, Leslie, Lexington, Lilly, Lincolnton, Linwood, Lithonia, Locust Grove, Loganville, Lone Oak, Louisville, Ludowici, Lumber City, Lumpkin, Luthersville, Lyons,
Madison, Manassas, Manchester, Mansfield, Marshallville, Martin, Maxeys, Maysville, McCaysville, McDonough, McIntyre, McRae, Meansville, Meigs, Metter, Midville, Milan, Milledgeville, Millen, Milner, Mitchell, Molena, Monroe, Montezuma, Monticello, Montrose, Moreland, Morgan, Morganton, Morven, Moultrie, Mount Airy, Mount Vernon, Mount Zion, Mountain City, Mountain Park
Nashville, Naylor, Nelson, Newborn, Newington, Newnan, Newton, Nicholls, Nicholson, Norman Park, North High Shoals, Norwood, Nunez
Oak Park, Ochlocknee, Ocilla, Oglethorpe, Oliver, Omaha, Omega, Orchard Hill
Palmetto, Parrott, Patterson, Pavo, Payne, Pearson, Pelham, Pembroke, Pendergrass, Pine Mountain, Pinehurst, Pineview, Pitts, Plainfield, Plains, Plainville, Portal, Porterdale, Poulan, Pulaski
Quitman
Ranger, Ray City, Rayle, Rebecca, Reidsville, Rentz, Reynolds, Rhine, Riceboro, Richland, Riddleville, Ringgold, Roberta, Rochelle, Rockmart, Rocky Ford, Rome, Roopville, Rossville, Royston
Sale City, Sandersville, Sardis, Sasser, Scotland, Screven, Senoia, Shady Dale, Sharon, Sharpsburg, Shellman, Shiloh, Siloam, Smithville, Social Circle, Soperton, Sparks, Sparta, Stapleton, Statesboro, Statham, Summerton, Summerville, Sumner, Sunny Side, Surrency, Swainsboro, Sycamore, Sylvania, Sylvester
Talbotton, Tallapoosa, Tallulah Falls, Tarrytown, Taylorsville, Tennille, The Rock, Thomaston, Thomasville, Thomson, Tiger, Tignall, Toomsboro, Trenton, Trion, Turin, Twin City, Ty Ty,
Unadilla, Union Point
Valdosta, Vidalia, Vienna, Villa Rica
Wadley, Walnut Grove, Walthourville, Warm Springs, Warrenton, Warwick, Washington, Watkinsville, Waverly Hall, Waycross, Waynesboro, West Point, Whigham, White, White Plains, Willacoochee, Winder Woodbine, Woodbury, Woodland, Woodville, Wrens, Wrightsville
Young Harris
Zebulon

Idaho

Aberdeen, Arimo
Basalt, Bird, Bloomington, Bonners Ferry, Buhl, Burley
Caldwell, Challis, Chatcolet, Clark Fork, Cottonwood, Council, Culdesac
Dayton, Dietrich, Driggs
Emmett
Ferdinand, Filer, Franklin
Georgetown, Glenns Ferry, Grand View
Hagerman, Hansen, Hazelton, Homedale
Idaho City
Jerome, Juliaetta
Kellogg, Kimberly, Kooskia, Kootenai
Lava Hot Springs
Mackay, Malad City, Malta, Menan, Middleton, Midvale, Minidoka, Moscow, Mullan, Murtaugh
Nampa, New Meadows, New Plymouth, Newdale, Notus
Oxford
Papis, Parma, Paul, Payette, Placerville, Ponderay, Priest River
Rathdrum, Rexburg, Richfield, Ririe, Roberts, Rockland, Rupert
Salmon, Sandpoint, Shoshone, Smelterville, Spirit Lake, St. Charles, State Line, Stites, Swan Valley
Teton, Tetonia
Weippe, Weiser, Weston, Wilder, Winchester, Worley

Illinois

Addieville, Adeline, Albers, Albion, Allenville, Alma, Alorton, Alsey, Alto Pass, Alton, Amboy, Anna, Apple River, Arcola, Arenzville, Arlington, Aroma Park, Arthur, Ashland, Ashley, Ashmore, Assumption, Astoria, Athens, Augusta
Banner, Barry, Basco, Baylis, Beardstown, Beckemeyer, Beecher City, Belknap, Belle Rive, Bellmont, Bement, Benlo, Bently, Benton, Biggsville, Bingham, Birds, Bishop Hill, Bluffs, Bone Gap, Bowen, Bradford, Bridgeport, Brimfield, Broadwell, Brocton, Brooklyn, Brookport, Broughton, Browing, Browns, Brownstown, Brussels, Bryant, Buckley, Buckner, Buda, Bulpitt, Buncombe, Burnt Prairie, Bush, Bushnell, Butler
Cabery, Cairo, Camden, Campbell Hill, Canton, Cantrall, Carbon Cliff, Carbondale, Carmi, Carrier Mills, Carrollton, Carterville, Carthage, Casey, Cave-in-Rock, Central City, Centralia, Centreville, Chandlerville, Chapin, Charleston, Chatsworth, Cherry, Chester, Chesterfield, Chicago Heights, Chrisman, Christopher, Cisne, Cissna Park, Claremont, Clay City, Clayton, Coalton, Coatsburg, Cobden, Coffeen, Colchester, Colp, Columbus, Compton, Coulterville, Cowden, Crainville, Creal Springs, Creston, Crossville, Cuba, Cullom, Cutler, Cypress
Dahlgren, Dallas City, Danforth, Danville, De Kalb, De Land, De Soto, De Witt, Depue, Detroit, Divernon, Dixon, Dongola, Dowell, Du Bois, Du Quoin, Dunfermline, Dwight
Eagerville, Earlville, East Cape Girardeau, East Chicago Heights, East Gillespie, Eddyville, Edgewood, Eldorado, Eldred, Elizabeth, Elizabethtown, Elk Hart City, Elkville, Ellisville, Ellsworth, Elvaston, Emden, Enfield, Equality, Erie, Evansville, Exeter,
Fairbury, Fairfield, Fairmont City, Farina, Farmersville, Fayetteville, Ferris, Fidelity, Fieldon, Fillmore, Findlay, Fisher, Fithan, Flat Rock, Flora, Florence, Foosland, Forest City, Forrest, Forreston, Franklin Grove, Freeman Spur, Freeport, Fults
Galatia, Galena, Garrett, Gays, Georgetown, Gilberts, Gillespie, Gladstone, Golconda,

Golden, Golden Gate, Good Hope, Gorham, Grafton, Grand Tower, Granite City, Grantfork, Granville, Grayville, Greenfield, Greenup, Greenview, Greenville, Griggsville
Hamburg, Hamletsburg, Hammond, Hanaford, Hardin, Harrisburg, Hartford, Hartsburg, Harvel, Harvey, Havana, Herrick, Herrin, Hettick, Highwood, Hillsboro, Hillview, Hindsboro, Hull, Hume, Hurst, Hutsonville
Ina, Indianola, Industry, Iola, Ipava, Irving, Iuka
Jacksonville, Jerseyville, Jewett, Johnsonville, Johnston City, Jonesboro, Joppa, Joy, Junction, Junction City
Kampsville, Kane, Kangley, Kansas, Kappa, Karnak, Kaskaskia, Keenes, Keithsburg, Kell, Kempton, Kenney, Kewanee, Keyesport, Kilbourne, Kincaid, Kinderhook, Kinmundy, Kirkwood
La Fayette, La Harpe, La Moille, La Prairie, La Salle, Lanark, Lawrenceville, Leaf River, Lebanon, Lewistown, Liberty, Lima, Lincoln, Litchfield, Little York, Livingston, Lomax, London Mills, Long View, Loraine, Lostant, Louisville, Lyndon
Macedonia, Madison, Maeystown, Magnolia, Makanda, Malta, Manchester, Mansfield, Manteno, Marietta, Mark, Marshall, Martinsville, Martinton, Matherville, Mattoon, Maunie, Maywood, McCook, McLean, McLeansboro, Medora, Mendon, Metcalf, Metropolis, Milford, Mill Creek, Mill Shoals, Milledgeville, Milton, Momence, Monmouth, Morrisonville, Mound, Mound City, Mound Station, Mount Auburn, Mount Carroll, Mount Clare, Mount Erie, Mount Pulaski, Mount Sterling, Moweaqua, Mulberry Grove, Muncie, Murphysboro
Naples, National City, Nauvoo, Nebo, Neoga, Neponset, New Baden, New Bedford, New Berlin, New Boston, New Burnside, New Canton, New Douglas, New Grand Chain, New Haven, New Minden, Newman, Nilwood, Noble, Nokomis, Nora, Norris, Norris City, North Chicago, North City, North Henderson
Oakford, Oakland, Oblong, Oconee, Odell, Odin, Ogden, Oglesby, Ohio, Ohlman, Old Ripley, Old Shawneetown, Olmstead, Olney, Omaha, Onarga, Oquawka, Orangeville, Oregon, Orient, Ottawa
Palestine, Palmyra, Pana, Papineau, Paris, Parkersburg, Patona, Paxton, Pearl, Pearl City, Pecatonica, Pembroke, Perry, Peru, Petersburg, Phoenix, Pierron, Pinckneyville, Pingree Grove, Pittsburg, Pittsfield, Plainville, Pleasant Hill, Plymouth, Pocahontas, Pontoosuc, Prairie Du Rocher, Phophetstown, Pulaski
Quincy
Random, Raleigh, Ramsey, Ransom, Raritan, Redmon, Richmond, Richview, Ridge Farm, Ridgway, Ridott, Ripley, Robbins, Robinson, Rock City, Rock Falls, Rockwood, Roodhouse, Rose Hill, Roseville, Rosiclare, Rossville, Royal Lakes, Royalton, Ruma, Rushville, Russellville, Rutland
Sailor Springs, Salem, Sandoval, Saunemin, Savanna, Sawyerville, Schram City, Sciota, Scottville, Seatonville, Sesser, Shawneetown, Shefield, Shelbyville, Sheldon, Shumway, Sidell, Simpson, Sims, Smithboro, Smithfield, Sorento, South Beloit, Sparland, Spillertown, Spring Bay, Spring Valley, Springerton, St. Anne, St. David, St. Elmo, St. Francisville, St. Jacob, St. Johns, St. Peter, Standard City, Staunton, Ste Marie, Sterling, Stewardson, Stockton, Stonefort, Stonington, Strasburg, Strawn , Streator, Sublette, Sullivan, Summerfield, Smmit, Sumner
Table Grove, Tamaroa, Tamms, Taylor Springs, Tennessee, Thawville, Thayer, Thompsonville, Thomson, Tilden, Tiskilwa, Toledo, Toluca, Tomica, Toulom, Tovey, Tower Hill
Ullin, Union Hill
Vallier, Valley City, Vandalia, Venedy, Venice, Vergennes, Vermont, Vernon, Versailles, Victoria, Vienna, Viola, Virginia
Walnut Hill, Waltonville, Wamac, Warren, Warsaw, Washburn, Washington Park, Waterloo, Waterman, Watseka, Watson, Waverly, Wayne City, Wellington, West City, West Frankfort, West Point, West Salem, Westfield, White City, White Hall, Whiteash, Williamfield, Williamson, Willow Hill, Wilsonville, Winchester, Windsor, Windlow, Witt, Wood River, Woodhull, Woodlawn, Worden, Wyanet, Wyoming
Xenia
Yale
Zeigler

Indiana

Advance, Akron, Alamo, Alfordsville, Alton, Ambia, Amboy, Angola, Argos, Attica, Aurora, Austin, Avilla
Bedford, Bethany, Bicknell, Birdseye, Bloomfield, Bloomingdale, Blountsville, Boonville, Boswell, Brazil, Brook, Brooksburg, Brookville, Bruceville, Bunker Hill, Burlington, Burnettsville, Butler, Cadiz, Cambridge City, Campbellsburg, Cannelburg, Cannelton, Carbon, Carlisle, Carthage, Cayuga, Cedar Grove, Centerville, Charleston, Chrisney, Clay City, Clayton, Clinton, Colfax, Connersville, Corydon, Crandall, Cronwell, Crothersville, Culver, Cynthiana
Dana, Dayton, Decatur, Decker, Dillsboro, Dublin, Dugger, Dunkirk, Dunreith, Dupont
Earl Park, East Germantown, Eaton, Economy, Edwardsport, Elnora, Elwood, English
Farmersburg, Farmland, Ferdinand, Fortville, Fountain City, Francisco, Frankfort, Fredericksburg, French Lick
Geneva, Gosport, Grandview, Greencastle, Greensboro, Greensburg, Greensfork, Griffin
Hagerstown, Hamlet, Hardinsburg, Hartford City, Hartsville, Haubstadt, Hazleton, Holton, Hope, Hudson, Huntington, Hymera
Ingalls
Jamestown, Jasonville, Jonesville, Judson
Kempton, Kendallville, Kennard, Kewanna, Kingman, Kingsbury, Knightstown, Knightsville, Knox
La Paz, Laconia, Ladoga, Lagrange, Lagro, Lake Hart, Lakeville, Larwill, Laurel, Lawrenceburg, Leavenworth, Leesburg, Liberty, Ligonier, Linton, Little York, Livonia, Lizton, Logansport, Loogootee, Losantville, Lynn, Lyons
Mackey, Macy, Madison, Marengo, Marion, Marshall, Matthews, Mauckport, Mecca, Medora, Mellott, Mentone, Merom, Milan, Milford, Millhousen, Milton, Mishawaka, Mitchell, Monon, Monroe City, Monterey, Montezuma, Montgomery, Montpelier, Morgantown, Morocco, Mount Auburn, Mount Ayr, Mount Carmel, Mount Summit, Mount Vernon, Mulberry
New Albany, New Amsterdan, New Castle, New Harmony, New Middletown, New Pekin, New Providence, Newport, North Judson, North Manchester, North Salem, North Vernon, North Webster
Oakland City, Oaktown, Odon, Oldenburg, Orland, Osgood, Otterbein, Owensville, Oxford
Palmyra, Paoli, Patoka, Patriot, Pennville, Perrysville, Peru, Petersburg, Pierceton, Pine Village, Plainville, Poneto, Portland, Poseyville, Princeton
Redkey, Reynolds, Richmond, Ridgeville, Riley, Rising Sun, Roachade, Roann, Rochester, Rockport, Rockville, Rosedale, Royal Center, Rushville, Russellville
Salem, Saltillo, Sandborn, Scottsburg, Seelyville, Shamrock Lakes, Sharpsville, Shelburn, Shelbyville, Sheridan, Shirley, Shoals, Sidney, Silver Lake, Somerville, Spencer, Spurgeon, St. Joe, St. Paul, Staunton, Stilesville, Stinesville, Sullivan, Sulphur Springs, Sunman, Syracuse
Tell City, Tennyson, Thorntown, Tipton, Trafalgar, Troy
Union City, Universal
Veedersburg, Vera Cruz, Vevay, Vincennies
Wash, Wabash, Walkerton, Wallace, Washington, Waterloo, Waveland, West Baden, West College Corner, West Harrison, West Lebanon, West Terre Haute, Westport, Wheatland, Williamport, Winamac, Winchester, Windfall City, Wingate, Winona Lake, Winslow, Worthington

Iowa

Ackley, Ackworth, Adaip, Afton, Akron, Albia, Albion, Alden, Alexander, Alleman, Allerton, Alia, Alta Vista, Alton, Alvord, Ames, Anita, Anthon, Aplington, Arcadia, Aredale, Arion, Arispe, Arlington, Armstrong, Arnolds Park, Arthur, Ashton, Aspinwall, Athelstan, Atkins, Auburn, Audubon, Aurelia, Aurora, Avoca,
Bagley, Bancroft, Barnes City, Bassett, Batavia, Battle Creek, Beacon, Beaconfield, Beaver, Bedford, Belle Plaine, Bennett, Benton, Bertram, Bevington, Birmingham, Blairsburg, Blakesburg, Blanchard, Blockton, Bloomfield, Bonaparte, Bouton, Boyden, Braddyville, Brandon, Brayton, Breda, Bridgewater, Brighton, Bristow, Britt, Bronson, Buck Grove, Buffalo, Burlington, Burt, Bussey
Calmar, Calumet, Cantril, Carbon, Carpenter, Carson, Casey, Castalia, Castana, Center Junction, Centerville, Chariton, Charlotte, Charter Oak, Chatsworth, Celsea, Cherokee, Chester, Chillicothe, Churdan, Cincinnati, Clarinda, Clarion, Clarksville, Clayton, Clearfield, Clemons, Clermont, Clinton, Clio, Clutier, Colesburg, Colfax, Collins, Columbus Junction, Conway, Coon Rapids, Corning, Correctionville, Corwith, Corydon, Cresco, Creston, Cromwell, Cumberland, Curlew, Cushing
Dakota City, Dallas, Dallas Center, Dana, Danbury, Davis City, Dawson, Decatur

City, Decorah, Dedham, Deep River, Defiance, Delaware, Delhi, Delmar, Deloit, Delta, Denison, Derby, Decter, Diagonal, Dickens, Dolliver, Doon, Dougherty, Dow City, Dows, Drakesville, Dumont, Dundee, Dunlap, Durant

Eagle Grove, Earling, Earlville, East Peru, Eddyville, Edgewood, Elberon, Eldon, Eldora, Elgin, Elk Horn, Elkader, Elkport, Ellston, Elma, Emerson, Emmetsburg, Essex, Estherville, Exira, Exline

Fairfield, Farley, Farmersburg, Farmington, Farnhamville, Fayette, Fertile, Floris, Floyd, Fonda, Fort Dodge, Fort Madison, Fremont, Fruitland

Galt, Garber, Garden Grove, Garnavillo, Garrison, Garwin, Gillett Grove, Gilmore City, Glidden, Goose Lake, Graettinger, Grand Junction, Grand Mound, Grand River, Grant, Granville, Gravity, Gray, Greeley, Greenfield, Greenville, Griswold, Guernsey, Guthrie Center, Guttenberg

Hamburg, Hamilton, Hancock, Hansell, Harcourt, Hardy, Harper, Harpers Ferry, Harris, Hartley, Hartwick, Harvey, Hastings, Hawarden, Hawkeye, Hazleton, Hedrick, Henderson, Hepburn, Hillsboro, Holland, Holstein, Holy Cross, Hopkinton, Hornick, Hospers, Hull, Humboldt, Humeston, Hurstville

Imogene, Ionia, Iowa, Iowa Falls, Ireton, Irwin

Jackson Junction, Jamaica, Jefferson, Joice, Jolley

Kamrar, Kanawha, Kellerton, Kensett, Kent, Keokuk, Keosauqua, Keota, Keswick Kimballton, Kingsley, Kinross, Kirkman, Kirkville

La Porte City, Lacona, Ladora, Lake City, Lake Park, Lakota, Lamont, Lansing, Larrabee, Latimer, Laurens, Lawler, Le Mars, Le Roy, Ledyard, Lehigh, Leighton, Lenox, Leon, Lester, Lewis, Lidderdale, Lime Springs, Lincoln, Lineville, Liscomb, Little Rock, Little Sioux, Littleport, Livermore, Lockridge, Logan, Lohrvilie, Lorimor, Lovilia, Lowden, Luana, Lucas, Luther, Luverne, Lynnville

Mackburn, Madrid, Magnolia, Malcom, Mallard, Maloy, Malvern, Manchester, Manilla, Manly, Manning, Manson, Mapleton, Maquoketa, Marathon, Marble Rock, Marcus, Marengo, Marne, Martinsburg, Marysville, Mason, Massena, Matlock, Maurice, Maynard, McGregor, McIntire, Melcher, Melvin, Meriden, Merrill, Meservey, Miles, Milford, Millersburg, Millerton, Millville, Milton, Minburn, Minden, Mingo, Missouri Valley, Mitchell, Moneta, Monmouth, Monticello, Montour, Montrose, Moorland, Moravia, Morley, Moulton, Mount Auburn, Mount Ayr, Mount Pleasant, Mount Sterling, Murray, Mystic

Nashua, New Albin, New Hampton, New Hartford, New London, New Market, New Sharon, New Virginia, Newell, Newton, Nichols, Nodaway, Nora Springs, North Buena Vista, Northboro, Norway, Numa

Oakville, Ocheyedan, Odebolt, Oelwein, Ogden, Olds, Olin, Ollie, Onawa, Oneida, Onslow, Orchard, Orient, Osage, Osceola, Oskaloosa, Oto, Ottumwa, Oxford, Oxford Junction,

Packwood, Palmer, Panora, Parkersburg, Paton, Patterson, Paullina, Perry, Peterson, Pierson, Pisgah, Plano, Pleasanton, Pleasantville, Plover, Plymouth, Pocahontas, Pomeroy, Popejoy, Portsmouth, Postville, Prairieburg, Prescott, Preston, Primghar, Promise City, Protivin, Pulaski Quasqueton

Ralston, Randalia, Randolph, Rathbun, Red Oak, Redding, Redfield, Redwick, Riceville, Richland, Ricketts, Ridgeway, Rippey, Riverton, Rock Valley, Rockwell, Rockwell City, Rodman, Roland, Rolfe, Rome, Rose Hill, Rowan, Rudd, Russell, Ruthven, Rutland, Ryan

Salem, Sanborn, Sandyville, Schaller, Schleswig, Scranton, Seymour, Shambaugh, Shannon City, Sharpsburg, Sheffield, Shelby, Shenandoah, Sherrill, Sibley, Sidney, Sigourney, Silver City, Sioux Center, Sioux Rapids, Smithland, Soldier, Somers, South English, Spillville, Spring Hill, Springbrook, St. Anthony, St. Charles, St. Marys, St. Olaf, Stacyville, Stanhope, Stanley, Stanton, Stanwood, Steamboat Rock, Stockport, Storm Lake, Stratford, Strawberry Point, Stuart, Sully, Sumner, Superior, Sutherland, Swaledale, Swea City

Tabor, Tama, Templeton, Terril, Thayer, Thor, Thornburg, Thornton, Thurman, Tingley, Titonka, Toledo, Toronto, Traer, Truesdale, Truro

Undell, Union, Unionville, University Park, Ute

Vail, Van Horne, Van Wert, Ventura, Villisca, Vining, Vinton, Volga City

Walker, Wall Lake, Wallingford, Walnut, Wapello, Waterville, Waucoma, Waukon, Wayland, Webb, Webster City, Weldon, Welton, West Bend, West Burlington, Westgate, Westphalia, Westside, What Cheer, Whittemore, Whitten, Willey, Williams, Williamson, Winfield, Winterset, Winthrop, Woden, Woodbine, Woodburn, Woolstock, Worthington, Wyoming

Yale, Yetter, Yorktown

Zearing

Kansas

Abilene, Admire, Agenda, Agra, Alden, Alma, Almena, Alta Vista, Altamont, Alton, Altoona, Anthony, Arcadia, Arkansas City, Arlington, Arma, Atchison, Athol, Atlanta, Attica, Axtell,

Baldwin City, Barnes, Baxter Springs, Bazine, Beattie, Belle Plaine, Belleville, Beloit, Belpre, Belvue, Benedict, Benton, Bern, Beverly, Bison, Blue Mound, Blue Rapids, Bluff City, Bogue, Bronson, Brownell, Bucklin, Buffalo, Bunker Hill, Burden, Burdett, Burlingame Burlington, Burns, Burr Oak, Burrton, Bushong, Bushton

Caldwell, Cambridge, Caney, Canton, Cawker City, Cedar, Cedar Vale, Centralia, Chanute, Chapman, Chase, Chautauqua, Cherokee, Cherryvale, Chetopa, Circleville, Claflin, Clay Center, Clayton, Clifton, Climax, Clyde, Coats, Coffeyville, Coldwater, Collyer, Colony, Columbus, Concordia, Conway Springs, Coolidge, Corning, Cottonwood Falls, Council Grove, Courtland, Coyville, Cuba, Cullison, Cunningham

Damar, Danville, Deerfield, Delia, Delphos, Denison, Dexter, Douglass, Downs, Dresden, Dunlap, Durham, Dwight,

Edmond, Edna, Effingham, El Dorado, Elgin, Elk City, Elk Falls, Ellis, Ellsworth, Elsmore, Elwood, Emmett, Englewood, Ensign, Enterprise, Erie, Esbon, Eskridge, Eureka

Fairview, Fall River, Florence, Fontana, Ford, Formoso, Fort Scott, Fowler, Frankfort, Fredonia, Frontenac, Fulton

Galatia, Galena, Garden Plain, Garfield, Garnett, Gas, Gaylord, Gem, Geneseo, Girard, Glade, Glasco, Glen Elder, Goessel, Goff, Gove City, Grainfield, Greeley, Green, Greenleaf, Genola, Gridley, Gypsum

Haddam, Hamlin, Hanover, Hanston, Hardiner, Harris, Hartford, Harveyville, Havana, Havensville, Hepler, Herington, Herndon, Hiawatha, Highland, Hillsboro, Hollenburg, Holton, Holywood, Hope, Horton, Howard, Hudson, Hunnewell, Hunter

Independence, Iola

Jamestown, Jennings, Jetmore, Jewell, Junction City

Kanopolis, Kensington, Kincaid, Kirwin

La Harpe, Labette, Lancaster, Lane, Le Roy, Leavenworth, Lebanon, Lebo, Lecompton, Lehigh, Lenora, Leon, Leonardville, Liberty, Liebenthal, Lincoln Center, Lindsborg, Linwood, Little River, Logan, Lone Elm, Long Island, Longton, Lost Springs, Louisville, Lucas, Luray, Lyndon

Madison, Mahaska, Manhattan, Mapleton, Marquette, Matfield Green, Mayetta, Mayfield, McCracken, McCune, McDonald, McFarland, McLouth, Meade, Milan, Mildred, Miltonvale, Moline, Moran, Morland, Morrill, Morrowville, Mound Valley, Mount Hope, Mulberry, Mullinville, Munden, Muscotah

Narka, Nashville, Natoma, Neodesha, Neosho Falls, Neosho Rapids, Ness City, Netawaka, New Albany, New Cambria, Norton, Nortonville

Offerle, Ogden, Oketo, Olivet, Olpe, Olsburg, Onaga, Oneida, Osage, Osawatomie, Oskaloosa, Oswego, Ottawa, Overbrook, Oxford

Palco, Palmer, Paradise, Park, Parker, Parsons, Paxico, Peru, Pittsburg, Pleasanton, Plenna, Pomona, Portis, Potwin, Powhattan, Prairie View, Prescott, Preston, Pretty Prairie, Protection

Quenfmo, Quinter

Ramona, Randall, Ransom, Rantoul, Raymond, Reading, Redfield, Republic, Reserve, Rexford, Richmond, Riley, Rolla, Rozel, Rush Center

Sabetha, Savonburg, Sawyer, Scammon, Scandia, Schoenchen, Scranton, Sedan, Selden, Seneca, Severy, Seward, Sharon, Sharon Springs, Simpson, Smith Center, Smolan, Soldier, Solomon, South Haven, Spearville, Speed, St. Francis, St. George, St. John, St. Marys, St. Paul, Stark, Sterling, Strong City, Summerfield, Sun City, Susank, Sylvan Grove, Sylvia,

Tampa, Tescott, Thayer, Timken, Tipton, Toronto, Treece, Tribune, Troy, Tyro

Uniontown

Valley Falls, Vermillion, Virgil

Waldo, Walnut, Wamego, Washington, Waterville, Wathena, Waverly, Webber, Weir, West Mineral, Westphalia, Wetmore, Wheaton, White City, White Cloud, Whiting, Williamsburg, Willis, Wilmore, Wilson, Winona, Woodston

Yates Center

Kentucky

Adairville, Albany, Allensville, Arlington, Auburn, Augusta
Barbourville, Bardwell, Beattyville, Bedford, Bellevue, Benton, Berry, Bloomfield, Bonnieville, Booneville, Bowling Green, Bradfordsville, Brandenburg, Brodhead, Bromley, Brooksville, Brownsville, Burgin, Burkesville, Burnside, Butler
Cadiz, Calhoun, California, Campbellsburg, Campbellsville, Campton, Caneyville, Carlisle, Carrollton, Caseville, Catlettsburg, Cave City, Cedarville, Centertown, Central, Clarkson, Clay, Clinton, Cloverport, Columbia, Columbus, Corinth, Corydon, Crab Orchard, Crofton, Cumberland, Cynthiana
Dayton, Dixon, Dover, Drakesboro
Earlington, Edmonton, Ekron, Elkhorn City, Elkton, Eminence, Evarts
Fairfield, Falmouth, Ferguson, Flemingsburg, Fleming-Neon, Fordsville, Fountain Run, Franklin Run, Franklin, Fredonia, Frenchburg, Fulton
Gamaliel, Georgetown, Germantown, Ghent, Glasgow, Glencoe, Grayson, Greenup, Guthrie
Hardin, Hardinsburg, Harlan, Harrodsburg, Hawesville, Hazel, Henderson, Hickman, Hodgenville, Horse Cave, Hustonville, Hyden
Irvine, Irvington, Island
Jackson, Jamestown, Jeffersonville, Jenkins, Junction City
Kevil, Kuttawa
La Center, Lafayette, Lancaster, Lebanon, Lebanon Junction, Leitchfield, Lewisburg, Livermore, Livingston, Lockport, London, Louisa, Loyall, Ludlow
Mackville, Manchester, Marion, Mayfield, Maysville, McHenry, McKee, Mentor, Middlesborough, Midway, Millersburg, Monterey, Monticello, Morehead, Morganfield, Morgantown, Mortons Gap, Mount Olivet, Mount Sterling, Mount Vernon, Muldraugh, Munfordville
Nebo, New Castle, New Haven, Newport, Nicholasville, North Middletown, Nortonville
Oakland, Olive Hill, Owenton, Owingsville,
Paducah, Paris, Pembroke, Perryville, Pineville, Pleasureville, Powderly, Princeton, Providence
Ravenna, Richmond, Rockport, Russell Springs, Russellville
Sacramento, Sadieville, Salt Lick, Salyersville, Sanders, Sandy Hook, Sardis, Science Hill, Scottsville, Sebree, Sharpsburg, Shelbyville, Silver Grove, Simpsonville, Slaughterville, Smithland, Smiths Grove, Somerset, Sonora, South Carrolton, South Shore, Southgate, Sparta, Springfield, St. Charles, Stamping Ground, Stanford, Stanton, Sturgis
Taylorsville, Tollesboro, Tompkinsville, Trenton
Uniontown, Upton
Vanceburg, Vicco
Wallins Creek, Walton, Warsaw, Washington, Water Valley, Waverly, West Point, Wheatcroft, Wheelwright, White Plains, Whitesville, Wickliffe, Williamsburg, Williamstown, Willisburg, Wilmore, Winchester, Wingo, Worthville

Louisiana

Abbeville, Addis, Albany, Amite City, Angie, Arcadia, Arnaudville, Ashland, Athens,
Basile, Baskin, Bastrop, Belcher, Benton, Bernice, Bienville, Blanchard, Bogalusa, Bonita, Boyce, Breaux Bridge, Brusly Landing, Bryceland, Bunkie
Calvin, Campti, Cankton, Carencro, Castor, Chataignier, Chathman, Cheneyville, Choudrant, Church Point, Clarence, Clarks, Clayton, Clinton, Colfax, Collinston, Columbia, Converse, Cotton Valley, Cottonport, Coushatta, Convington, Crowley, Cullen
De Quincy, De Ridder, Delcambre, Delhi, Dodson, Donaldsonville, Downsville, Dry Prong, Dubach, Duson
East Hodge, Elizabeth, Elton, Epps, Erath, Eros, Estherwood, Eunice, Evergreen,
Farmerville, Fenton, Ferriday, Fisher, Florien, Folsom, Fordoche, Forest, Forest Hill, Franklin, Franklinton, French Settlement
Georgetown, Gibsland, Gilbert, Gilliam, Glenmora, Goldonna, Grand Cane, Grand Coteau, Greensburg, Grosse Tete, Gueydan
Hall Summit, Hammond, Harrisonburg, Haughton, Haynesville, Heflin, Henderson, Hessmer, Homer, Hornbeck, Hosston
Ida, Independence, Iota
Jamestown, Jeanerette, Jennings, Jonesboro, Jonesville, Junction City
Kaplan, Keatchie, Kentwood Kilbourne, Killian, Kinder, Krotz Springs
Lake Arthur, Lake Providence, Lecompte, Leesville, Leonville, Lillie, Lisbon, Livingston, Livonia, Logansport, Longstreet, Lucky, Lutcher
Madisonville, Mamou, Mangham, Mansfield, Mansura, Many, Maringouin, Marion, Marksville, Martin, Maurice, McNary, Melville, Mer Rouge, Mermentau, Merryville, Minden, Montgomery, Montpelier, Mooringsport, Moreauville, Morganza, Morse, Mound, Mount Lebanon
Napoleonville, Natchez, Natchitoches, New Iberia, New Roads, Newellton, Noble, North Hodge, Norwood
Oak Grove, Oak Ridge, Oakdale, Oberlin, Oil City, Opelousas
Palmetto, Parks, Patterson, Pioneer, Plain Dealing, Plaquemine, Plaucheville, Pleasant Hill, Pollock, Ponchatoula, Port Allen, Port Barre, Powhatan, Provencal
Rayne, Rayville, Richmond, Richwood, Ringgold, Rodeline, Rodessa, Rosedale, Roseland, Ruston
Saline, Sarepta, Sicily Island, Sikes, Simmesport, Sorrento, South Mansfield, Spearsville, Springfield, Springhill, St. Francisville, St. Joseph, St. Martinville, Stanley, Stonewall, Sun, Sunset
Tallulah, Tangipahoa, Tickfaw, Turkey Creek
Urania
Varnado, Vidalia, Vienna, Ville Platte, Vinton, Vivian
Walker, Washington, Waterproof, Welsh, White Castle, Wilson, Winnfield, Winnsboro, Wisner, Woodhaven, Woodworth
Youngsville
Zwolle.

Maine

Augusta
Bangor, Bath, Belfast, Biddeford
Calais, Camden Town, Caribou
Dover Foxcroft Town
Eastport
Ellsworth
Fairfield Town
Fort Kent Town
Houlton Town
Kittery Town
Limestone Town, Lincoln Town
Madison Town, Mexico Town
Old Orchard Beach Town, Old Town
Pittsfield Town
Rockland, Rumford Town
Saco, Skowhegan Town, South Portland
Van Buren Town
Waterville, Westbrook.

Maryland

Accident
Barclay, Barton, Berlin, Betterton
Burkittsville
Cambridge, Cecilton, Centreville, Charlestown, Chesapeake Beach, Chesapeake City, Chestertown, Church Creek, Church Hill, Colmar Manor, Crisfield, Cumberland
Deer Park, Delmar, Denton
Eagle Harbor, Elkton, Emmitsburg
Fairmount Heights, Federalsburg, Friendsville, Frostburt, Fruitland
Galestown, Glen Echo, Goldsboro, Grantsville, Greesnboro
Hagerstown, Hancock, Hebron, Henderson, Hillsboro
Keedysville, Kitzmillerville
Loch Lynn Heights, Lonaconing, Luke
Mardela Springs, Marydel, Midland, Millington, Mount Rainier
New Market
Oakland, Oxford
Perryville, Pittsville, Pocomoke City, Port Deposit, Preston, Princess Anne
Queen Anne,
Ridgely, Rock Hall
Salisbury, Secretary, Sharpsburg, Sharptown, Snow Hill, St. Michaels, Sudlersville
Templeville
Upper Marlboro
Westernport, Woodsboro,

Massachusetts

Adams Town, Amherst Town, Athol Town, Attleboro
Beverly, Blackstone Town
Chelsea, Clinton Town
Dalton Town, Dedham Town
Everett
Fairhaven Town
Gardner
Hopedale Town
Lee Town
Marlborough, Melrose, Methuen Town, Montague Town
North Adams, Northampton
Palmer Town, Peabody
Revere
Salem, South Hadley Town, Southridge Town
Taunton
Watertown Town, Webster Town, West Springfield Town, Winchendon Town, Winthrop Town, Woburn,

Michigan

Ahmeek, Akron, Albion, Algonac, Ashley, Augusta
Bad Axe, Baldwin, Bangor, Baraga, Barryton, Benton Harbor, Benton Township, (Berrien County), Berrien Springs, Bessemer,

Blocmingdale, Boyne City, Breedsville, Bronson, Brooklyn, Brown City, Burlington
Calumet, Caro, Carsonville, Casnovia, Caspian, Cassopolis, Central Lake, Charlevoix, Chatham, Cheboygan, Clarksville, Clayton, Clifford, Coldwater, Coleman, Colon, Concord, Constantine, Copemish, Copper City, Corunna
Daggett, Dansville, Decatur, Deckerville, Detour, Douglas, Dowagiac, Dryden
Eau Claire, Ecorse, Edmore, Elkton, Empire, Escanaba, Evart
Farwell, Ferndale, Fife Lake, Frankfort, Freeport Freesoil
Gaastra, Gagetown, Galien, Garden, Gladstone, Grayling
Hamtramck, Hancock, Harbor Beach, Harrietta, Harrisville, Hart, Hartford, Hazel Park, Hesperia, Highland Park, Hillman, Holland, Houghton, Howard City
Indianfields Township (Houghton County), Inkster, Iron Mountain, Iron River Ironwood
Kaleva, Kalkaska, Keego Harbor, Kent City, Kinde, Kingston
Laingsburg, Lake Ann, Lake City, Lake Linden, Lake Odessa, Lanse, Lanse Township, Lapeer, Laurium, Lexington, Litchfield, Luna Pier, Luther, Lyons
Mackinac Island, Mancelona, Manistee, Manistique, Manton, Maple Rapids, Marcellus, Marion, Marlette, Maybee, Mayville, McBain, McBride, Mecosta, Memphis, Mendon, Menominee, Merrill, Mesick, Minden City, Montgomery, Morenci, Mount Pleasant, Munising
Negaunee, New Buffalo, Newaygo, North Branch, Northport, Norway
Onaway, Onekama, Ontonagon, Otsego
Paw Paw, Peck, Pellston, Pentwater, Petoskey, Pierson, Pigeon, Port Austin, Port Hope, Port Huron, Portage Township, Posen, Prescott
Reading, Reed City, Richland, River Rouge, Rogers City, Rose City, Rosebush
Saugatuck, Sault Sainte Marie, Scottville, Sebewaing, Sheridan, South Haven, South Range, St. Ignace, St. Louis, Stambaugh, Stanton, Stanwood, Stephenson, Sterling
Tawas City, Tekonsha, Thompsonville, Three Rivers, Turner, Tustin, Twining
Ubly, Union City, Unionville
Vandalia, Vanderbilt
Wakefield, Waldron, Walkerville, Watervliet, West Branch, White Cloud, Whittemore, Wolverine, Wyandotte
Yale, Ypsilanti.

Minnesota

Ada, Adams, Adrian, Aitkin, Akeley, Albany, Albert Lea, Alberta, Alexandria, Altura, Alvarado, Appleton, Argyle, Ashby, Askov, Atwater, Audubon, Avoca
Backus, Badger, Bagley, Balaton, Barnum, Barrett, Battle Lake, Baudette, Beaver Creek, Bejou, Bellchester, Bellingham, Beltrami, Bemidji, Bena, Benson, Bertha, Big Falls, Bingham Lake, Bird Island, Blackduck, Blomkest, Blue Earth, Bluffton, Bovey, Bowlus, Boyd, Brainerd, Branch, Breckenridge, Brewster, Brook Park, Brooks, Brookston, Brooten, Browerville, Browns Valley, Brownton, Bruno, Buckman, Buffalo Lake, Burtrum, Butterfield
Caledonia, Callway, Calumet, Cambridge, Campbell, Canby, Canton, Cass Lake, Cedar Mills, Chokio, Clara City, Clarissa, Clarkfield, Clearbook, Clearwater, Clements, Clitherall, Clontarf, Cloquet, Cokato, Comfrey, Corcoran, Cromwell, Crosby, Currie, Cyrus
Dalton, Dassel, Dawson, Deer River, Delano, Delavan, Delhi, Denham, Dennison, Dent, Detroit Lakes, Dexter, Dilworth, Donaldson, Donnelly, Dover, Dundee
Eagle Bend, East Gull Lake, Easton, Echo, Eden Valley, Edgerton, Effie, Eitzen, Elba, Elbow Lake, Elgin, Elizabeth, Ellsworth, Elmdale, Elmore, Elysian, Emmons, Erskine, Evan, Evansville, Eveleth
Fairfax, Faribault, Felton, Fergus Falls, Fertile, Flensburg, Floodwood, Florence, Foley, Foreston, Fosston, Franklin, Frazee, Freeborn, Freeport, Frost, Fulda
Garfield, Garrison, Garvin, Gary, Geneva, Ghent, Gibbon, Gilman, Glenville, Glenwood, Glyndon, Gonvick, Good Thunder, Goodridge, Graceville, Granada, Granite Falls, Green Isle, Greenwald, Grey Eagle, Grygla, Gully
Hadley, Halma, Halstad, Hampton, Hancock, Hanska, Harding, Hardwick, Harmony, Hartland, Hatfield, Heidelberg, Henderson, Hendricks, Hendrum, Henning, Henriette, Herman, Heron Lake, Hewitt, Hillman, Hinckley, Hitterdal, Hoffman, Hokah, Holdingford, Holland, Holloway, Holt, Houston
Iona, Ironton Isle, Ivanhoe
Janesville, Jasper, Jeffers
Kasota, Kelliher, Kellogg, Kensington, Kent, Kettle River, Kiester, Kilkenny, Kinbrae, Kingston, Kinney
La Porte, La Salle, Lafayette, Lake Benton, Lake Henry, Lake Park, Lake Shore, Lamberton, Lancaster, Lanesboro, Lastrup, Le Sueur, Lengby, Leonard, Leonidas, Lewisville, Lindstrom, Little Falls, Long Beach, Long Prairie, Lonsdale, Louisburg, Lowry, Lucan, Lyle
Mabel, Madelia, Madison, Magnolia, Mahnomen, Manchester, Mankato, Mantorville, Mapleview, Marietta, Maynard, Mazeppa, McGrath, McGregor, McIntosh, Medicine Lake, Meire Grove, Melrose, Menahga, Mentor, Middle River, Milaca, Milan, Millerville, Millville, Milroy, Miltona, Minneiska, Minnesota Lake, Mizpah, Montgomery, Monticello, Morgan, Morris, Morton, Motley, Mountain Lake, Myrtle
Nassau, Nelson, Nevis, New Auburn, New Germany, New Market, New Munich, New Richland, New York Mills, Newfolden, Nicollet, Nielsville, Norcross, North Redwood, Northome
Odessa, Ogema, Oklee, Onamia, Orionville, Ortonville Township, Otter Tail
Palisade, Park Rapids, Parkers Prairie, Paynesville, Pease, Pelican Rapids, Pennock, Perham, Pierz, Pillager, Pine City, Pine River, Pipestone, Plummer, Porter, Preston, Princeton
Quamba
Randall, Raymond, Red Lake Falls, Regal, Remer, Renville, Revere, Richmond, Richville, Rock Creek, Roscoe, Roseau, Royalton, Rush City, Rushford, Rushmore, Russell, Ruthton
Sacred Heart, Sandstone, Sauk Centre, Sauk Rapids, Seaforth, Sebeka, Shelly, Shevlin, Silver Lake, Slayton, Sleepy Eye, Sobieski, Solway, South Haven, South International Fall, Spring Grove, Spring Valley, Springfield, Squaw Lake, St. Anthony, St. Charles, St. James, St. Rosa, Staples, Starbuck, Steen, Stephen, Storden, Strandquist, Sturgeon Lake, Sunburg, Swanville
Taconite, Tamarack, Taopi, Taunton, Taylors Falls, Tenstrike, Thomson, Tintah, Tracy, Trosky, Twin Valley
Ulen, Underwood, Upsala, Utica
Vergas, Verndale, Vesta, Viking, Villard, Vining, Virginia
Wabasha, Wabasso, Waconia, Wadena, Wahkon, Waldorf, Walker, Walnut Grove, Walters, Wanamingo, Wanda, Warroad, Watkins, Watson, Waubun, Waverly, Wells, West Union, Westbrook, Westport, Wheaton, Wilder, Willernie, Willow River, Wilmont, Winnebago, Winona, Winthrop, Wolf Lake, Wood Lake, Woodstock, Wright, Wykoff, Wyoming, Young America

Mississippi

Abbeville, Aberdeen, Ackerman, Alligator, Amory, Anguilla, Arcola, Artesia, Ashland
Bassfield, Batesville, Bay Springs, Beaumont, Beauregard, Belmont, Belzoni, Benoit, Bentonia, Beulah, Big Creek, Blue Mountain, Blue Springs, Bolton, Booneville, Boyle, Braxton, Brookhaven, Brooksville, Bruce, Bude, Burnsville, Byhalia
Caledonia, Calhoun City, Canton, Carthage, Cary, Centreville, Charleston, Chunky, Clarksdale, Cofeeville, Coldwater, Columbia, Columbus, Como, Corinth, Courtland, Crawford, Crenshaw, Crosby, Crowder, Cruger, Crystal Springs
de Kalb, Decatur, Derma, Doddsville, Drew, Duck Hill, Duncan, Durant, D'Lo
Ecru, Eden, Edwards, Enterprise, Ethel, Eupora
Falcon, Falkner, Fayette, Flora, Flowood, Forest, Friars Point
Gattman, Georgetown, Glendora, Gloster, Golden, Goodman, Greenville, Greenwood, Grenada, Gunnison, Guntown
Hattiesurg, Hazlehurst, Heidelberg, Hickory, Hickory Flat, Hollandale, Holly Springs, Houston
Indianola, Inverness, Isola, Itta Bena, Iuka
Jonestown, Jumpertown
Kilmichael, Kosciusko, Kossuth
Lake, Lambert, Laurel, Leakesville, Learned, Leland, Lena, Lexington, Liberty, Louin, Louise, Louisville, Lula, Lumberton, Lyon
Maben, Macon, Mangolia, Marietta, Marks, Mathiston, Mayersville, McComb, McCool, McLain, Memphis, Meridian, Merigold, Metcalfe, Mize, Montrose, Moorhead, Morgan City, Morton, Mount Bayou, Mount Olive, Myrtle
Natchez, New Albany, New Augusta, New Houlka, Newhebron, Newport, Newton, North Carrollton, Noxapater
Oakland, Okolona, Osyka, Oxford
Pace, Pachuta, Paden, Philadelphia, Picayune, Pickens, Pittsboro, Plantersville, Polkville, Pope, Poplarville, Port Gibson, Potts Camp, Prentiss, Purvis
Quitman
Richton, Rienzi, Ripley, Rolling Fork, Rosedale, Roxie, Ruleville
Sallis, Sandersville, Sardis, Satartia, Schlater, Scooba, Sebastopol, Seminary, Senatobia, Shannon, Shaw, Shelby, Sherman, Shubuta,

Shuqualak, Sidon, Silver City, Silver Creek, Slate Springs, Sledge, Smithville, Soso, Starkville, State Line, Stonwall, Sturgis, Summit, Sumner, Sumrall, Sunflower, Sylarena
Taylor, Tchula, Terry, Thaxton, Tillatoba, Tishomingo, Toccopola, Tremont, Tunica, Tutwiler, Tylertown, Union, Utica
Vaiden, Vardaman, Vicksburg
Walnut, Walnut Grove, Walthall, Water Valley, Waynesboro, Webb, Weir, Wesson, West, West Point, Wiggins, Winona, Winstonville, Woodland, Woodville
Yazoo City

Missouri

Advance, Agency, Aldrich, Alexandria, Allendale, Alma, Altamont, Alton, Amazonia, Amity, Amoret, Amsterdam, Anderson, Annada, Annapolis, Anniston, Appleton City, Arbela, Arbyrd, Arcadia, Archie, Argyle, Armstrong, Asbury, Ash Grove, Atlanta, Augusta, Aullville, Aurora, Auxvasse, Ava, Aville
Baker, Bakersfield, Baldwin Park, Baring, Barnard, Barnett, Bell City, Belle, Bellflower, Berger, Bernie, Bertrand, Bethany, Bethel, Bevier, Billings, Birch Tree, Bismarck, Blackburn, Blackwater, Blairstown, Bland, Blodgett, Bloomfield, Blue Eye, Blythedale, Bogard, Bolckow, Bolivar, Bonne Terre, Boonville, Bosworth, Bowling Green, Bragg City, Brandsville, Braymer, Breckenridge, Brimson, Bronaugh, Brookfield, Brookline, Brooklyn Heights, Browning, Brownington, Brumley, Brunswick, Bucklin, Buffalo, Bunceton, Bunker, Burgess, Burlington Junction, Butler, Butterfield
Cainsville, Cairo, Caledonia, Calhoun, California, Callao, Camden, Cameron, Campbell, Canalou, Canton, Cape Girardeau, Cardwell, Carollton, Carterville, Carthage, Caruthersville, Cassville, Catron, Cedar, Center, Centertown, Centerview, Centerville, Centralia, Chaffee, Chamois, Charleston, Chillocothe, Chula, Clarence, Clark, Clarksburg, Clarksdale, Clarksville, Clarkton, Clearmont, Clever, Clifton Hill, Climax Springs, Clyde, Cobalt City, Coffey, Cole Camp, Collins, Commerce, Conception Junction, Concordia, Conway, Cooter, Corder, Corning, Country Life Acres, Cowgill, Craig, Crane, Creighton, Crocker, Cross Timbers, Crystal City, Curryville
Dalton, Darlington, De Kalb, De Soto, Dearborn, Deepwater, Deerfield, Delta, Dennis Acres, Des Arc, Desloge, Diamond, Diehlstadt, Diggins, Dixon, Doniphan, Downing, Drexel, Dudley, Duquesne
Eagleville, East Prairie, Edgar Springs, Edgerton, Edina, El Dorado Springs, Eldon, Ellington, Ellsinore, Elmer, Elmira, Elmo, Elsberry, Elvins, Eminence, Eolia, Essex, Esther, Ethel, Eugene, Everton, Ewing, Excelsior Springs, Exeter
Fair Play, Fairfax, Fairview, Farmington, Fayette, Filimore, Fisk, Flat River, Fleming, Flemington, Ford City, Fordland, Forest City, Foster, Frankford, Franklin, Fredericktown, Freeburg, Freeman, Freistatt, Fulton
Gainesville, Galena, Galt, Garden City, Gasconade, Gentry, Gerald, Gerster, Gibbs, Gideon, Gilliam, Gilman City, Glasgow, Glenallen, Glenwood, Golden City, Goodman, Graham, Granby, Grand Pass, Grandin, Granger, Grant City, Green City, Green Ridge, Greencastle, Greenfield, Guilford, Gunn City
Hale, Halltown, Hamilton, Hannibal, Hardin, Harris, Harrisburg, Hartsburg, Hartville, Harwood, Hawk Point, Hayti, Hayti Heights, Haywood City, Hermitage Higbee, High Hill, Hoberg, Holcomb, Holden, Holland, Holliday, Hollister, Homestown, Hopkins, Hornersville, Houston, Houstonia, Howardville, Humansville, Hume, Humphreys, Hunnewell, Huntsville, Hurdland, Hurley
Iatan, Iberia, Illmo, Ionia, Irondale, Ironton
Jacksonville, Jameson, Jamesport, Jamestown, Jasper, Jerico Springs, Jonesburg, Joplin
Kahoka, Kennett, Keytesville, Kidder, Kimmswick, King City, Kinloch, Kirksville, Knob Noster, Knox City, Koshkonong
La Belle, La Grange, La Monte, La Plata, La Tour, Laclede, Laddonia, Lamar, Lamar Heights, Lanagan, Lancaster, Laredo, Lawson, Leadington, Leadwood, Leawood, Lebanon, Leeton, Leonard, Levasy, Lewistown, Lexington, Liberal, Licking, Lilbourn, Lincoln, Linn Creek, Linneus, Lithium, Livonia, Lock Spring, Lockwood, Lone Jack, Longtown, Louisburg, Louisiana, Lowry City, Lucerne, Ludlow, Lupus, Luiesville
Mackenzie, Macks Creek, Macon, Madison, Maitland, Malden, Mansfield, Maplewood, Marble Hill, Marceline, Marionville, Marquand, Marshall, Marshfield, Martinsburg, Maryville, Maysville, Mayview, McFall, Meadville, Memphis, Mendon, Mercer, Merwin, Meta, Metz, Mexico, Miami, Middletown Milan, Mill Spring, Millard, Miller, Milo, Mindenmines, Mineral Point, Missouri City, Moberly, Mokane, Monett, Monroe City, Monticello, Montrose, Mooresville, Morehouse, Morley, Morrisville, Mosby, Moscow Mills, Mound City, Moundville, Mount Leonard, Mount Moriah, Mount Vernon, Mountain Grove, Mountain View
Napoleon, Naylor, Neelyville, Nelson, Neosho, Nevada, New Bloomfield, New Cambria, New Florence, New Franklin, New Hampton, New London, New Madrid, Newark, Newburg, Newtonia, Newtown, Niangua, Noel, Norborne, North Lilbourn, North Wardell, Norwood, Novelty, Novinger
Oak Ridge, Oakland Park, Olean, Oran, Oregon, Oronogo, Orrick, Osborn, Osceola, Osgood, Otterville, Owensville
Pagedale, Parkville, Parma, Parnell, Pascola, Passaic, Pattonsburg, Penermon, Perry, Perryville, Phillipsburg, Pickering, Piedmont, Pierce City, Pilot Grove, Pilot Knob, Pine Lawn, Pineville, Plattsburg, Pleasant Hope, Pocahontas, Polo, Poplar Bluff, Portage Des Sioux, Portageville, Potosi, Powersville, Prairie Home, Prathersville, Preston, Princeton, Purcell, Purdin, Purdy, Puxico
Queen City, Quitman, Qulin
Ralls, Ravenwood, Raymondville, Rea, Reeds, Reeds Spring, Renick, Rhineland, Rich Hill, Richards, Richland, Richmond, Ridgeway, Risco, Rivermines, Rocheport, Rock Port, Rockville, Rogersville, Roscoe, Rosebud, Rosendale, Rothville, Rushville, Russellville, Rutledge
Saginaw, Salem, Salisbury, Sarcoxie, Savannah, Saverton, Schell City, Sedalia, Sedgewickville, Seligman, Senath, Seneca, Seymour, Shelbina, Shelbyville, Sheldon, Sheridan, Silex, Skidmore, Slater, South Gifford, South Gorin, South Greenfield, South Lineville, South West City, Sparta, Spickardsville, Spring Valley, St. Clair, St. Cloud, St. Elizabeth, St. James, St. John, St. Marys, St. Thomas, Stanberry, Stark City, Ste Genevieve, Steele, Steelville, Stella, Stockton, Stotts City, Stoutland, Stoutsville, Stover, Strafford, Strasburg, Sturgeon, Sullivan, Summersville, Sumner, Sunrise Beach, Sweet Springs, Syracuse
Tallapoosa, Taneyville, Taos, Tarkio, Tarsney Lakes, Thayer, Theodosia, Tina, Tindall, Tipton, Tracy, Trenton, Triplett, Troy, Truesdale, Turney, Tuscumbia
Union Star, Unionville, Urbana, Urich
Valley Park, Vandalia, Vanduser, Verona, Versailles, Vienna, Vinita Park, Vista
Walker, Walnut Grove, Wardell, Warrensburg, Washburn, Waison, Waverly, Wayland, Waynesville, Weatherby, Weaubleau, Webb City, Wellston, Wellsville, Wentworth, West Plains, Westboro, Weston, Westphalia, Wheatland, Wheaton, Wheeling, Whiteside, Whitewater, Williamsville, Willow Springs, Wilson City, Windsor, Winfield, Winona, Winston, Wittenberg, Wooldridge, Worth, Wyaconda, Wyatt
Zalma

Montana

Bainville, Belt, Big Timber, Boulder, Bridger, Broadus, Brockton, Browning, Butte
Cascade, Chinook, Circle, Clyde Park, Culbertson, Cut Bank
Darby, Dillon, Dodson
Ekalaka, Ennis, Eureka
Fairfield, Fairview, Fort Benton, Froid, Fromberg
Geraldine, Grass Range
Hamilton, Harlem, Harlowton, Hobson, Hot Springs
Ismay
Joliet, Jordan
Kevin
Lewistown, Libby, Lima, Livingston, Lodge Grass
Malta, Missoula, Moore
Neihart
Opheim, Outlook
Philipsburg, Plevna, Polson
Red Lodge, Richey, Ronan, Roundup
Saco, Shelby, St. Ignatius, Stevensville
Terry, Three Forks, Troy
Valier, Virginia City
Walkerville, Westby, White Sulphur Sprgs, Wibaux Winifred, Winnett

Nebraska

Abie, Adams, Albion, Alexandria, Alma, Amherst, Anselmo, Ansley, Arcadia, Arnold, Arthur, Ashton, Atlanta, Auburn, Avoca, Ayr
Bancroft, Barada, Barneston, Bartley, Battle Creek, Bayard, Beatrice, Beaver City, Beaver crossing, Bee, Beemer, Belden, Belgrade, Bellwood, Belvidere, Benkelman, Bennet, Bertrand, Berwyn Bloomfield, Bloomington, Blue Hill, Blue Springs, Brady, Brainard, Bridgeport, Bristow, Broadwater, Brock, Broken Bow, Brownville, Burning,

Bruno, Brunswick, Bruchard, Burr, Burwell, Butte, Byron
Cairo, Callaway, Cambridge, Campbell, Carleton, Carroll, Cedar Rapids, Center, Chadron, Chambers, Chapman, Chester, Clarks, Clarkson, Clearwater, Cody, Coleridge, Colon, Comstock, Concord, Cook, Cordova, Cotesfield, Cowles, Cozad, Crawford, Creighton, Creston, Crofton, Crookston, Culbertson, Curtis
Dalton, Danbury, Dannebrog, Davenport, David City, Dawson, Daykin, De Witt, Decatur, Deshler, Deweese, Diller, Dixon, Dodge, Douglas, Dubois Duncan, Dunning, Dwight
Eddyville, Edgar, Edison, Elba, Elgin, Elk Creek, Elm Creek, Elmwood, Elyria, Endicott, Ewing, Exeter
Fairbury, Fairfield, Fairmont, Falls City, Farnam, Farwell, Foster, Franklin, Fullerton
Garrison, Genoa, Gibbon, Gilead, Giltner, Greeley Center, Gresham, Gross, Guide Rock, Gurley
Hadar, Haigler, Hamlet, Hampton, Harrison, Hartington, Harvard, Hay Springs, Heartwell, Hemingford, Hendley, Henry, Herman, Holdbrook, Holstein, Hooper, Hoskins, Howells, Hubbard, Hubbell, Humboldt, Hyannis
Indianola, Inman
Jansen, Johnson, Johnstown, Julian
Kearney, Kenesaw, Kilgore
Laurel, Lawrence, Lebanon, Leigh, Lewellen, Liberty, Lindsay, Linwood, Litchfield, Lodgepole, Long Pine, Loomis, Loup City, Lyman, Lynch, Lyons
Madison, Magnet, Malmo, Manley, Marquette, Maskell, Mason City, Maxwell, Maywood, McLean, Meadow, Grove, Merna, Milford, Miller, Milligan, Minatare, Mitchall, Monroe, Moorefield, Murdock, Murray
Naper, Naponee, Nebraska City, Neligh, Nelson, Nemaha, Newman Grove, Newport, Niobrara, Nora, North Bend, North Loup
Oak, Oakdale, Oakland, Obert, Oconto, Octavia, Ohiowa, Ong, Orchard, Ord, Orleans, Osceola, Osmond, Oxford, O'Neill
Page, Palmer, Palmyra, Pawnee City, Paxton, Peru, Petersburg, Pickrell, Pierce, Pilger, Pleasanton, Polk, Prague, Primrose, Prosser
Randolph, Ravenna, Raymond, Red Cloud, Reynolds, Rising city, Riverton, Rockville, Rulo, Rushville, Ruskin
Salem, Santee, Sargent, Scotia, Scotts Bluff, Scribner, Seneca, Shelby, Shelton, Shickley, Sholes Shubert, Sidney, Smithfield, Snyder, South Bend, Spalding, Spencer, Springview, St. Edward, St. Helena, Stamford, Stanton, Staplehurst, Stapleton, Steele City, Steinauer, Stella, Sterling, Stockham, Stromsburg, Stuart, Superior, Surprise, Sutherland, Sutton, Swanton
Table Rock, Talmage, Tamora, Tarnov, Taylor, Tecumseh, Tekamah, Thayer, Tilden, Trenton, Trumbull
Uehling, Unadilla, Union, Upland, Utica
Valparaiso, Verdel, Verdigre, Verdon, Virginia
Wahoo, Wallace, Walthill, Waterbury, Wauneta, Wausa, Wayne, Wellfleet, West Point, Western, Weston, Wilber, Wilcox, Wilsonville, Winnebago, Winside, Winslow, Wisner, Wolbach, Wood Lake, Wymore, Wynot

Nevada

Caliente
Gabbs
Lovelock

New Hampshire

Berlin, Claremont, Concord, Franklin, Laconia
Newmarket Town, Newport Town
Portsmouth

New Jersey

Alpha
Belmar, Bergenfield, Beverly, Bradley, Beach, Buena
Cape May, Carteret, Clayton, Corbin City
East Newark
Fairview, Farmingdale
Garfield, Goucester City
Hackensack, Haledon, Harrison, Hoboken
Keansburg, Keyport
Lambertville, Linden
Montclair, Mount Ephraim
Neptune Township, North Bergen Township, North Hanover, Township
Orange
Paulsboro, Penns Grove, Pennsauken Township, Plainfield, Pleasantville, Prospect Park
Red Bank, Riverside Township, Rockleigh, Roosevelt
Salem, South Belmar, Swedesboro
Union Beach
Weehawken Township, West New York, West Wildwood, Wildwood, Woodbine, Woodstown

New Mexico

Belen, Bernalillo
Carrizozo, Causey, Central, Cimarron, Clayton, Columbus, Corona, Cuba
Des Moines, Dexter, Dora
Encino, Espanola, Estancia
Floyd, Folsom, Fort Sumner
Hagerman, Hope, House
Jemez Springs
La Mesilla, Lake Arthur, Las Vegas, Logan, Lordsbur, Los Lunas, Loving
Magdalena, Maxwell, Mosquero, Mountainair
Pecos, Poriales
Reserve, Roswell, Roy
San Jon, San Ysidro, Santa Rosa, Silver City, Springer
Taos, Texico, Truth or Consequences, Tucumcari
Vaughn
Wagon Mound, Willard

New York

Addison, Almond, Altamont Town, Altmar, Ames, Amsterdam, Arcadia Town, Auburn, Aurora, Avoca
Bainbridge, Barton Town, Batavia, Bath Town, Beacon, Bellerose, Belmont, Bemus Point, Bloomingdale, Bolivar, Boonville, Brewster, Brocton, Brushton
Cambridge, Camden Town, Camillus, Canajoharie, Canajoharie Town, Canaseraga, Canastota, Candor, Cape Vincent, Carthage, Castile, Castleton-on-Hudson, Cato, Cayuga, Celoron, Chateaugay, Chatham, Cherry Creek, Cherry Valley, Clayville, Clifton Springs, Clinton, Clyde, Cohoes, Cold Brook, Cold Spring, Constableville, Cooperstown, Corinth, Corinth Town, Corning, Cortland, Croghan, Cuba
Dansville, De Ruyter, Deferiet, Delanson, Delevan, Deposit, Dering Harbor, Dolgeville, Dryden, Dunkirk
Earlville, East Bloomfield, East Syracuse, Edwards, Ellenville, Ellicottville, Ellisburg, Elmira Heights, Elmsford, Endicott, Esperance
Fabius, Fair Haven, Falconer, Fishkill, Fleischmanns, Forestville, Fort, Plain, Frankfort, Franklin, Franklinville, Fredonia, Freeport, Fulton, Fultonville
Galen Town, Geddes Town, Geneva, German Flatts Town, Gilbertsville, Glen Cove, Glen Park, Glens Falls, Gloversville, Gouverneur, Gouverneur Town, Grand View-on-Hudson, Granville, Granville Town, Green Island, Green Island Town, Greenport, Greenwich
Hamilton, Hamilton Town, Hammond, Hammondsport, Harrietstown Town, Hempstead, Herkimer, Herkimer Town, Hermon, Heuvelton, Highland Falls, Hillburn, Hobart, Holland Patent, Homer Town, Hoosick Falls, Hoosick Town Hornell, Hudson, Hudson Falls
Ilion, Island Park, Ithaca
Jamestown, Jeffersonville, Johnson City, Johnstown
Keeseville, Kingsbury Town, Kingston
Lackawanna, Lake George, Laurens, Liberty, Limestone, Lisle, Little Falls, Lodi, Long Beach, Lowville, Lowville Town, Lyons, Lyons Falls, Lyons Town
Madison, Malone, Malone Town, Manheim Town, Mannsville, Margaretville, Massena, Massena Town, Mayville, McGraw Mechanicville, Medina, Mexico, Middleport, Middletown, Middleville, Milford, Millerton, Millport, Milo Town, Minden Town, Mohawk, Montour Falls, Moravia, Morristown, Mont Morris Town, Munnsville
Naples, New Berlin, New Paltz, New Square, New York Mills, Newark, Newark Valley, Newburgh, Newport, Nichols, North Collins, North Dansville Town, North Elba Town, North Tarrytown, North Tonawanda, Northville, Norwich, Norwood, Nyack
Ogdensburg, Olean, Oneida, Oneida, Castle, Oneonita, Oswego, Otego, Owego, Oxford
Palmyra, Patchogue, Penn Yan, Perry, Perry Town, Persia Town, Phelps, Phildelphia, Philmont, Pike, Plattsburgh, Poland, Pomfret Town, Port Chester, Port Dickinson, Port Henry, Port Jervis, Port Leyden, Portville, Potsdam, Potsdam Town, Pulaski
Rensselaer, Rensselaer Falls, Richburg, Richfield Springs, Richville, Ridgeway Town, Rockville Centre, Round Lake, Rye Town
Salamanca, Salem, Sandy Creek, Saranac Lake, Saratoga Springs, Savannah, Schenevus, Schuylerville, Seneca Falls, Seneca Falls Town, Sherburne, Sherman, Sherrill, Sidney, Sidney Town, Sinclairville, Sloan, Smyrna, Sodus, Solvay, South Dayton, Southport Town, Speculator, Spencer, St. Johnsville
Ticonderoga, Ticonderoga Town, Tivoli, Tonawanda, Tuckahoe, Tupper Lake, Turin
Unadilla, Union Springs, Unionville
Van Etten
Waddington, Walton, Walton Town, Warrensburg Town, Watertown,

Watervliet, Watkins Glen, Waverly, Wayland, Wellsburg, Wellsville, Wellsville Town, West Carthage, Westfield, Westfield Town, Westport, Whitehall, Whitehall Town, Wilna Town, Wolcott, Woodhull, Woodridge, Wurtsboro
Yorkville

North Carolina

Ahoskie, Albemarle, Alexander Mills, Alliance, Andrews, Arapahoe, Atkinson, Aulander, Aurora, Autryville, Ayden
Bailey, Bath, Beargrass, Beaufort, Belhaven, Belmont, Benson, Bessemer City, Bethel, Bladenboro, Boiling Springs Lakes, Bolivia, Bolton, Bostic, Brevard, Bridgeton, Brookford, Bryson City, Bunn, Burnsville
Calabash, Calypso, Cameron, Canton, Castalia, Centerville, Cerro Gordo, Chadbourn, Cherryville, China Grove, Clarkton, Clayton, Cleveland, Clinton, Cofield, Colerain, Columbia, Como, Concord, Conetoe, Cove City, Cramerton, Creedmoor, Creswell, Crossnore
Dallas, Davidson, Dillsboro, Dortches, Dunn
Earl Station, East Arcadia, East Laurinburg, East Spencer, Eden, Edenton, Elizabeth City, Elk Park, Elkin, Ellenboro, Ellerbe, Elm City, Enfield, Erwin, Everetts
Fair Bluff, Fairmont, Faison, Faith, Farmville, Fountain, Franklinton, Fremont, Fuquay-Varina
Garland, Garysburg, Gibson, Glen Alpine, Goldsboro, Goldston, Granite Falls, Granite Quarry, Greenevers, Grifon, Grimesland
Halifax, Hamilton, Hamlet, Harmony, Harrells, Hassell, Havelock, Haw River, Hayesville, Hazelwood, Henderson, Hertford, Hickory, Highlands, Hobgood, Hoffman, Holly Ridge, Holly Springs, Hookerton, Hot Springs
Jamesville, Jefferson, Jonesville
Kelford, Kenly, Kings Mountain, Kinston, Kittrell, Kure Beach
La Grange, Lansing, Lasker, Lattimore, Laurinburg, Lawndale, Leggett, Lenoir, Lexington, Lilesville, Lincolnton, Linden, Littleton, Louisburg, Lowell, Lumberton
Macclesfield, Madison, Maggie Valley, Maiden, Marshall, Maxton, Mayodan, Maysville, McDonald, Mesic, Middleburg, Middlesex, Milton, Mocksville, Monroe, Mooresville, Morganton, Morven, Mount Airy, Mount Gilead, Mount Holly, Mount Olive, Mount Pleasant, Murfreesboro, Murphy
New Bern, New London, Newton Grove, Norlina, Norman, Norwood
Oak City, Oakboro, Oriental, Orrum, Oxford
Pantego, Parkton, Parmele, Peachland, Pinebluff, Pinetops, Pink Hill, Pittsboro, Plymouth, Polkton, Pollocksville, Powellsville, Princeton, Princeville, Proctorville
Randleman, Raynham, Red Oak, Red Springs, Reidsville, Rennert, Rhodhiss, Rich Square, Roanoke Rapids, Robbins, Robersonville, Rockingham, Ronda, Roper, Rose Hill, Roseboro, Rosman, Rowland, Roxboro, Roxobel, Ruth, Rutherfordton
Saratoga, Scotland Neck, Seaboard, Seagrove, Selma, Severn, Shelby, Simpson, Sims, Smithfield, Southern Pines, Speed, Spindale, Spring Hope, Spruce Pine, St. Pauls, Stantonsburg, Star, Statesville, Stem, Stovall, Sylva
Tabor City, Tarboro, Teachey, Thomasville, Trenton, Troy, Turkey
Vandemere, Vass, Wadesboro, Wagram, Wake Forest, Walnut Cove, Warsaw, Washington, Watha, Waxhaw, Webster, Weldon, West Jefferson, Whitakers, Williamston, Wilson, Winfall, Wingate, Winton, Woodland, Woodville

North Dakota

Adams, Alice, Alsen, Ambrose, Amenia, Anamoose, Aneta, Antler, Ardoch, Arnegard, Ashley, Ayr
Balfour, Balta, Barney, Beach, Belfield City, Benedict, Berwick, Binford, Bisbee, Bowbells, Brinsmade, Brocket, Butte, Buxton
Calio, Calvin, Cando, Canton, Carson, Cathay, Cayuga, Christine, Cleveland, Clifford, Cogswell, Coleharbor, Columbus, Conway, Cooperstown, Courtenay, Crosby, Crystal
Davenport, Dawson, Deering, Dodge City, Donnybrook, Douglas, Drake, Dunn Center City, Dunseith
Eckman, Edgeley, Edinburg, Edmore, Egeland, Elgin, Elliott, Epping, Esmond
Fairmount, Fessenden, Fingal, Flasher, Flaxton, Forbes, Fort Ransom, Fredonia, Fullerton
Gackle, Galesburg, Gardner, Garrison, Gilby, Glen Ullin, Golden Valley City, Golva, Goodrich, Grand, Granville, Great Bend
Hague, Halliday City, Hamilton, Hankinson, Hannaford, Hannah, Harvey, Hatton, Havana, Hebron, Hope, Hunter, Hurdsfield
Jamestown, Jud
Karlsruhe, Kenmare, Kensal, Kief, Killdeer City, Knox, Kramer, Kulm
La Moure, Lakota, Lankin, Larson, Lehr, Leith, Leonard, Lidgerwood, Lignite, Linton, Lisbon, Litchville, Ludden, Luverne
Makoti, Marion, Marmarth, Martin, Maxbass, Mayville, McClusky, McVille, Medina, Mercer, Merricourt, Milnor, Milton, Morreton, Mott, Mountain, Mylo
Napoleon, New England, New Leipzig, New Rockford, New Salem, Newburg, Nome, Noonan
Oberon,
Page, Palermo, Parshall, Pekin, Petersburg, Pettibone, Pillsbury, Pingree, Pisek, Plaza, Powers Lake
Ray, Reeder, Regent, Rhame, Richardson City, Robinson, Rock Lake Ross, Russell, Ryder
Sanborn, Sarles, Sawyer, Selfridge, Sharon, Sheldon, Sherwood, Sheyenne, Solen, South Heart City, Spiritwood Lake, St. John, Starkweather, Strasburg, Streeter, Sykeston
Tappen, Taylor City, Tolley, Tower City, Turtle Lake, Tuttle
Upham
Valley City, Ventura
Walcott, Walhalla, Warwick, White Earth, Wildrose, Willow City, Wilton, Wimbledon, Wing, Wishek, Wolford, Woodworth
Zap City, Zeeland

Ohio

Aberdeen, Ada, Adamsville, Adelphi, Adena, Albany, Alexandria, Alger, Alliance, Amanda, Antioch, Antwerp, Arcanum, Arlington, Arlington Heights, Ashland, Ashtabula, Athen, Attica
Bainbridge, Baltic, Barberton, Barnesville, Barnhill, Batavia, Batesville, Beallsville, Beaver, Beaverdam, Bellaire, Belle Center, Belle Valley, Bellefontaine, Bellville, Belmont, Belmore, Benton Ridge, Berlin Heights, Bethel, Bloomingburg, Bloomingdale, Bluffton, Bowerston, Bowersville, Bradner, Brady Lake, Brice, Bridgeport, Brilliant, Bryan, Buchtel, Burkettsville, Butler, Butlerville, Byesville
Cadiz, Cambridge, Campbell, Cardington, Carroll, Casstown, Catawba, Centerburg, Centerville, Chauncey, Chesapeake, Cheshire, Chesterhill, Cheviot, Chillicothe, Chilo, Christiansburg, Circleville, Clarington, Clarksburg, Clarksville, Clay Center, Clayton, Clifton, Clovedale, Coal Grove, Coalton, College Corner, Commercial Point, Convoy, Corning, Corwin, Coshocton, Covington, Crestline, Cridersville, Crooksville, Crown City, Cumberland, Custar, Cygnet
Danville, Darbyville, De Graff, Deer Park, Defiance, Dellroy, Delphos, Dennison, Deshler, Dexter City, Dillonvale, Donnelsville, Dover, Dresden, Dunkirk
East Cleveland, East Liverpool, Edison, Edon, Elgin, Elmwood Place, Empire
Fairfax, Fairview, Fayetteville, Fletcher, Flushing, Fort Jennings, Fort Recovery, Frazeysburg, Fredericksburg, Freeport, Fremont, Fultonham
Galena, Gallipolis, Gann, Georgetown, Gettysburg, Gilboa, Glenford, Glenmont, Glouster, Gnadenhutten, Gordon, Grand River, Gratis, Green Camp, Green Springs, Greenfield, Grover Hill
Hamden, Hanging Rock, Harpster, Harrisville, Harveysburg, Hemlock, Hicksville, Higginsport, Highland, Hillsboro, Holgate, Holloway, Hopedale, Hoytville
Irondale, Ironton
Jackson, Jacksonburg, Jacksonville, Jamestown, Jeffersonville, Jenera, Jeromesville, Jerusalem
Kent, Kenton, Kettlersville, Killbuck, Kingston, Kirby, Kirkersville
La Rue, Lafayette, Lakemore, Lakeview, Laurelville, Leesburg, Leesville, Leipsic, Lewisburg, Lincoln Heights, Lockland, Logan, London, Lore City, Lowell, Lower Salem, Lucas, Lynchburg, Lyons
Macksburg, Malinta, Malvern, Manchester, Martins Ferry, Martinsburg, Martinsville, Massillon, Matamora, McConnelsville, Melrose, Meyers Lake, Middleport, Midland, Midvale, Midway, Milford Center, Milledgeville, Miller City, Millersport, Milton Center, Miltonsburg, Mineral City, Monroeville, Montezuma, Montpelier, Morristown, Morrow, Mount Blanchard, Mount Cory, Mount Pleasant, Mount Victory, Mowrystown, Murray City
Navarre, Nellie, Nelsonville, New Albany, New Alexandria, New Bavaria, New Bloomington, New Boston, New Concord, New Lexington, New London, New Madison, New Miami, New Paris, New Richmond, New Riegel, New Rome, New Straitsville, New Vienna, New Washington, New Weston, Newark, Newburgh Heights, Newcomerstown, Newtonsville, North Baltimore, Norwich, Norwood
Oak Hill, Oberlin, Octa, Ohio City, Old Washington, Ostrander, Ottoville

Palestine, Patterson, Paulding, Peebles, Philo, Piketon, Piqua, Pleasant City, Pleasantville, Polk, Pomeroy, Port Jefferson, Port Washington, Port William, Portage, Portsmouth, Proctorville, Prospect, Put-in-Bay
Quaker City, Quincy
Racine, Rarden, Rawson, Richwood, Ripley, Rogers, Rome, Roseville, Roswell, Rushsylvania, Russells Point, Rutland
Savina, Salesville, Salineville, Sandusky, Sarahsville, Sardinia, Savannah, Scio, Scott, Seaman, Sebring, Senecaville, Shawnee, Shelby, Sherrodsville, Shiloh, Sinking Spring, Somerset, South Bloomfield, South Charleston, South Lebanon, South Salem, South Solon, South Webster, South Zanesville, Sparta, Spencerville, St. Louisville, St. Martin, St. Paris, Stafford, Stockport, Stoutsville, Stratton, Struthers, Stryker, Sugarcreek, Summerfield, Summitville, Syracuse
Tarlton, Thurston, Tiffin, Tremont City, Trimble, Tuscarawas
Uhrichsville, Union City, Unionville Center, Urbancrest
Van Wert, Vanlue, Venedocia, Versailles, Vinton
Warsaw, Washington, Washingtonville, Waverly, Waynesburg, Waynesfield, Wellington, Wellston, Wellsville, West Elkton, West Leipsic, West Manchester, West Mansfield, West Rushville, West Union, Wharton, Wilkesville, Williamsport, Willshire, Wilmington, Winchester, Woodsfield, Woodstock, Wren
Xenia
Yellow Springs
Zaleski, Zanesfield, Zanesville

Oklahoma

Achille, Addington, Afton, Agra, Albion, Alderson, Alex, Aline, Allen, Alva, Ames, Amorita, Anadarko, Antlers, Apache, Arkoma, Asher, Ashland, Atoka, Avant
Beggs, Bennington, Bernice, Bessie, Big Cabin, Binger, Blackburn, Blackwell, Blair, Blanchard, Bluejacket, Bokchito, Bokoshe, Boley, Boswell, Bowlegs, Boynton, Bradley, Braggs, Braman, Bray, Bridgeport, Bristow, Broken Bow, Bromide, Brooksville, Bryant, Burbank, Butler, Byars, Byron
Cache, Caddo, Calumet, Calvin, Camargo, Cameron, Canadian, Caney, Canton, Canute, Carmen, Carnegie, Carrier, Carter, Castle, Cement, Centrahoma, Chandler, Chattanooga, Checotah, Chelsea, Chickasha, Claremore, Clayton, Cleo, Cleveland, Clinton, Coalgate, Colbert, Colcord, Collinsville, Colony, Comanche, Commerce, Cornish, Council Hill, Covington, Coweta, Cowlington, Coyle, Crescent, Cromwell, Crowder, Cushing, Custer City, Cyril
Dacoma, Davenport, Davidson, Davis, Deer Creek, Delaware, Depew, Devol, Dewar, Dewey, Dibble, Dickson, Dill City, Disney, Dougherty, Dover, Drumright, Duke, Durant, Dustin
Eakly, Earlsboro, El Reno, Eldorado, Elk City, Elmer, Elmore City, Erick, Eufaula
Fairfax, Fairland, Fallis, Fanshowe, Fargo, Faxon, Fletcher, Foraker, Fort Cobb, Fort Gibson, Fort Supply, Fort Towson, Foss, Foyil, Francis, Frederick
Gage, Gans, Garber, Garvin, Gate, Geary, Gene Autry, Gerty, Glencoe, Golitry, Gotebo, Gould, Gracemont, Grandfield, Granite, Grayson, Greenfield, Guthrie
Haileyville, Hallett, Hammon, Hanna, Harris, Harishorne, Haskell, Hastings, Haworth, Headrick, Healdton, Heavener, Hendrix, Hennessey, Henryetta, Hickory, Hinton, Hitchcock, Hitchita, Hobart, Hoffman, Holdenville, Hollis, Hominy, Hooker, Howe, Hugo, Hulbert, Hunter, Hydro
Idabel, Indiahoma, Indianola
Jay, Jennings, Jones
Kaw, Kellyville, Kemp, Kendrick, Kenefick, Keota, Ketchum, Kiefer, Kinta, Kiowa, Konawa, Krebs
Lamar, Lamont, Langley, Langston, Le Flore, Leedey, Lehigh, Lenapah, Leon, Lexington, Lima, Lindsay, Loco, Locust Grove, Lone Wolf, Longdale, Lookeba, Loveland, Loyal, Luther
Madill, Mangum, Manitou, Mannsville, Maramec, Marble City, Marietta, Marland, Marlow, Marshall, Martha, Maud, May, Maysville, McAlester, McCurtain, McLoud, Medicine Park, Meridian, Miami, Milburn, Millerton, Moffett, Mooreland, Morris, Mounds, Mountain Park, Mountain View, Muldrow, Mulhall, Muskogee, Mutual
Nardin, Nash, New Alluwe, New Woodville, Newkirk, Norge, North Miami, Nowata
Oakland, Oaks, Oakwood, Ochelata, Oilton, Okay, Okemah, Okmulgee, Okiaha, Olustee, Oolagah, Orlando, Osage
Paden, Panama, Paoli, Pauls Valley, Pawhuska, Pawnee, Peoria, Perkins, Phillips, Picher, Pittsburg, Ponca City, Porter, Porum, Poteau, Prague, Putnam
Quapaw, Quinlan, Quinton
Ralston, Ramona, Randlett, Rattan, Ravia, Red Bird, Red Oak, Red Rock, Rentiesville, Reydon, Ringling, Ringwood, Rocky, Roff, Roland, Roosevelt, Rosedale, Rush Springs, Ryan
Salina, Sapulpa, Sasakwa, Sayre, Seiling, Sentinel, Shady Point, Shamrock, Shattuck, Shawnee, Slaughterville, Slick, Smithville, Snyder, Soper, South Coffeyville, Sparks, Spavinaw, Sperry, Spiro, Springer, Sterling, Stigler, Stilwell, Stonewall, Strang, Stratford, Stringtown, Strong City, Stroud, Stuart, Sulphur
Taft, Tahlequah, Talihina, Taloga, Tamaha, Tatums, Tecumseh, Temple, Terlton, Terral, Texhoma, Texola, Thackerville, Tipton, Tishomingo, Tonkawa, Tryon, Tullahassee, Tushka
Union City
Valliant, Verden, Vian, Vioi, Vinita
Wagoner, Walters, Wanette, Wann, Wapanucka, Warwick, Watonga, Watts, Wayne, Waynoka, Webb City, Webbers Falls, Welch, Weleetka, West Siloam Springs, Westport, Wetumka, Wewoka, Wilburton, Willow, Wilson, Wister, Wright City, Wyandotte, Wynnewood, Wynona
Yale, Yeager

Oregon

Adrian, Amity, Ashland, Astoria, Aurora
Baker, Banks, Bonanza
Chiloquin, Cottage Grove
Dayton, Dayville, Donald
Falls City
Garibaldi, Gearhart, Gervais, Glendale, Gold Hill, Grass Valley
Haines, Halfway, Hood River, Hubbard, Huntington
Independence, Ione
Jefferson, Joseph
Long Creek, Lostine
Malin, Manzanita, Merrill, Milton Freewater, Monument, Moro, Mount Angel
North Powder, Nyssa
Oakland, Ontario
Paisley, Phoenix, Powers, Prairie City
Redmond, Richland
Scio, Scotts Mills, Seneca, Siletz, Silverton, Sodaville, Summerville, Sumpter
Vernonia
Wallowa, Waterloo, Weston, Willamina
Yamhill, Yoncalla

Pennsylvania

Adamsburg, Adamstown, Albion, Aliquippa, Ambridge, Apollo, Applewold, Arnold, Ashland, Ashley, Ashville, Athens, Austin, Avalon, Avoca, Avondale
Bangor, Barnesboro, Beallsville, Bear Lake, Beaver Falls, Beaver Meadows, Beavertown, Bedford, Belle Vernon, Bellefonte, Bendersville, Bentleyville, Benton, Berlin, Berrysburg, Berwick, Big Run, Biglerville, Birmingham, Blairsville, Bloomsburg, Blossburg, Brackenridge, Braddock, Braddock Hills, Bradford, Bridgeport, Bridgewater, Brisbin, Bristol, Broad Top City, Brockway, Brownsville, Bruin, Burlington, Burnham, Butler
California, Callensburg, Callery, Cambridge Springs, Canonsburg, Canton, Carbondale, Carmichaels, Carroll Valley, Cassandra, Catawissa, Centerville, Central City, Centralia, Centre Hall, Centreville, Chalfant, Chambersburg, Charleroi, Cherry Tree, Cherry Valley, Christiana, Clairton, Clarendon, Claysville, Clearfield, Clintonville, Clymer, Coal Center, Coal Township, Coaldale, Coalmont, Coalport, Cokeburg, Collingdale, Confluence, Conneautville, Connellsville, Connoquenessing, Conshohocken, Corry, Coudersport, Courtdale, Crafton, Creekside, Cresson, Cressona, Curwensville
Dallas, Danville, Darby, Darlington, Dawson, Dayton, Deer Lake, Dickson City, Donegal, Donora, Dormont, Dravosburg, Driftwood, Du Bois, Dudley, Dunbar, Duncannon, Dunmore, DuPont, Duquesne, Duryea, Dushore
Eagles Mere, East Brady, East Conemaugh, East Pittsburgh, East Side, East Vandergrift, Eau Claire, Eddystone, Edwardsville, Elderton, Eldred, Elgin, Elizabeth, Elizabethville, Elkland, Ellport, Ellwood City, Emporium, Etna, Evans City, Everett, Everson
Fairchance, Fairview, Falls Creek, Fallston, Farrell, Fawn Grove, Fayette City, Ford City, Forest City, Forksville, Foxburg, Frackville, Frankfort Springs, Franklin, Franklintown, Freeburg, Freeland
Galeton, Gallitzin, Garrett, Gettysburg, Gilberton, Girardville, Glassport, Glen Campbell, Glen Hope, Glenfield, Glenolden, Graiz, Greensboro, Greenville
Halifax, Hallam, Hallstead, Hanover Township (Luzerne Co.), Harrisville, Hartleton, Hastings, Hawley, Hawthorne, Homer City, Homestead, Homewood, Honesville, Hooversville, Hop Bottom, Hopewell, Houston, Houtzdale, Hunker, Huntingdon, Hyde Park, Hyndman

Indiana, Irvona, Jacksonville, Jeannette, Jeddo, Jefferson, Jersey Shore, Jessup, Jim Thorpe, Johnsonburg, Juniata Terrace
Kane, Karns City, Kingston, Kistler, Kittanning, Knoxville, Kulpmont, Kutztown
Laceyville, Landisburg, Lanesboro, Lansford, Laporte, Larksville, Laurel Run, Lawrenceville, Le Raysville, Lebanon, Lehighton, Lewisburg, Lewistown, Lincoln, Linesville, Little Meadows, Littlestown, Liverpool, Lock Haven, Loretto, Lower Chichester Township, Lower Yoder Township, Luzerne, Lykens
Mahaffey, Mahony City, Manor, Manorville, Mansfield, Mapleton, Marcus Hook, Marianna, Marietta, Marion Heights, Markleysburg, Mars, Masontown, Matamoras, McAdoo, McClure, McConnellsburg, McEwensville, McKees Rocks, McKeesport, McSherrystown, McVeytown, Meadville, Mercer, Mercersburg, Meshoppen, Meyersdale, Middleport, Midland, Midway, Mifflintown, Milesburg, Mill Creek, Millbourne, Millheim, Millvale, Milton, Minersville, Modena, Monessen, Monongahela, Mont Alto, Montgomery, Morrisville, Mount Carmel, Mount Jewett, Mount Oliver, Mount Pleasant, Mount Union
Nanticoke, Nanty Glo, New Baltimore, New Castle, New Centerville, New Florence, New Freedom, New Kensington, New Lebanon, New Milford, New Oxford, New Paris, New Phila, New Ringgold, New Washington, Newburg, Newell, Newport, Newport Township, Newton Hamilton, Newville, Norristown, North Apollo, North Belle North Braddock, Vernon, North Charleroi, North Irwin, North York, Norwood
Oakland, Ohiopyle, Oil City, Olyphant, Orbisonia, Orrstown, Osceola Mills, Oswayo, Oxford,
Paint, Palmerton, Palo Alto, Parker City, Patton, Penn, Pennsburg, Petersburg, Petrolia, Philipsburg, Pine Grove, Pitcairn, Plains Township, Pleasantville, Plumville, Plymouth, Point Marion, Port Alleghany, Port Carbon, Port Matilda, Portage, Pottstown, Pottsville, Pringle, Punxsutawney
Railroad, Rainsburg, Ramey, Rankin, Red Lion, Renovo, Reserve Township, Reynoldsville, Rices Landing, Ridgway, Rimersburg, Ringtown, Roaring Spring, Rochester, Rockhill, Rockwood, Rome, Roscoe, Rouseville
Salisbury, Salladasburg, Saltsburg, Sandy Lake, Sankertown, Saxton, Sayre, Schellsburg, Schwenksville, Selinsgrove, Shade Gap, Shamokin, Shamokin Dam, Sharon, Sharon Hill, Sharpsburg, Sharpsville, Sheakleyville, Shenandoah, Shickshinny, Shinglehouse, Shippingport, Shirleyburg, Silverdale, Sligo, Smicksburg, Smithfield, Smithton, Snow Shoe, Snydertown, South Bethlehem, South Coatsville, South Connellsville, South Fayette Township, South Fork, South Greensburg, South New Castle, South Philipsburg, South Renovo, South Union Township (Fayette County), South Waverly, South Williamsport, Southwest Greensburg, Spangler, Springdale, St. Clair, St. Clairsville, St. Lawrence, St. Marys, St. Petersburg, Starrucca, State College, Steelton, Stillwater, Stoneboro, Stowe Township, Strattanville, Strausstown, Stroudsburg, Sugar Grove, Sugar Notch, Summerhill, Summerville, Summit Hill, Sunbury, Susquehanna Depot, Swissvale, Swoyersville
Tamaqua, Tarentum, Thompson, Three Springs, Throop, Tidioute, Timblin, Tioga, Titusville, Towanda, Townville, Tremont, Troy, Trumbauerville, Tunnelhill, Tyrone
Uniondale, Uniontown, Unionville, Ursina
Vanderbilt, Vanergrift, Verona, Versailles
Wall, Wallaceton, Warren, Warrior Run, Washington, Washington Township (Fayette County), Waymart, Waynesboro, Waynesburg, Weissport, Wellsville, Wesleyville, West Alexander, West Brownsville, West Chester, West Elizabeth, West Middletown, West Pottsgrove Township, West Reading, West Sunbury, West York, Westfield, Westover, Wheatland, Whitaker, Wilkinsburg, Williamsburg, Williamstown, Wilmerding, Wilmore, Wilson, Woodbury, Worthington, Worthville, Wrightsville, Wyalusing, Wyoming
Yorkana, Youngwood
Zelienople

Rhode Island

Central Falls
Newport
South Kingstown Town
Warren Town, West Warwick Town, Woonsocket

South Carolina

Abbeville, Allendale, Anderson, Andrews, Atlantic Beach
Bamberg, Batesburg, Belton, Bennettsville, Bethune, Bishopville, Blacksburg, Blackville, Blenheim, Bluffton, Bonneau, Bowman, Branchville, Brunson, Burnettown
Calhoun Falls, Camden, Cameron, Campobello, Carlisle, Cayce, Central, Central Pacolet, Chapin, Cheraw, Chesnee, Chester, Chesterfield, City View, Clinton, Clio, Conway, Cope, Cottageville, Cross Hill
Darlington, Denmark, Dillon, Donalds, Duncan
Easley, Eastover, Edgefield, Ehrhardt, Elko, Ellopee, Estill, Eutawville
Fairfax, Florence, Fort Lawn, Fountain Inn, Furman
Gaffney, Georgetown, Gifford, Gilbert, Great Falls, Greeleyville, Greenwood, Greer
Harleyville, Hartsville, Heath Springs, Hemingway, Hilda, Hodges, Hollywood, Honea Path
Inman, Iva
Jamestown, Jefferson, Johnston, Jonesville
Kershaw, Kingstree, Kline
Lake City, Lakeview, Lamar, Lancaster, Landrum, Lane, Latta, Laurens, Leesville, Liberty, Livingston, Lockhart, Lodge, Loris, Lowndesville, Lowrys, Luray, Lynchburg
Manning, Marion, Mayesville, McClellanville, McColl, McConnells, McCormick, Megget, Mount Carmel, Mullins
Neeses, New Ellenton, Newberry, Nichols, Ninety-Six, North, Norway
Olanta, Olar, Orangeburg
Pacolet Mills, Pageland, Pamplico, Parksville, Patrick, Paxville, Pickens, Pinewood, Plum Branch, Pomaria, Prosperity
Ravenel, Richburg, Ridge Spring, Ridgeland, Ridgeville, Ridgeway, Rock Hill, Rowesville
Salem, Salley, Saluda, Santee, Scotia, Sellers, Smyrna, Society Hill, St. George, St. Matthews, St. Stephen, Starr, Stuckey, Summerton, Summit, Sumter, Swansea, Sycamore
Tatum, Timmonsville, Trenton, Troy
Ulmer, Union
Vance, Varnville
Walhalla, Walterboro, Ward, Ware Shoals, Waterloo, Wellford, West Union, Westminster, Whitmire, Williams, Williamstown, Winnsboro, Woodford, Woodruff
Yemassee, York

South Dakota

Aberdeen, Agar, Alexandria, Alpena, Andover, Arlington, Armour, Artas, Artesian, Ashton, Astoria, Avon
Bancroft, Batesland, Belvidere, Beresford, Big Stone City, Bison, Bonesteel, Bowdle, Bradley, Brandt, Brentford, Bridgewater, Bristol, Britton, Bruce, Bryant, Buffalo, Buffalo Gap, Burke, Bushnell
Camp Crook, Canistota, Canova, Canton, Carthage, Cavour, Centerville, Central City, Chamberlain, Chancellor, Claire City, Claremont, Clark, Colman, Colome, Columbia, Conde, Corona, Corsica, Cottonwood, Custer
Dallas, Dante, Davis, Deadwood, Dell Rapids, Delmont, Dimock, Doland, Dolton, Draper, Durpree
Eagle Butte, Eden, Edgemont, Egan, Elk Point, Elkton, Emery, Erwin, Estelline, Eureka
Fairfax, Fairview, Farmer, Faulkton, Flandreau, Florence, Frankfort, Frederick, Fulton
Garden City, Gary, Gayville, Geddes, Gettysburg, Goodwin, Gregory, Grenville, Groton
Hartford, Hecla, Henry, Hermosa, Herreid, Herrick, Hetland, Highmore, Hill City, Hitchcock, Hosmer, Howard, Hudson, Humboldt, Hurley
Ipswich, Irene, Isabel
Java
Kadoka, Kennebec, Kimball
Labolt, Lake Andes, Lake Norden, Lake Preston, Lane, Langford, Lebanon, Lemmon, Lennox, Leola, Lesterville, Letcher, Lily, Long Lake, Loyalton
Madison, Marion, Martin, Marvin, McIntosh, McLaughlin, Mellette, Menno, Midland, Miller, Mission, Mitchell, Mobridge, Monroe, Montrose, Morristown, Mound City, Mount Vernon, Murdo
New Underwood, New Witten, Newell, Nisland, North Sioux City, Northville, Nunda
Olivet, Onaka, Onida, Orient, Ortley
Parker, Parkston, Peever, Pierpont, Platte, Pollock, Presho, Pringle, Pukwana
Ramona, Ravinia, Ree Heights, Revillo, Rockham, Roscoe, Rosholt, Roslyn, Roswell
Salem, Scotland, Seneca, Sherman, Sinai, Sisseton, South Shore, Spearfish, Spencer, Springfield, St. Francis, St. Lawrence, Stickney, Stockholm, Summit
Tabor, Timber Lake, Tolstoy, Toronto, Trent, Tripp, Tulare, Twin Brooks, Tyndall
Veblen, Vermillion, Viborg, Vienna, Vilas, Virgil, Volin

Wakonda, Wallace, Ward, Wasta, Waubay, Webster, Wessington, Wessington Springs, Westport, White, White Lake, White River, White Rock, Willow Lake, Wilmot, Winfred, Winner, Wolsey, Wood, Woonsocket, Worthing
Yankton

Tennessee

Adams, Adamsville, Alamo, Alcoa, Alexandria, Algood, Allardt, Altamont, Ardmore, Arlington, Athens, Auburntown
Baileyton, Baxter, Beersheba Springs, Bells, Benton, Bethel Springs, Big Sandy, Bluff City, Bolivar, Braden, Brighton, Brownsville, Bulls Gap, Burlison, Byrdstown
Camden, Caryville, Cedar Hill, Celina, Centertown, Centerville, Charleston, Cleveland, Clifton City, Coalmont, Collinwood, Copperhill, Cornersville, Cottage Grove, Covington, Cowan, Cross Plains, Crossville, Cumberland City
Dayton, Decherd, Denmark, Dickson, Dover, Dowelltown, Doyle, Dresden, Ducktown, Dyer, Dyersburg
Eastview, Elizabethton, Elkton, Englewood, Enville, Erin, Erwin, Ethridge, Etowah
Fayetteville, Finger, Franklin, Friendship, Friendsville
Gadsden, Gainesboro, Gallaway, Gates, Gibson, Gilt Edge, Glfason, Gordonsville, Graysville, Greenback, Greenfield
Halls, Harriman, Hartsville, Henderson, Henning, Henry, Hickory Valley, Hollow Rock, Hornbeak, Hornsby, Humboldt, Huntland, Huntsville
Iron City
Jacksboro, Jamestown, Jefferson City, Jellico, Jonesboro
Kenton
La Follette, La Grange, Lake City, Lakeland, Lakesite, Lenoir City, Lewisburg, Lexington, Liberty, Linden, Livingston, Loudon, Luttrell, Lynchburg, Lynnville
Madisonville, Martin, Mason, Maury City, Maynardville, McKenzie, McLemoresville, McMinnville, Medina, Medon, Michie, Middleton, Milan, Milledgeville, Minor Hill, Mitchellville, Monterey, Morrison, Mosheim, Mount Pleasant Mountain City
New Market, New Tazewell, Newbern, Newport, Niota, Normandy
Oakdale, Oakland, Obion, Oneida, Orlinda
Palmer, Paris, Parsons, Petersburg, Philadelphia, Pikeville, Pittman Center, Pleasant Hill, Powells Crossroads, Pulaski, Puryear
Ramer, Red Boiling Springs, Ridgely, Ripley, Rives, Rockford, Rockwood, Rossville, Rutherford, Rutledge
Saltillo, Samburg, Sardis, Saulsbury, Savannah, Selmer, Sevierville, Sharon, Shelbyville, Silerton, Slayden, Sneedville, Soddy-Daisy, Sommerville, South Carthage, South Fulton, South Pittsburg, Sparta, Srpring City, Spring Hill, Springfield, Stanton, Stantonville, Surgoinsville, Sweetwater
Tazewell, Tellico Plains, Tennessee Ridge, Tiptonville, Townsend, Tracy City, Trenton, Trezevant, Trimble, Troy
Union
Vanleer, Viola, Vonore
Wartrace, Watauga, Watertown, Waynesboro, Whiteville, Whitwell, Williston, Winchester, Woodland Mills
Yorkville

Texas

Abbott, Ackerly, Agua Dulce, Alamo, Alba, Albany, Alice, Alma, Alpine, Alto, Alvarado, Alvord, Ames, Amherst, Anna, Annona, Anson, Anthony, Anton, Appleby, Arp, Asherton, Aspermont, Athens, Aubrey, Austwell, Avery, Avinger
Bailey, Baird, Ballinger, Balmorhea, Bandera, Bangs, Bardwell, Barry, Barstow, Bartlett, Bastrop, Bayview, Beckville, Beeville, Bellevue, Bells, Benavides, Benjamin, Bertram, Big Sandy, Big Wells, Blackwell, Blanco, Blanket, Bloomburg, Blooming Grove, Blue Ridge, Blum, Boerne, Bogata, Bonham, Bovina, Bowie, Boyd, Brackettville, Brady, Breckenridge, Bremond, Brenham, Broaddus, Bronson, Bronte, Brookshire, Browndell, Brownfield, Brownsboro, Brownwood, Bryson, Buckholts, Buda, Buffalo, Buffalo Gap, Burton, Byers, Bynum
Caddo Mills, Caldwell, Calvert, Cameron, Camp Wood, Campbell, Canyon, Carbon, Carmine, Carrizo Springs, Castroville, Celeste, Celina, Center, Centerville, Chandler, Channing, Charlotte, Chico, Childress, Chillicothe, China, Chireno, Christine, Cibolo, Cisco, Clarendon, Clarksville, Clarksville City, Cleburne, Cleveland, Clint, Coahoma, Coffee City, Coldspring, Coleman, Collinsville, Colmesneil, Colorado City, Columbus, Comanche, Combes, Commerce, Como, Coolidge, Cooper, Corrigan, Corsicana, Cotulla, Covington, Crandall, Cransfills Gap, Crawford, Crockett, Crosbyton, Cross Plains, Crowell, Crystal City, Cuero, Cumby, Cushing
Darrouzett, Dawson, De Kalb, De Leon, Decatur, Del Rio, Deport, Detroit, Devine, Dickens, Dilley, Dodd City, Dobson, Domino, Donna, Dorchester, Douglasville, Driscoll, Dublin
Eagle Lake, Eagle Pass, Earth, East Tawakoni, Eastland, Easton, Ector, Edcouch, Eden, Edgewood, Edmonson, Edom, Eldorado, Electra, Elgin, Elkhart, Elmendorf, Elsa, Emhouse, Emory, Enchanted Oaks, Ennis, Estelline, Eustace
Fairview, Falfurrias, Farmersville, Fate, Fayetteville, Ferris, Flatonia, Florence, Floresville, Floydada, Follett, Forsan, Franklin, Frankston, Freer, Frisco, Frost, Fruit Vale
Gainesville, Garrett, Garrison, Gary, Gatesville, George West, Georgetown, Gholson, Giddings, Gilmer, Gladewater, Godley, Goldthwaite, Goliad, Golinda, Gonzales, Goodrich, Gordon, Goree, Gorman, Graford, Grand Saline, Grandfalls, Grandview, Granger, Grapeland, Greenville, Gregory, Groesbeck, Groveton, Gunter, Gustine
Hale Center, Hallettsville, Hallsburg, Hamilton, Hamlin, Hart, Haskell, Haslet, Hearne, Hedley, Hemphill, Henrietta, Hico, Hidalgo, Hillsboro, Holland, Hondo, Honey Grove, Hubbard, Huntington, Hutto
Idalou, Iredell, Italy, Itasca
Jacksboro, Jacksonville, Jasper, Jayton, Jefferson, Jewett, Joaquin, Johnson City, Josephine, Joshua, Jourdanton, Junction, Justin
Karnes City, Kaufman, Kemp, Kendleton, Kenedy, Kennard, Kerens, Kermit, Kingsville, Kirbyville, Knox City, Kosse, Kress, Krum, Kyle
La Coste, La Feria, La Grange, La Grulla, La Joya, La Vernia, La Villa, La Ward, Ladonia, Lake Bridgeport, Lake Ransom Canyon, Lakeview, Lamesa, Lavon, Lawn, Lawrence, Leakey, Leona, Leonard, Leroy, Lexington, Linden, Lipan, Littlefield, Livingston, Llano, Lockhart, Lockney, Lometa, Lone Oak, Loraine, Lorena, Lorenzo, Los Fresnos, Lott, Lovelady, Lowery Crossing, Lueders, Luling, Lyford
Mabank, Madisonville, Magnolia, Malakoff, Malone, Manor, Marfa, Marietta, Marion, Marlin, Marquez, Marshall, Mart, Mason, Matador, Mathis, McGregor, McKinney, McLean, Meadow, Melissa, Melvin, Memphis, Menard, Mercedes, Meridian, Merkel, Mertens, Mertzon, Mexia, Milano, Miles, Milford, Mineral Wells, Mingus, Mission, Mobeetie, Montgomery, Moody, Moore Station, Moran, Morgan, Morton, Moulton, Mount Calm, Mount Enterprise, Mount Vernon, Mullin, Munday, Mustang
Naples, Natalie, Navasota, Nazareth, New Berlin, New Deal, New Summerfield, New Waverly, Newcastle, Neylandville, Nixon, Necona, Nome, Nordheim, Normangee, Novice
Oak Grove, Oakwood, Odem, Oglesby, Olton, Onalaska, Orange Grove, O'Brien, O'Donnell
Paducah, Paint Rock, Palmhurst, Palmview, Paris, Pattison, Pearsall, Pecan Gap, Pecos, Penelope, Petersburg, Pilot Point, Pineland, Pittsburg, Plains, Pleasanton, Plum Grove, Point, Point Blank, Ponder, Port Isabel, Post, Poteet, Poth, Pottsboro, Poynor, Premont, Primera, Putnam, Pyote
Quanah, Quinlan, Quintana, Quitaque
Ralls, Ranger, Raymondville, Refugio, Reklaw, Rice, Richland, Richland Springs, Riesel, Rio Hondo, Rio Vista, Rising Star, Riverside, Robstown, Roby, Rochester, Rockdale, Rocksprings, Rogers, Roma, Ropesville, Roscoe, Rosebud, Rotan, Round Rock, Roxton, Royse City, Rule, Runge, Rusk
Sabinal, Sadler, San Augustine, San Diego, San Felipe, San Juan, San Patricio, San Perlita, San Saba, Sanger, Santa Anna, Santa Rosa, Savoy, Schulenburg, Scottsville, Seadrift, Seagraves, Sealy, Seguin, Seminole, Seven Oaks, Seymour, Shamrock, Shepherd, Shiner, Silverton, Sinton, Slaton, Smiley, Smithville, Somerset, Somerville, Sporfford, Springlake, Spur, St. Jo, Stamford, Stanton, Sterling City, Stockdale, Strawn, Streetman, Sudan, Sunnyvale, Sunray, Sweetwater
Taft, Tahoka, Talco, Tatum, Taylor, Teague, Tehuacana, Tenaha, Terrell, Thorndale, Thornton, Tharall, Three Rivers, Timpson, Tioga, Toco, Tom Bean, Toyah, Trenton, Trinity, Troup, Tulia, Turkey,
Uvalde
Valentine, Valley Mills, Van Alstyne, Van Horn, Venus, Vernon,
Waelder, Wallis, Walnut Springs, Waxahachie, Weatherford, Weimar, Wellington, Wellman, Wells, Weslaco, West, West Tawakoni, Westbrook, Westminister, Weston, Wharton, White City, Whitewright, Whitney, Willis, Wills Point, Wilson, Windom, Winfield,

Winnsboro, Winters, Wolfe City, Woodsboro, Woodson, Woodville, Wortham
Yoakum, Yorktown
Zavalla

Utah

Amalga, Annabella, Antimony
Ballard, Bear River City, Beaver, Bluff, Boulder
Cannonville, Cedar Fort, Centerfield, Circleville, Clarkston, Cleveland, Cornish
Delta, Deweyville
Elmo, Elsinore, Enterprise, Ephraim, Eureka
Fairview, Fayette, Fillmore, Fountain Green, Garland, Gunnison
Helper, Henefer, Henrieville, Hinckley, Holden, Honeyville, Hurricane
Joseph, Junction
Kamas, Kanosh
La Verkin, Leamington, Levan, Lewiston, Lindon, Loa, Logan, Lynndyl
Manila, Manti, Mantua, Marysvale, Mayfield, Meadow, Milford, Millville, Moab, Moroni, Mount Pleasant, Myton
Nephi, Newton
Oak City, Oakley, Orderville
Panguitch, Paragonah, Parowan, Perry, Plymouth, Portage
Randolph, Redmond, Richfield
Santa Clara, Santaquin, Scipio, Snowville, South Salt Lake, Spring City, Springdale, Sterling, Stockton
Toquerville, Trenton
Virgin
Wales, Woodruff
Yostl74Vermont
Albany, Alburg
Barpe, Barton, Bellows Falls, Bennington Town, Bratleboro Town, Burlington
Cambridge
Derby Center
Enosburg Falls
Jeffersonville
Ludlow, Lyndonville
Montpelier, Morrisville
Newbury, Newfane, Newport, North Troy
Orleans
Pittsford, Plainfield, Pouliney, Procforsville
Readsboro, Richford, Rockingham Town, Rutland
Saxtons River, Springfield Town, St. Albans, Swanton, Swanton Town
Bergennes
Waterbury, Waterbury Town, Wells River, Westminster, Winooski

Virginia

Accomac, Alberta, Appalachia
Bedford City, Belle Haven, Berryville, Blackstone, Bloxom, Boyce, Boydion, Boykins, Bristol City, Brodnax, Brookneal, Buchanan, Burkeville
Cape Charles, Charlotte Court House, Chase City, Chatham, Cheriton, Chilhowie, Chincoteague, Claremont, Clarksville, Cleveland, Clifton Forage City, Clinchport, Clintwood, Clover, Coeburn, Colonial Beach, Columbia, Courtland, Covington City, Craigsville
Damascus, Danville City, Dillwyn, Drakes Branch, Dungannon
Eastville, Elkton, Emporia City, Exmore
Farmville, Fincastle, Floyd
Galax City, Gate City, Glade Spring, Glen Lyn, Gordonsville, Grottoes
Hallwood, Hillsboro, Honaker
Independence,
Iron Gate, Irvington
Keller
La Crosse, Lawrenceville, Lexington City, Louisa, Lovettsville, Luray
Marion, Martinsville City, Melfa, Mineral, Mount Crawford
Narrows, Nassawadox, New Market, Newsoms, Nickelville, Norton City
Onancock, Orange
Painter, Pamplin City, Parksley, Pembroke, Pennington Gap, Phenix, Pocahontas, Port Royal, Pulaski
Rich Creek, Round Hill, Rural Retreat
Saltville, Saxis, Scottsburg, Scottsville, South Boston City, St. Charles, St. Paul, Stanley, Staunton City, Stephens City, Stony Creek, Strasburg, Suffolk City, Surry
Tangier, The Plains, Toms Brook, Troutdale
Victoria, Virgilina
Wachapreague, Wakefield, Washington, West Point, Woodstock, Wytheville

Washington

Aberdeen, Algona, Almira, Asotin
Bingen, Black Diamond, Buckley
Carbonado, Cathlamet, Chewelah, Cle Elum, Conconully, Concrete, Cusick
Darrington, Deer Park
Eatonville, Ellensburg, Elma, Endicott, Everson
Granger, Granite Falls
Harrah, Hoquiam
Index, Ione
Kelso, Kittitas
La Conner, Lake Stevens, Lamont, Langely, Latah, Levenworth
Mabton, Marcus, Metaline, Milwood, Morton, Mossyrock, Moxee City
Nespelem, Newport, North Bonneville, Northport
Okanogan, Omak, Oroville
Pacific, Pe Ell, Prescott
Raymond, Ridgefield, Riverside, Roslyn
Shelton, Snohomish, Snoqualmie, Sprague, Springdale, St. John, Starbuck, Sumas
Tieton, Toledo, Tonasket, Toppenish, Twisp
Uniontown
Vader
Waitsburg, Wapato, Washtucna, Waterville, Wilbur, Wilkeson, Wilson Creek, Winlock
Yelm
Zillah

West Virginia

Addison, Albright, Alderson, Anawalt, Anmoore, Ansted, Auburn
Bath, Bayard, Belington, Belle, Benwood, Beverly, Bluefield, Bramwell, Buckhannon, Buffalo, Burnsville
Camden-on-Gauley, Cameron, Capon Bridge, Cass, Cedar Grove, Charles Town, Chester, Clarksburg, Clay, Clendenin, Cowen
Davis, Davy, Delbarton, Dunbar, Durbin
Eleanor, Elizabeth, Elk Garden, Elkins, Ellenboro
Fairmont, Falling Springs, Farmington, Fayetteville, Flatwoods, Flemington, Follansbee, Fort Gay
Gary, Gassaway, Glenville, Grafton, Granville
Hambleton, Hamlin, Handley, Harpers Ferry, Harrisville, Hartford City, Hedgesville, Henderson, Hendricks, Hillsboro, Hinton, Hundred
Iaeger
Junior
Kenova, Kermit, Keyser, Keystone, Kimball
Layopolis, Leon, Lester, Littleton, Logan, Lost Creek, Lumberport
Man, Mannington, Marlington, Marmet, Martinsburg, Mason, Masontown, Matewan, Matoaka, McMechen, Meadow Bridge, Middlebourne, Mill Creek, Monogah, Montgomery, Montrose, Moorefield, Morgantown, Moundsville, Mount Hope
New Cumberland, Newburg
Oakvale, Osage
Paden City, Parsons, Paw Paw, Pax, Pennsboro, Peterstown, Piedmont, Poca, Point Pleasant, Princeton, Pullman
Quinwood
Rainelle, Reedy, Rhodell, Richwood, Ridgeley, Ripley, Rivesville, Romney, Ronceverte, Rowlesburg
Salem, Shepherdstown, Sistersville, Smithers, Smithfield, Spencer, St. Marys, Stonewood, Sutton
Terra Alta, Thomas, Thurmond, Triadelphia, Tunnelton
Union
Valley Grove
War, Wardenville, Wayne, Welch, West Hamlin, West Milford, West Union, Weston, Westover, White Sulphur Springs, Whitesville, Williamson, Winfield, Womelsdorff, Worthington

Wisconsin

Abbotsford, Adams, Algoma, Alma, Alma Center, Almont, Amherst Junction, Aniwa, Antigo, Arcadia, Arena, Argyle, Ashland, Auburndale, Augusta, Avoca
Bagley, Baraboo, Barron, Bayfield, Beloit, Benton, Berlin, Big Falls, Birnamwood, Black Earth, Blair, Blanchardville, Bloomer, Blue River, Boscobel, Bowler, Boyd, Brandon, Bruce, Buffalo, Butternut
Cable, Cadott, Cambria, Camp Douglas, Campbellsport, Cashton, Catawba, Cazenovia, Cecil, Centuria, Chaseburg, Chetek, Chilton, Chippewa Falls, Clear Lake, Clintonville, Clyman, Colby, Coleman, Colfax, Conrath, Cornell, Crandon, Cumberland, Curtiss
De Soto, Deer Park, Delavan, Dorchester, Doylestown, Dresser, Durand
Eastman, Eden, Egg Harbor, Elderon, Eleva, Elk Mound, Elmwood, Elroy, Ettrick
Fairchild, Fairwater, Fennimore, Ferryville, Fond Du Lac, Fontana-on-Geneva Lake, Forestville, Frederic, Friendship, Friesland
Galesville, Gays Mills, Genoa Gillett, Gilman, Glen Flora, Glenbeulah, Glenwood City, Granton, Gratiot, Greenwood
Hayward, Highland, Hillsboro, Hixton, Hollandale, Hurley, Hustisford, Hustler
Independence, Ingram, Iola
Johnson Creek
Kaukauna, Kekoskee, Kendall, Kennan, Knapp
La Farge, La Valle, Ladysmith, Lake Nebagamon, Livingston, Lohrille, Lone Rock, Loyal, Lublin, Lyndon Station, Lynxville
Maiden Rock, Marinette, Mattoon, Mauston, Mazomanie, Mellen, Melrose, Menomonie, Merrill, Merrillan, Milladore, Milltown, Minong, Mondovi, Montfort, Montreal, Mount Calvary, Mount Hope, Mount Sterling, Muscoda

Necedah, Neillsville, Nelsonville, New Auburn, New Lisbon, Niagara, North Freedom, Norwalk
Oconomowoc Lake, Oconto, Oconto Falls, Oliver, Ontario, Osseo, Owen, Oxford
Park Falls, Pepin, Phillips, Pigeon Falls, Pittsville, Plainfield, Platteville, Plum City, Popular, Port Washington, Pound, Prairie Du Chien, Prairie Farm, Prentice, Princeton, Pulaski
Radisson, Readstown, Redganite, Reedsburg, Reedsville, Rewey, Rhinelander, Rib Lake, Rice Lake, Richland Center, Ripon, Rock Springs, Rockdale, Rosholt
Sheldon, Shell Lake, Shullsburg, Siren, Sister Bay, Soldiers Grove, Solon Springs, South Wayne, Spencer, Stanley, Stetsonville, Steuben, Stevens Point, Stockbridge, Stoddard
Taylor, Tigerton, Turtle Lake, Two Rivers
Union Center, Unity,
Vesper, Viola, Viroqua
Waldo, Waupaca, Wausau, Wausaukee, Wautoma, Wauzeka, Webster, West Bababoo, Westby, Weyauwega, Weyerhauser, White Lake, Whitehall, Whitewater, Williams Bay, Wilson, Wilton, Winter, Wisconsin Rapids, Withee, Wonewoc, Woodman, Woodville, Wrightstown, Wyeville, Wyocena
Yuba

Wyoming

Albin
Byron
Chugwater, Cokeville, Cowley
Dixon
East Thermopolis, Edgerton
Fort Laramie
Hulett
La Barge, La Grange, Lovell
Manderson, Meeteetse, Midwest
Rock River
Sheridan, Shoshoni, South Superior, Sundance
Yoder

Puerto Rico

Aguadilla Municipio
Catano Municipio Cayey Municipio
Fajardo Municipio
Guanica Municipio, Gayama Municipio
Hormiguero Municipio
Trujillo Alto Municipio

III. The following list contains the names of those small cities which meet the minimum standards of physical and economic distress appropriate to their size class for the first time:

Alabama

Ardmore, Bear Creek, Belk, Calera, Carrville, Centre, Centreville, Chatom, Coffee Springs, Daleville, Elkmont, Geraldine, Haleyville, Kennedy, Memphis, Nectar, Pennington, Riverview, Stevenson, West Point

Arizona

Buckeye, Florence, Gila Bend, Marana, Pima, Thatcher

Alaska

Akhiok, Akiachak, Akiak, Akolmiut, Alakanuk, Aleknagik, Allakaket, Anaktuvuk Pass, Angoon, Aniak, Anvik, Brevig Mission, Chefornak, Chevak, Chuathbaluk, Deering, Eek, Elim, Emmonak, Fortuna Ledge, Gambell, Golovin, Goodnews Bay, Grayling, Holy Cross, Hooper Bay, Hydaburg, Kake, Kaltag, Kivalina, Klawock, Kotlik, Kwethluk, Lower Kalskag, Manokotak, Mekoryuk, Mountain Village, Napakiak, New Stuyahok, Newtok, Nightmute, Nikolai, Old Harbor, Ouzinkie, Pilot Station, Port Helden, Quinhagak, Saint Michael, Savoonga, Scammon Bay, Selawik, Shageluk, Shaktoolik, Sheldon Point, Shishmaref, St. Mary's, Stebbins, Teller, Togiak, Toksook Bay, Tuluksak, Tununak, Upper Kalskag, Wainwright, Wales, White Mountain

Arkansas

Alexander, Caldwell, Cash, Daisy, Dardenelle, Gum Springs, Harrisburg, Judsonia, Lake Village, Leola, Malvern, Minturn, Murfreesboro, Oden, Ogden, Oil Trough, Palestine, Piggott, Poyen, Sedgwick, Sherrill, St. Charles, West Memphis

California

Dinuba, Dunsmuir, Gonzales, Healdsburg, Imperial Beach, Lawndale, Pacific Grove, Pittsburg, Rosemead, Selma, Tulelake, Waterford, Willits

Colorado

Campo, Canon City, Durango, Eagle, Holly, Iliff, La Jara, Lamar, Minturn, Montrose, New Castle, Norwood, Pierce, Walsh

Delaware

Blades, Bridgeville, Delmar, Henlopen Acres, Lewes, Middletown, Ocean View, Seaford

Florida

Belleview, Bushnell, De Land, Fellsmere, Indian Creek, Labelle, Lake, Lawtey, Marianna, Mulberry, Perison, Plant City, Sebring, South Miami, St. Cloud, Starke, Worthington Springs

Georgia

Alto, Bellville, Bibb City, Blairsville, Bogart, Braswell, Camak, Cohutta, East Ellijay, Edge Hill, Euharlee, Flowery Branch, Hamilton, Hilltonia, La Fayette, Lithonia, Nashville, Palmetto, Rossville, Social Circle, Sycamore, Tarrytown, Trion, Vidalia

Idaho

Aberdeen, Ferdinand, Grand View, Homedale, Malad City, Menan, New Meadows, Newdale, Richfield, Teton

Illinois

Albers, Albion, Anna, Ashmore, Bement, Bushnell, Canton, Carbon Cliff, Casey, Chatsworth, Chrisman, Claremont, DePue, Detroit, Dowell, Dwight, Earlville, East Chicago Heights, Eldred, Erie, Evansville, Fairbury, Fairfield, Farina, Fieldon, Fisher, Florence, Forreston, Freeport, Gilberts, Granville, Hartford, Hutsonville, Kappa, Kell, Kewanee, La Moille, Leaf River, Lebanon, Lincoln, Louisville, Lyndon, Malta, Mansfield, Manteno, Mark, Matherville, McLean, Milledgeville, Mount Carroll, Mount Erie, Moweaqua, Nokomis, Norris, Oconee, Ohio, Oregon, Ottawa, Peru, Prophetstown, Ransom, Richmond, Ridge Farm, Ridgway, Robinson, Rock City, Rock Falls, Rutland, Savanna, Sawyerville, Sciota, Seatonville, Sparland, Spring Bay, Spring Valley, St, Jacob, Sterling, Strawn, Sublette, Sullivan, Tiskilwa, Toluca, Viola, Warren, Waterman, Wellington, West Salem, Whiteash, Windsor, Wood River

Indiana

Avilla, Brook, Burlington, Butler, Charlestown, Clayton, Culver, Cynthiana, Greensfork, Hagerstown, Hartsville, Haubstadt, Hope, Jonesville, Ladoga, Lagrange, Lake Hart, Larwill, Little York, Lizton, Macy, Millford, Millhousen, Monroe City, Morocco, Mount Summit, Pennville, Poneto, Poseyville, Roann, Scottsburg, Seelyville, Shamrock Lakes, Sharpsville, Sheridan, Stinesville, Vera Cruz, Walkerton, Waterloo

Iowa

Ackworth, Albion, Alden, Ames, Arcadia, Armstrong, Atkins, Audubon, Bancroft, Batavia, Boyden, Cherokee, Chillicothe, Clarion, Dakota City, Deep River, Dickens, Dumont, Emmetsburg, Estherville, Farley, Fertile, Floyd, Fort Madison, Fruitland, Greeley, Harcourt, Holstein, Hospers, Iowa, Joice, Kensett, La Porte City, Ladora, Laurens, Lincoln, Madrid, Manchester, Milford, Millersburg, Moneta, Monticello, Montrose, Mount Pleasant, New London, New Virginia, Newton, Nichols, Orchard, Osage, Parkersburg, Pleasantville, Preston, Richland, Rudd, Ryan, Sidney, South English, St. Anthony, Stacyville, Stanhope, Steamboat Rock, Storm Lake, Sully, Sutherland, Thor, Thornburg, Traer, Ventura, Vinton, Webster City, West Burlington, Woden, Wyoming, Yale

Kansas

Alton, Belle Plaine, Bison, Burdett, Bushton, Chapman, Clayton, Delia, Durham, Enterprise, Ford, Fowler, Goessel, Hudson, Hunter, Jetmore, Lehigh, Liebenthal, Meade, Milan, Mildred, Mullinville, Muscotah, Oskaloosa, Protection, Richmond, Seneca, Sharon, Smith Center, Waldo, Wamego, Wathena,

Kentucky

Brandenburg, Edmonton, Grayson, Kevil, Kuttawa, Manchester, North Middletown, Southgate, Tollesboro, Walton

Louisiana

Ashland, Blanchard, Delcambre, Dry Prong, East Hodge, Evergreen, Junction City, Kinder, Mooringsport, Vivian

Maine

Old Orchard Beach Town, Saco, Westbrook

Maryland

Accident, Betterton, Chesapeake Beach, Elkton, Secretary

Massachusetts

Dalton Town, Marlborough, Melrose, Methuen Town, Palmer Town, South Hadley Town, Watertown Town, West Springfield Town, Winthrop Town,

Michigan

Benton Township, Bloomingdale, Caro, Charlevoix, Colon, Fau Claire, Ferndale, Holland, Indianfields Township, Inkster, Keego Harbor, Kingston, Mackinac Island, Memphis, Merrill, Morenci, Richland, Rogers City, Saugatuck, Ubly, Unionville

Minnesota

Adams, Albert Lea, Battle Lake, Blue Earth, Bluffton, Clarissa, Clarkfield, Cokato, Dalton, Delano, Dexter, Dilworth, Elgin, Evansville, Felton, Fergus Falls, Geneva, Glenwood, Glyndon, Granada, Granite Falls, Hadley, Heidelberg, Henderson, Hitterdal, Janesville, Lake Park, Long Beach, McGrath, Meire Grove, Minneiska, New Market, Norcross, North Redwood, Ortonville, Ortonville Township, Perham, Sauk Rapids, Silver Lake, Slayton, Sleepy Eye, St. James, Taconite, Taopi, Upsala, Waconia, Wadena, Walker, Wanda, Warroad, Westbrook, Westport, Wilder, Wykoff, Young America

Mississippi

Amory, Byhalia, Chunky, Marietta, Memphis, Metcalfe, Newport, Pittsboro, Wiggins

Missouri

Asbury, Bragg City, Cairo, Centertown, Chaffee, Clark, Conception Junction, Country Life Acres, Curryville, Dearborn, Gerald, Houston, Iatan, La Plata, Lawson, Leawood, Lincoln, MacKenzie, Mooresville, Moundville, New Bloomfield, Newark, Orrick, Parkville, Saginaw, St. Elizabeth, St. Thomas, Sturgeon, Sullivan, Urich, Waverly

Montana

Bridger, Circle, Culbertson, Cut Bank, Darby, Geraldine, Joliet, Jordan, Lewistown, Malta, Missoula, Opheim, Three Forks, White Sulphus Sprgs, Wibaux, Winnett

Nebraska

Alma, Ansley, Broken Bow, Burwell Chambers, Clearwater, Cozad, Elgin, Garrison, Gross, Gurley, Harvard, Kearney, Liberty, Nora, Octavia, Osceola, O'Neill, Palmer, Paxton, Pickrell, Scribner, St. Edward, Staplehurst, Stapleton, West Point

New Hampshire

Claremont, Laconia

New Jersey

Belmar, Bergenfield, Carteret, East Newark, Haledon, Harrison, Mount Ephraim, North Hanover Township, Riverside Township, Swedesboro

New York

Ames, Batavia, Boonville, Clinton, Cooperstown, Deferiet, Endicott, Galen Town, Geddes Town, Geneva, German Flatts Town, Green Island Town, Heuvelton, Medina, Middleport, Millerton, Milo Town, Minden Town, Mohawk, Mount Morris Town, New York Mills, Newark, North Elba Town, North Tarrytown, Oneonta, Perry, Persia Town, Phelps, Pike, Rockville Centre, Rye Town, Saratoga Springs, Sherrill, Sloan, Solvay, Tuckahoe, Watervliet, Wolcott

North Carolina

Aurora, Autryville, Bailey, Bladenboro, Boiling Springs Lakes, Bolivia, Calypso, Centerville, Cherryville, Clayton, Cove City, Dallas, Elkin, Faison, Franklinton, Goldston, Granite Falls, Grimesland, Halifax, Havelock, Highlands, Hookerton, Jefferson, Kittrell, Lincolnton, Maiden, Marshall, Mocksville, Mount Holly, Norlina, Pantego, Parkton, Pinebluff, Rennert, Roanoke Rapids, Ruth, Rutherfordton, Shelby, Southern Pines, Speed, St. Pauls, Stantonsburg

North Dakota

Adams, Aneta, Ayr, Barney, Belfield City, Berwick, Carson, Cooperstown, Dawson, Donnybrook, Dunseith, Eckman, Elgin, Fessenden, Flasher, Gackle, Gilby, Golva, Grand, Hannah, Harvey, Hatton, Hunter, Jamestown, Kenmare, Killdeer City, Knox, Lignite, Linton, Ludden, Makoti, Mayville, McVille, Merricourt, Mooreton, Mott, Mountain, New Leipzig, Noonan, Ray, Russell, Sawyer, Starkweather, Strasburg, Turtle Lake, Valley City

Ohio

Antwerp, Berlin Heights, Bethel, Bluffton, Bridgeport, Campbell, Centerburg, Clay Center, Crown City, Edon, Fairfax, Fort Jennings, Gettysburg, Harveysburg, Jacksonburg, La Rue, Lafayette, Lakemore, Lewisburg, Lucas, Massillon, Millersport, New Albany, New Alexandria, New Lexington, New Madison, New Riegl, Newburgh Heights, North Baltimore, Ohio City, Put-in-Bay, Roseville, Sebring, Shelby, Struthers, Sugarcreek, Unionville Center, Versailles, West Mansfield, Woodstock, Wren, Xenia

Oklahoma

Chattanooga, Foraker, Gerty, Hooker, Hunter, Lindsay, Rattan, Thackerville, Westport, Wynona

Oregon

Astoria, Banks, Jefferson, Merrill, Ontario, Wallowa, Yamhill

Pennsylvania

Beallsville, Berrysburg, Berwick, Brackenridge, Bridgeport, Christiana, Connoquenessing, Conshohocken, Donegal, Eddystone, Ellport, Glenolden, Harrisville, Huntingdon, Jeddo, Laurel Run, Littlestown, Mansfield, McClure, McVeytown, Meshoppen, Monessen, Morrisville, New Centerville, New Florence, New Freedom, Norwood, Pringle, Ramey, Red Lion, Roaring Spring, Schwenksville, Selinsgrove, Sharon Hill, Silverdale, South Renovo, St. Lawrence, St. Marys, Towanda, Trumbauersville, Wall, Wesleyville, West Elizabeth, West Middletown, Whitaker, Wilson, Wyalusing, Zelienople

Townships

Coal, Lower Chichester, South Union, Stowe, West Pottsgrove

Rhode Island

South Kingstown Town, West Warwick Town

South Carolina

Anderson, Burnettown, Cameron, Cayce, Central, Gaffney, Greenwood, Hodges, Liberty, McClellanville, New Ellenton, Nichols, Olanta, Ridgeland, Salem, Walterboro, Williamston

South Dakota

Aberdeen, Beresford, Bison, Britton, Chamberlain, Cottonwood, Custer, Doland, Edgemont, Fulton, Groton, Ipswich, Kadoka, Lemmon, Letcher, Martin, McLaughlin, Mobridge, New Witten, Newell, North Sioux City, Ortley, Presho, Salem, Trent, Vermillion, Vilas, Webster, White Rock, Wolsey

Tennessee

Bolivar, Bulls Gap, Elkton, Friendsville, Gordonsville, Humboldt, Lakeland, Lakesite, Lewisburg, Middleton, New Market, Red Boiling Springs, Soddy-Daisy, Vanleer, Watauga, Whiteville, Williston

Texas

Ackerly, Anna, Benjamin, Brownfield, Clarksville City, Darrouzett, Hale Center, Idalou, Justin, Kemp, La Ward, Lake Bridgeport, Lake Ransom Canyon, Magnolia, Mount Enterprise, Nome, Paris, Pearsall, Pecos, Pittsburg, Pleasanton, Port Isabel, Post, Poteet, Premont, Pyote, Rockdale, San Perlita, Sanger, Slaton, Sunray, Toco, Whitney, Woodson

Utah

Ballard, Panguitch, Randolph, South Salt Lake

Vermont

Springfield Town

Virginia

Bedford City, Clarksville, Cleveland, Colonial Beach, Dillwyn, Exmore, Independence, Pulaski, Staunton City, The Plains, West Point, Wytheville

Washington

Chewelah, Conconully, Everson, LaConner, Metaline, Millwood, Morton, Mossyrock, Omak, Oroville, Prescott, Tieton,

West Virginia

Chester, Poca, Winfield,

Wisconsin

Abbotsford, Baraboo, Beloit, Cashton, Clintonville, Clyman, Delavan, Eden, Fond Du Lac, Hollandale, Port Washington, Pulaski, Reedsville, Ripon, Stetsonville, Stevens Point, Stockbridge, Wausau, Wonewoc,

Wyoming

Chugwater

IV. The following list contains the names of those small cities which met the minimum standards of physical and economic distress in Fiscal Year 1978 but which do not meet the current minimum standards:

Alabama

Anderson, Athens, Coffeeville, Daviston, Henagar, Lexington, Sylvania, Thorsby, Waldo.

Arkansas

Bentonville, Des Arc, Guion, Haskell, Knoxville, Lepanto, Melbourne, Midland, Norphlet, Oxford, Turrell, Winchester, Wynne.

California

Fortuna, Hercules, Marysville, San Pablo, Wasco.

Colorado

Black Hawk, Cedaredge, Collbran, Fort Lupton, Rifle, Silt.

Connecticut

Bantam, Plymouth Town, Winchester Town.

Florida

San Antonio.

Georgia

Allenhurst, Cadwell, Franklin, Helen, Holly Springs, Suwanee.

Idaho

Lapwai, McCammon, Potlatch, Wendell.

Illinois

Braceville, East Galesburg, Ellis Grove, Grant Park, Hoyleton, Littleton, Mount Olive, Muddy, New Salem, Williamsville.

Indiana

Bainbridge, Battle Ground, Claypool, Columbia City, Delphi, Fowlerton, Medaryville, Mooresville, Newpoint.

Iowa

Andover, Cascade, Crescent, Fort Atkinson, Gibson, Keomah, Melrose, New Vienna, North English, North Washington, Rickardsville.

Kansas

Alexander, Earlton, Emporia, Galesburg, Greensburg, Humboldt, Langdon, Linn, Macksville, Olmitz, Plainville, South Hutchinson, Victoria.

Kentucky

Beaver Dam, Bremen, Danville, Dawson Springs, Fairview, Hanson, Hartford, Hazard, Hiseville, Loretto, Melbourne, Murray, Pleasant Valley, Salem.

Louisiana

Abita Springs, Berwick, Golden Meadow, Grambling, Jean LaFitte, Morgan City, Simsboro.

Maine

Presque Isle.

Massachusetts

Gloucester.

Michigan

Bridgman, Comstock Township, Harrison, Ionia.

Minnesota

Kenyon, Moose Lake, Nashwauk, Orr, Proctor, Spring Hill, St. Martin.

Mississippi

Bay St. Louis.

Missouri

Bloomsdale, Denver, Marston, Normandy, Paris, Ritchey, Rush Hill, Times Beach, Wellington

Montana

Laurel, Scobey, Sunburst

Nebraska

Allen, Bassett, Benedict, Clatonia, Denton, Dunbar, Inglewood, Martinsburg, McCool Junction, McGrew, Newcastle, Odell, Ponca, Republican City, Roca

New Jersey

Burlington, Collingswood, Englewood, Morristown, Riverton, West Cape May

New Mexico

Artesia, Grants, Hatch, Milan, Moriarty, Raton, Tatum

New York

Antwerp, Gowanda, Nelliston, Sag Harbor, South Corning, South Glens Falls

North Carolina

Gaston, Harrellsville, McFarlan, Micro, Pineville, Seven Springs, Walstonburg

North Dakota

Fortuna

Ohio

Bucyrus, Cherry Fork, Fredericktown, Ney, North Hampton, Orrville, Rio Grande, Sherwood, Upper Sandusky, West Salem, Willard

Oklahoma

Ada, Arapaho, Ardmore, Beaver, Bethel Acres, Buffalo, Byng, Copan, Douglas, East Ninnekah, Fairview, Forgan, Geronimo, Goodwell, Kingfisher, Knowles, Laverne, Medford, Minco, Savanna, Seminole, Vera, Wakita, Wellston

Oregon

Antelope, Cannon Beach, Detroit, Myrtle Point, Prineville, Rockaway, Seaside, Stanfield

Pennsylvania

Arona, Bridgeville, Chester Hill, Coraopolis, Eastvale, Edinboro, Forty Fort, Great Bend, Grove City, Hanover, Jackson Center, Latrobe, Ligonier, Manns Choice, Marysville, Mountville, New Bethlehem, New Hope, Newry, West Fairview, West View.

South Carolina

Springfield.

South Dakota

Clear Lake, Colton, Faith.

Tennessee

Smithville, Tullahoma.

Texas

Aransas Pass, Archer City, Bay City, Bellville, Carthage, Claude, Daisetta, Dell City, Edna, Fairfield, Falls City, Glen Rose, Graham, Groom, Henderson, Higgins, Kirvin, McCamey, Miami, Monahans, Monticello, Olney, Palacios, Roaring Springs, Seagoville, Sonora, South Padre Island, Star Harbor, Stratford, Throckmorton, Tolar, Trent, Trinidad, Waller, Weinert, Whitesboro, Wink.

Utah

Elwood, Koosharem, Salem.

Vermont

Hyde Park.

Virginia

Big Stone Gap, Bluefield, Broadway, Middleburg.

Washington

Albion, Carnation, Davenport, Duvall, Electric City, Ephrata, Moses Lake, Orting, Soap Lake, Stanwood, Stevenson, Sultan, Sunnyside, Tenino

West Virginia.

Athens, Cairo, Chesapeake, Gilbert, Mullens, Petersburg, Philippi, Pine Grove, Sophia, Star City.

Wisconsin

Athens, Bell Center, Kellnersville, Kingston, Ridgeland, Ridgeway, Rudolph, Sauk City, Stratford, Westfield, Wisconsin Dells.

Wyoming

Deaver, Lusk, Manville.

Issued at Washington, D.C., October 24, 1979.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 79-33484 Filed 10-29-79; 8:45 am]

BILLING CODE 4210-01-M

federal register

Tuesday
October 30, 1979

Part III

Department of Agriculture

Food and Nutrition Service

National School Lunch Program and State Administrative Expense Funds

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 235

National School Lunch Program and State Administrative Expense Funds; Assessment, Improvement and Monitoring System

AGENCY: Food and Nutrition Service, USDA

ACTION: Proposed rule.

SUMMARY: This proposal would amend regulations for Part 210, National School Lunch Program and Part 235, State Administrative Expense Funds. A copy of an interim regulation to amend Part 235, that was published in the **Federal Register** on September 14, 1979 is also included and open to comment. At the time these regulations are finalized it is planned to also amend Part 220, School Breakfast Program. The amendments to Part 220 will basically correspond to those made in the National School Lunch Program regulations. (FNS will assume that comments made in response to the following Part 210 proposal would also be applicable to Part 220. Comments specifically on Part 220, School Breakfast Program, should be submitted during the comment period on this proposal.)

The changes suggested by these proposals are known collectively as the Assessment, Improvement and Monitoring System (AIMS). The objectives of the AIM System are: to analyze current school lunch and breakfast program management by State agencies; to foster improvements in program management by States; to monitor effectively the use of Federal funds; and to protect the nutritional integrity of meals served under the programs.

DATES: To be assured of consideration, comments should be received on or before January 2, 1980. Comments are welcome on the proposed regulations for Parts 210 and 235 as well as the interim regulations for Part 235. The Department will find it particularly helpful if commentors would, in addition to their general concerns, when possible, address the special areas in need of public comment set forth in Section XIV of this preamble. At this time the Department plans to implement AIMS 60 days after issuing final regulations. Comments on the timing of implementation and its costs are also requested.

ADDRESS: Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, USDA–FNS, Auditors Building, 201 14th Street S.W., Room 4122, Washington, D.C. 20250, [telephone: (202) 447–8130].

FOR FURTHER INFORMATION CONTACT: Stan Garnett or Barbara Hallman, School Programs Division, USDA–FNS, Washington, D.C. 20250, [telephone: (202) 447–9069].

SUPPLEMENTARY INFORMATION:

Introduction

The presentation of the Assessment, Improvement and Monitoring System (AIMS) is divided into a master preamble and three amendments, each prefaced by its own abbreviated preamble. AIMS is a complex system which, at this time, includes proposed regulatory amendments to the National School Lunch Program regulations (Part 210) and the State Administrative Expense Fund regulations (Part 235). An interim amendment to Part 235, related to AIMS, was published on September 14, 1979 and is reprinted for the reader's convenience in this issue of the **Federal Register.** It also is subject to public comment as a part of the entire AIMS proposal.

The master preamble, which follows this introduction, is meant to explain the system as a whole, detailing how all the regulatory components fit together. It is recommended that the reader carefully review the master preamble before reading the proposed regulatory changes. Because the implementation of AIMS would require numerous and scattered regulatory changes to Parts 210 and 235, it is difficult to gain a complete understanding of the system by reading only the proposed and interim regulatory changes without first reviewing the structure of AIMS as presented in the master preamble.

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I. Background

The Department's Office of the Inspector General (OIG) and the General Accounting Office (GAO) have raised significant questions regarding the effectiveness of present school feeding program reimbursement claiming procedures, monitoring systems, and corrective action activities. These findings have been reported in numerous Office of Inspector General audits over the past several years. Audit report number 27611–1–Ch, known as the "Twelve State Audit" was the largest such audit to uncover overall shortcomings of financial management in school nutrition programs. On April 25, 1978, the USDA Inspector General

expressed to Carol Tucker Foreman, USDA Assistant Secretary for Food and Consumer Services, a concern that deficiencies fundamental to the operation of FNS programs had been found to continually recur in program entities audited by OA (Office of Audit, USDA). The Inspector General cited several deficiencies that USDA auditors had repeatedly encountered in school nutrition programs. These included overstated meal counts, meals claimed for free and reduced price reimbursement not supported by approved applications, and meals not meeting FNS meal requirements. According to the Inspector General, these uncorrected deficiencies had generated, or had potential to generate, large dollar losses to the Federal Government. These revelations have been partly substantiated by the results of a study by the General Accounting Office (GAO). A GAO report dated June 15, 1977, indicated that, in at least one city, as much as 40 percent of all meals served did not contain required food components or quantities. The USDA and GAO studies together have indicated that federal reimbursement is made for meals which fail to meet minimum nutritional standards, that reimbursement is in some cases exceeding documented allowable costs, and that more meals are being claimed for reimbursement as free and reduced price meals to needy children than the number of children approved for such meals. The Department believes that increased emphasis over and above existing monitoring and management efforts is needed to resolve these problems.

Public Law 95–627, enacted on November 10, 1978, which amended Section 7 of the Child Nutrition Act of 1966, made several changes in the method by which State Administrative Expense (SAE) funds are to be allocated to State agencies which administer the child nutrition programs. It provides for an annual allocable amount equal to one and one-half percent of all program funds expended during the second preceding fiscal year in those programs (except for the Summer Food Service Program for Children). From that amount, the Department is to allocate to each State agency which administers the school feeding programs (the National School Lunch, School Breakfast, Special Milk and Food Service Equipment Assistance Programs) one percent of the program funds expended in these programs within the State during the second preceding fiscal year. A second allocation to State agencies which administer the Child Care Food Program is based on the application of a specified formula to the program funds expended in that program during the same time period. The funds which remain after these allocations have been made are, as provided for in Section 7 of the Child Nutrition Act as amended by Pub. L. 95–627 are to be allocated to States by the Department "in amounts (it) determines necessary for the improvement in the States of the administration of the (child nutrition) programs . . . including, but not limited to, improved program integrity and the quality of meals served to children."

The fiscal year 1979 Agricultural, Rural Development and Related Agencies Appropriation Act (Pub. L. 95–448), in language contained in U.S. Senate Appropriation Report No. 95–1058, also makes reference to improvement of program management. The Report earmarks $4 million of the fiscal year 1979 SAE fund appropriation "for activities, including audits, to identify and take any needed corrective action concerning administrative problems in the school feeding programs—such as noncompliance with meal standards or (standards for implementation of) eligibility criteria and the submission of reimbursement claims which exceed actual meal costs."

The Department is proposing an Assessment, Improvement and Monitoring System (AIMS) which will be implemented in cooperation with the State agencies to assist them to identify operational and management problems in the administration of school nutrition programs and to take corrective action when needed. AIMS sets performance standards for School Food Authorities in the following areas: (1) application review procedures for free and reduced price meals; (2) counting, claiming, and costing procedures for meals served; and (3) nutritional integrity of meals claimed for reimbursement.

II. System Overview

The AIM System will require all States to monitor school meal programs on a regular basis. Each State will be required under this system to identify problems in School Food Authorities and to institute corrective actions so as to meet six performance standards. The performance standards are designed to address the major problems of accountability and nutritional integrity facing the child nutrition programs. Each performance standard and a brief description of the problems that caused USDA to choose it as a performance standard are given below.

Performance Standard 1—All applications for free and reduced price meals are validly approved or correctly denied.

USDA audits have shown over the years that a significant percentage of applications are improperly approved. In some cases, approved applications filled out by parents are incomplete; in addition, in some, the income reported is not low enough to qualify the child for a free or reduced price meal. FNS reviews and OIG audits frequently found 8–10% of the applications invalid on their face. However, it must be expected that a substantial proportion of these applications could be made valid if they were properly filled out. Occasionally auditors have found instances in which categorical certification has been used. This often takes the form of a school official concluding that all the students in his school are poor and deciding to serve them all free meals with no free and reduced price applications at all on file.

The Office of Management and Budget (OMB) reviewed USDA's audit reports in 1978. In an August 4, 1978 report analyzing USDA audits, OMB concluded that over 80 percent of the 186 School Food Authorities audited had submitted claims for meal service for students whose eligibility was not properly established; and that more than 11 percent of the applications approved at sampled schools either lacked required information (7.7 percent), or contained information showing the student was ineligible (3.5 percent).

In an internal USDA analysis of a selection of 33 OIG audit reports conducted over Federal fiscal years 1975–1978, it was found that 69.7% of the reports noted significant problems concerning improperly approved free and reduced price meal applications. The initial OIG assessment of claims computed against State agencies for problems related to free and reduced price reimbursements claimed ranged from $2,400 in one State to $514,500 in another.

Performance standard 2—Free and reduced price meals claimed for reimbursement are less than or equal to the number of currently enrolled children approved for (1) free and (2) reduced price meals, respectively, times the days of operation for the reporting period. USDA auditors have observed that some School Food Authorities claim more free and reduced price meals than there are applications on file.

Performance standard 3—The total number of meals claimed for reimbursement is equal to or less than the average daily attendance for days of operation times the days of operation for the reporting period.

In discussions with USDA auditors and reviews of audit reports, it was reported that: (a) In situations where a school receives meals from a vendor or central commissary or high school kitchen, some schools claim all the meals delivered whether they are served or not; (b) sometimes ineligible meals, such as a la carte meals or meals served to teachers, are claimed for reimbursement; (c) the offer vs. serve provision, which allows junior and senior high school students to take as few as three of the five food items offered in a reimburseable school lunch, is administered hapazardly. Some of these meals claimed for reimbursement are not properly reimbursable and should be counted as a la carte meals.

Performance standard 4—The system for counting and recording meal totals for paid, free and reduced price meals claimed for reimbursement at both School Food Authority and school levels yields correct claims.

One problem noted by USDA auditors was that some schools take the number of free and reduced price applications on file and claim that many free and reduced price lunches every day. Paid meals are merely the residual after free and reduced price applications are subtracted from total meals served. This is the type of problem which occurs all too frequently in school systems that have inadequate methods of counting and recording meals claimed for reimbursement.

The analysis of 33 OIG audit reports referred to above under performance standard 1, revealed that 45.5% of the audits noted significant problems concerning inaccurate meal counts. Initial assessments of claims based on these audits went as high as $100,000 in a fiscal year 1978 audit of one State.

Performance standard 5—Reimbursements claimed for meals are limited to allowable costs as documented by reviewable records.

It has been found by USDA audits that many school districts do not keep adequate accounting records. These school districts cannot substantiate the reimbursement they are receiving. Where there are records, OIG has found cases where costs appear to be less than reimbursement. A review of fiscal year 1978 FNS management evaluation reports covering State agency operations disclosed that 12 States had significant problems concerning reimbursement rates exceeding meal costs. Additionally, of the 33 OIG audit reports that were analyzed, 12 (33%) noted instances of reimbursement rates exceeding costs.

A related problem concerns rate assessment. Many States do not vary reimbursement rates among school districts because of computer systems that can not accommodate adjustments or because the political situation would not permit giving one school district a rate above the national average payment at the expense of other school districts. Some States also do nothing to ascertain local costs and reduce assigned rates if they exceed costs. Failure to assign rates was a problem described in 20 management evaluation reports for fiscal year 1978.

Performance standard 6—Meals claimed for reimbursement contain food components and quantities as required by regulations and as documented by reviewable production and student participation records.

OIG audits and studies have shown that failure to comply fully with existing meal pattern requirements is a major problem which impacts heavily on the ability of the programs to meet their ultimate goal.

In another study, OIG conducted statistical samples of the National School Lunch Program in randomly selected school districts in the New England Region to determine whether the school districts were serving meals which met the school lunch meal pattern standards and which meals, consequently, were eligible for federal reimbursement.

The selected school districts had food services which were either operated by food service management companies or were provided meals or portions thereof by vendors. Lunches, selected at random, were weighed and/or measured by independent laboratories to determine whether these firms served or provided the required quantities for the various food components in order to meet the school lunch meal requirement. From the results of the statistical samples, OIG concluded that there were no assurances that children were provided the minimum quantities of food needed for a nutritious and well-balanced meal as specified in the National School Lunch Program regulations. While the results of this study is, at this time, still preliminary, OIG projected with 95 percent confidence that in the five school districts sampled, the percentage of ineligible meals served ranged from 35 percent to 99.1 percent.

The General Accounting Office, in a report dated June 15, 1977 also developed statistics demonstrating the severity of meal pattern non-compliance. The GAO report on a major city school lunch program indicated that 40 percent of all meals served in the reviewed schools did not contain required components or quantities. On the average, at least one component was short or missing.

In summary, the performance standards are designed to address the major problems of accountability and nutritional integrity facing the child nutrition programs, as identified by existing management and monitoring tools available to FNS.

As a part of AIMS, State agencies are required to conduct reviews and in some cases follow-up reviews of School Food Authorities. The reviews can be achieved through program assistance reviews *and/or audits*. For simplicity, the word "review" has been used throughout this description of AIMS but the reader should keep in mind that it is proposed that audits can be used in lieu of program assistance reviews. State agencies shall review School Food Authorities for compliance with the performance standards established in AIMS. School Food Authorities will be reviewed on either a 2-year or 5-year review cycle depending on their size.

Violations of the six AIMS performance standards ultimately result in incorrect reimbursement claims by School Food Authorities. The collection of reimbursements paid in excess of allowable amounts is an important component of the AIM System. The State agency will be required to assess claims against School Food Authorities as well as take other corrective action whenever violations of the performance standards are discovered. FNS shall hold the State agencies responsible for taking such actions. Under the AIM System, as described in this preamble, the term "assess claims" includes those actions associated with the recovery of overpayments already made, the disallowance of overclaims as reflected in unpaid Claims for Reimbursement, and the correction of records to ensure that unfiled Claims for Reimbursement will be correct when filed.

On an initial review a State agency, as a minimum, will examine the School Food Authority for compliance with the performance standards associated with AIMS. If follow-up reviews are necessary, the State agency must, as a minimum, review the School Food Authority for the performance standards found violated in the previous reviews.

III. How Performance Standards are Reviewed

a. *Performance Standard 1*—The State agency in the course of its review of a School Food Authority and its schools, will analyze local approval procedures for free and reduced price meal applications and determine their adequacy by an examination of individual applications. FNS will

provide guidance on methodology to be used in this analysis.

b. *Performance Standards 2 and 3*—The State agency must act to prevent the claiming of more free and reduced price meals than there are children for whom approved applications are on file times the days of operation for the reporting period. The State agency must also act to ensure that total meals claimed do not exceed the number of children attending school times the days of operation for the reporting period. For the months of October and March, or more often as the State agency determines, beginning in school year 1980–81, the State agency shall obtain from School Food Authorities: (1) The number of currently enrolled children approved for free lunches and breakfasts; (2) the number of currently enrolled children approved for reduced price lunches and breakfasts; and, (3) the average daily attendance. Depending on the date of finalization of this rule, this information may be requested once in school year 1979–80. School Food Authorities may at any time submit updated reports on the number of currently enrolled children approved for free and reduced price meals or the average daily attendance. The State agency will also be required to collect data monthly on the number of days the school meal programs were in operation for each reporting period.

The State agency must also require schools to maintain current files of (1) free and (2) reduced price applications, respectively, which reflect current enrollment. If applications are maintained only at the School Food Authority level, they must either be separated by school or lists must be kept by school of children approved for (1) free and (2) reduced price meals respectively. Such lists are to be maintained in confidence and allowed to be examined only by appropriate local, State and Federal officials.

Before paying any claim, the State agency must ensure that the number of free and reduced price meals by type of meal claimed does not exceed the School Food Authority's most recent report on the number of currently enrolled children approved for free and reduced price meals, by type of meal, times the days of operation. The State agency must also ensure that the total number of meals claimed for the reporting period does not exceed the School Food Authority's reported average daily attendance times the days of operation. For analytical purposes, State agencies will be required to report FNS the number of currently enrolled children approved for free and reduced price meals by type of meal. This report will be required to be sent to FNS by November 30 and April 30. State agencies must establish reporting dates for local School Food Authorities so as to permit State agencies to submit their consolidated State reports of October and March data by the November 30 and April 30 reporting dates.

On reviews, the State agency must check the school's or School Food Authority's records to ensure that the approved free and reduced price applications that are on file correspond to children currently enrolled. Applications of children no longer enrolled in the school or School Food Authority should be separated from the applications of currently enrolled children. During the review the State agency should also check each school's records—the same records which the School Food Authority used in compiling a consolidated report comparing total meals claimed to average daily attendance times the days of operation. For each school reviewed; the total number of meals claimed for reimbursement should be equal to or less than the average daily attendance times the days of operation for that reporting period.

c. *Performance Standard 4*—In the course of its review of a School Food Authority the State agency will evaluate the system used by the School Food Authority to record and report meal counts, and will observe the method of taking counts in schools to ensure that the system yields correct counts of meals by category (free, reduced price and paid). In addition, the State will evaluate the School Food Authority's system for compiling each school's meal count data into a consolidated Claim for Reimbursement so as to ensure that claims accurately reflect such meal counts by category (free, reduced price and paid).

The State agency may require the School Food Authority to include on the claim form, meal counts of paid, free and reduced price meals claimed for reimbursement for each school within the School Food Authority to ensure that the aggregate meal counts for all the schools in the School Food Authority correspond to the number of meals claimed for paid, fee and reduced price reimbursement. State agencies, through the provision of § 210.8(e)(8), already have authority to require School Food Authorities to submit Claims for Reimbursement in accordance with State agency procedures.

d. *Performance Standard 5*—In the course of its review of a School Food Authority and its schools, the State agency will evaluate the accounting system for: (1) Documentation of costs; (2) allowability of costs; and (3) accruacy of claims. Based on review guidance provided by FNS, the State agency will determine whether all costs claimed are allowable under program regulations and instructions, whether all costs are properly documented, that the School Food Authority's accounting system properly segregates all non-program costs (e.g., adult meals, a la carte services), that federal reimbursement for free and reduced price lunches is not being used to support paid lunches, and that program income is properly documented and accounted for. The State agency must limit reimbursement paid to documented allowable costs.

e. *Performance Standard 6*—In the course of its review of a School Food Authority and its schools, the State agency will evaluate the nutritional integrity of meals served, thereby ensuring that all required food components are served. Under the current proposal a meal will not be reimbursable if any component is missing. The proposal requires the maintenance of food production and student participation records. However, it should be noted that School Food Authorities remain responsible for meals meeting the nutritional requirements of § 210.10 of the National School Lunch Program regulations.

The Department is currently developing and testing methods for monitoring meal pattern compliance which will enable State agencies to determine accurately if required quantities are being served. Comments would be welcome at this time on how such a system might work. When this system is developed, the Department will present it for public review as a new proposed regulation. A method for assessing claims will also be proposed. In addition, the Department is currently considering significant changes in the nutritional requirements for the National School Lunch Program.

IV. Reviews

a. *How Often Must a State Agency Review a School Food Authority?* All School Food Authorities with an enrollment of more than 40,000 students shall be reviewed at least once every two years. In States without two such School Food Authorities, the State agency will review the two largest School Food Authorities in the State every two years. An exception is made for any such School Food Authority with an enrollment of less than 2,000 students. Such a School Food Authority would not have to be reviewed on the 2-year review cycle. Half of the School

Food Authorities on a 2-year cycle must be reviewed each year.

FNS is proposing to have the State agencies review larger School Food Authorities on a more frequent basis than smaller School Food Authorities for reasons of cost effectiveness. Larger School Food Authorities generally have management problems that are more persistent and substantial in scale with greater potential for significant financial losses than smaller jurisdictions. An enrollment of 40,000 was used as a benchmark for defining large School Food Authorities because a listing of these School Food Authorities included most major U.S. cities. Among the 50 States, 36 States were found to have at least 1 School Food Authority with an enrollment of 40,000 students. Only 11 States have more than two such School Food Authorities. Thus, FNS believes that the 40,000 enrollment cutoff level will not place too great a burden on the State agencies and yet will ensure that school nutrition programs in areas that have a tendency toward large scale management problems will receive adequate attention.

In addition to reviews of larger School Food Authorities on a 2-year cycle each State agency must conduct reviews of 1/5 of the remaining School Food Authorities every year so that over a five year period every School Food Authority in the State is reviewed a minimum of one time.

b. *When Reviews Should be Undertaken and Other Facts About Reviews.*—(1) *For School Food Authorities reviewed on a 2-year cycle (larger School Food Authorities). First Review*—A State agency shall review this type of School Food Authority during the first quarter of the Federal fiscal year (October 1–December 31). When this first review results in an assessed claim average of more than $150 per school reviewed within the School Food Authority, as assessed on the basis set forth in Part V (What Fiscal Claims Should the State Agency Assess for Each Type of Performance Standard Violation?) below, or indicates that an average of more than 10% of the meals served within the schools reviewed are improperly claimed, the State agency must undertake a follow-up review. (To compute a per school average claim, the total claim assessed against the School Food Authority is divided by the number of schools that have been reviewed in the School Food Authority).

Follow-up Review and Certification Procedure—If a follow-up review is required, it should begin within 90 days following the end of the first review. When the follow-up review results in an assessed claim average of more than $100 per school reviewed or indicates that more than 7% of the meals served are improperly claimed: (1) the School Food Authority must contract with an independent auditor to have the next 3 months claims certified prior to their submission to the State agency; and (2) the State agency must perform a final review prior to December 31 of the next school year.

For the certification procedure the School Food Authority must employ an independent auditor as defined in § 210.17 paragraph (a)(3) of this Part. The independent auditor is required to audit the School Food Authority concerning the performance standard deficiency revealed by the State agency review, conducting on-site reviews as necessary. The State agency shall not pay any claim from that School Food Authority until the claim is certified by the independent auditor. If, after 90 days following the date the claim is due, the auditor is unable to certify the claim, the auditor must submit audit findings so that the State agency can determine the correct amount claimable.

Certification Procedure Exception—A certification procedure is not undertaken if the School Food Authority has exceeded the $100—7% tolerance level of the follow-up review due to a performance standard deficiency concerning meal patterns, since an auditor may not be qualified to monitor meal pattern compliance. In such a case, it would be necessary for the State agency to take corrective action and perform a final review by December 31 of the next year.

Final Review—By December 31 of the next year, the State agency must perform a final review of any School Food Authority exceeding the error tolerance level for follow-up reviews. This review must include a statistically valid sample of schools within the School Food Authority, with assessed claims statistically projected across the entire School Food Authority for the period of the sample, *or* must include a minimum of 50% of the schools within the School Food Authority. If 50% of the schools are reviewed in place of a statistically valid sample, claims will be assessed as in the first and follow-up reviews. FNS will provide guidance on obtaining a statistically valid sample.

For school year 1979–80 appropriate adjustments in the time sequence for reviews of School Food Authorities on the 2-year cycle will be made based on the final implementation date of the AIMS regulations. The Department encourages the public to comment on what the school year 1979–80 time sequence concerning reviews should be.

(2) *For School Food Authorities Reviewed on a 5-Year Cycle (Smaller School Food Authorities). First Review*—The first review can be made at any time during the year. If during the first review of a School Food Authority on the 5-year cycle, the State agency discovers a performance standard violation, the State agency must assess a claim and can require whatever corrective action it considers appropriate. The corrective action could take the form of training, required certification of claims by an independent auditor, or other action.

Follow-up Review—The State agency has a further obligation to validate that corrective action has been effective by carrying out follow-up reviews. As a minimum, follow-up reviews must include a random selection of 25% of those School Food Authorities in which a first review resulted in an assessed claim average of more than $150 per school reviewed or a finding that an average of more than 10% of the meals served within the schools reviewed were improperly claimed. Such follow-up reviews shall be made within 180 days following the end of the first review. The State agency should assess a claim for any performance standard violation found on the follow-up review as well as take and document corrective action. The State agency would then return to the School Food Authority in no more than 5 years from the date of the first review as part of the regular review cycle.

c. *How Many Schools Must a State Agency Review in Each School Food Authority?* The number of schools within the School Food Authority which must be included in a first or follow-up review is dependent upon the total number of schools in the School Food Authority. This is illustrated in the table below.

Number of schools in the school food authority	Minimum number of schools to be reviewed on first and follow-up reviews by the State agency
1 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	12 + 5% (rounded to the nearest whole number) of the number of schools over 100

This ratio of schools in a School Food Authority to the number of schools to be reviewed is designed to produce a review system with a large enough sample to identify potential School Food Authority problem areas. At the same time, the sample is intended to be small

enough so as not to place an unrealistic review workload on the State agency.

d. *How Does a State Agency Select Specific Schools to Review Within a School Food Authority?* (1) *School selection on first reviews.* On the first review, the State agency will select as equal a number of schools as possible to review from each type of attendance unit (elementary school, middle school, high school, etc.). Different types of attendance units are likely to have different kinds of problems and it is important that all types be represented in the review of the School Food Authority.

Schools with the largest average daily participation of free and reduced price students from each type of attendance unit are to be selected for review first.

Example 1—School Food Authority "X" has 16 schools; 10 elementary schools, 4 junior highs and 2 senior highs. The State agency would review a minimum of 3 schools; 1 elementary, 1 junior high, and 1 senior high. The schools selected would be the ones with the largest average daily participation of free and reduced price students for that type of attendance unit in the School Food Authority.

Example 2—In School Food Authority "Y" there are 29 primary schools, 8 middle schools and 3 high schools. This total of 40 schools would require the State agency to review a minimum of 4 schools. For each of the three types of attendance units in this School Food Authority, the State agency would review the school with the largest average daily participation of free and reduced price students. To attain the minimum review requirement of 4 schools in the 40 school School Food Authority, the State agency would select one additional primary school or middle school or high school. Whatever school the State agency reviews, it would have the second largest average daily participation of free and reduced price students in its type of attendance unit.

(2) *School selection on follow-up reviews.* On these reviews, the State agency shall again select as equal a number of schools as possible to review from each type of attendance unit. Within the attendance unit groupings, the State agency must choose schools on a random basis using guidance provided by FNS.

(3) *School selection on final reviews.* The State agency shall review 50% of the schools in the School Food Authority chosen on a random basis, or enough schools to have a statistically valid sample. FNS will provide guidelines for the State agency to determine a statistically valid sample.

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e. Illustrative Summary of the Review System

(1) 5-YEAR REVIEW CYCLE

First Review

no problems

return in 5 years

First Review

performance standard violation

assess claims and document corrective action

follow-up review (of 25% of School Food Authorities exceeding tolerance) in 180 days

if performance standard violation, assess claims and document corrective action

return in approximately 4 1/2 years

(2) 2-YEAR REVIEW CYCLE

First Review - (Oct. 1 - Dec. 31)

no problem

return in 2 years

performance standard violation does not exceed tolerance

assess claims and document corrective action

return in 2 years

performance standard violation exceeds tolerance

assess claims and document corrective action

return within 90 days

Follow-up Review

no problem

return in approximately 1 year and 9 months

performance standard violation does not exceed tolerence

assess claims and document corrective action

return in approximately 1 year and 9 months

performance standard violation exceeds tolerance

assess claims and document corrective action

claims must be independently certified for 3 months and

Final Review (prior to Dec. 31 of year 2)

no problem

return in approximately 1 year

if performance standard violation assess claims and document corrective action

return in approximately 1 year

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f. *What Records Must Be Kept?* The State agency must document within 90 days of the first review that corrective action was taken. Records of State agency reviews, corrective actions, and independent audit reports must be kept on file at the State agency for three years after the year in which problems have been resolved.

g. *Information to Include in State Agency Review Records.*—State agencies will keep records of reviews. As a minimum, for meeting requirements, the State agency review records must include the following basic information.

Name of School Food Authority reviewed.

Name of school(s) reviewed.

Date of review.

Findings for each review which show whether the School Food Authority and its schools are meeting or violating the performance standards.

Planned corrective action on violations of performance standards.

Date, findings and corrective action taken for follow-up and final reviews.

Claims assessed.

The State agency review record should also include information on those subject areas for each School Food Authority and its schools reviewed:

Average daily attendance.

Records of number of children approved for free and for reduced price meals.

Records of number of meals served by type.

Records of number of meals claimed by type.

Accuracy of daily meal counts.

Food production records.

Documentation of costs.

Allowability of costs.

Compliance or non-compliance with meal patterns on date of review.

Approval procedures for determining eligibility for free and reduced price meals.

Maintenance of application files.

Accuracy of costs claimed.

These areas of review do not represent the total review requirement of all school nutrition programs regulations, but only those associated with AIMS.

V. What Fiscal Claims Should the State Agency Assess for Each Type of Performance Standard Violation?

When the State agency discovers in the course of a review that a school does not meet a performance standard or any other regulatory provision it must assess a claim against the School Food Authority for the school(s) found to have the deficiency. This means that the State agency must recover overpayments already made, disallow overclaims as reflected in unpaid Claims for Reimbursement, and take appropriate action to ensure the correctness of claims yet to be filed. Assessed claims are limited to the schools actually reviewed and found to have a performance standard deficiency or other regulatory violation with two exceptions. For meals claimed based on invalid meal counts due to an improper system of the School Food Authority, (performance standard 4) the assessment will be made over the entire School Food Authority. The second exception is of School Food Authorities being given a final review as a part of the review system of schools on the 2-year review cycle. In this case, if a statistically valid sample of schools within the School Food Authority are reviewed, assessed claims are statistically projected across the entire School Food Authority for the period of the sample. Claims will be assessed for each performance standard as follows:

a. *Performance Standard 1*—For all invalid applications approved, claims will be assessed back from the day of the review to either October 15 or to the date the applications were approved, if the date of approval can be documented by the School Food Authority.

b. *Performance Standards 2 and 3*—For meals claimed at a free or at a reduced price which are in excess of the number of enrolled children properly approved for such meals, by type, times the days of operation for the reporting period, claims will be assessed back to October 15 or from the date the applications were approved if the date of the approval can be documented by the School Food Authority. For total meals claimed in excess of the average daily attendance times the days of operation for the reporting period claims will be assessed back to the beginning of the school year.

c. *Performance Standard 4*—For meals claimed based on invalid meal counts due to an improper system of the School Food Authority or of an individual school for counting and recording meals claimed, claims will be assessed back to the beginning of the school year. The assessment will be made over the entire School Food Authority when the School Food Authority's system is found to be improper. The assessment will be limited to an individual school when the school's system is found to be improper.

d. *Performance Standard 5*—For claims based on non-allowable or undocumented costs, claims will be assessed back to the beginning of the most recent accounting period. In most School Food Authorities this will be the most recent month.

e. *Performance Standard 6*—For meals not containing all required food components, claims will be assessed on the complete meal for the day of the review. However, a State agency may extend an assessment over a longer period of time if it can determine through School Food Authority meal service records that a specific number of meals served over a longer period of time were not in compliance with regulations. This limiting of claims to the day of the review for performance standard 6 contrasts with fiscal action taken on the other performance standard violations which concern systems. A performance standard violation due to an improper system would necessarily result in consistent overclaims for an extended period, while a meal pattern violation might not be due to an improper system.

If during a follow-up or final review, the same school is visited as was reviewed previously, a claim resulting from a violation of performance standards 1–4 will be assessed back to the date of the previous review. For violations of performance standards 5 and 6, claims will be assessed as described in paragraphs c and d above. As stated earlier, for a final review of a School Food Authority on the 2-year review cycle, the review must include a minimum of 50% of the schools within the School Food Authority *or* a statistically valid sample of schools within the School Food Authority.

If the State agency chooses to review 50% of the schools, claims would be assessed in those reviewed schools found to have performance standard or other regulatory violations. On the other hand, if the State agency chooses to review a statistically valid sample of schools within the School Food Authority, it would statistically project assessed claims across the entire School Food Authority for the period of the sample.

VI. What Happens if the State Agency Finds Very Serious Problems as Soon as it Begins its First Review of a School Food Authority?

When the State agency is conducting a first review of any School Food Authority and finds serious problems before visiting the required number of schools, the review can be suspended and superceded by corrective action. (Claims must be assessed for violations found at the schools that are visited.) This may be useful in situations where a first review of additional schools is not needed because a problem obviously will be found in every school in a School

Food Authority due to incorrect procedures, systems, or information generated at the School Food Authority level. A full follow-up review shall be undertaken as described in sections IV b(1) and IV b(2) of this preamble in any School Food Authority in which the first review was suspended because of serious problems and the need for corrective action.

VII. What Happens if a New Performance Standard Violation Is Found on a Follow Up Review or Final Review?

A State agency undertakes a followup or final review if it finds a performance standard violation exceeding tolerance levels on a previous review. On the follow-up or final review, the State agency concentrates its review on the violated performance standard(s) discovered on the previous review. However, if during the course of the follow-up or final review the State agency finds a different performance standard violation that had not been noted on a previous review, the State agency would assess a claim just as it would if the performance standard violation were found on a first review. The State agency would also require whatever corrective action it considered appropriate. Some of the possible corrective actions the State agency may choose include training, required certification of claims by an independent auditor or having the School Food Authority submit written reports to the State agency on its progress. The State agency would have to document the corrective action within 90 days of the review. As with all corrective action, the State agency must keep records of the action on file at the State agency for three years after the year in which the problem was corrected. Unlike finding a performance standard violation in an actual first review the State agency does not have to apply error tolerance levels or carry out additional reviews as part of the corrective action of the newly discovered performance standard violation. For example, if during a final review of a School Food Authority on the 2-year review cycle, a performance standard violation not previously noted is discovered, the State agency would assess a claim as if on a first review, take corrective action and document the corrective action on the newly discovered performance standard violation. The State agency would not be required to return for an additional review.

VIII. How Can a School Food Authority Challenge a Projected Assessed Claim?

A School Food Authority may challenge any claim assessment. In the case of a projected assessed claim it must present written evidence to the State agency to support its contention that the assessed claim as projected by the State agency goes beyond the actual extent of the problem. In demonstrating that the assessed claim should be projected at a lower level, the School Food Authority has to prove its contention to the satisfaction of the State agency. The State agency shall obtain approval of FNS prior to its adjustment of any claim reduced by more than $1,000.

IX. What Happens if a State Agency Fails To Collect Overpayments?

If, based on FNS reviews of a State agency, FNS determines that the State agency has failed to collect overpayments from School Food Authorities, as described above, FNS shall notify the State agency of its intention to assert a claim against the State agency. In such cases the State agency shall have full opportunity to submit evidence concerning the action taken. Unless FNS determines that the State agency has exerted reasonable efforts to recover the improper payment, FNS shall assess a claim against the State agency for the amount of the overpayment. The State agency's subsequent Letter of Credit will be reduced by the sum of the uncollected overpayment and the State agency must provide the funds necessary to maintain program participation at the level of operation reached prior to the Letter of Credit reduction. These funds must come from State and local sources and be reported as cash on hand in the State's financial reports to FNS.

X. What Information Is Needed in the State Plan Concerning Reviews?

The State agency shall include in its annual State Plan of Child Nutrition Operations, beginning with the school year 80–81 State Plan, a plan to meet the review requirements and the State's criteria for choosing School Food Authorities to be reviewed for that year. School Food Authorities with the largest identified problems or potential problems must be chosen by the State agency to be reviewed first. The State Plan must also contain the names of the larger School Food Authorities (those which the State agency must review on a two-year cycle) which the State plans to review during the upcoming school year and the total number of School Authorities in the State.

XI. State Agency Aims Progress Report

FNS will require each State agency to prepare a report to be submitted to FNS by January 31 and July 31 of each year. The State agency would briefly describe the actions it has taken for the school year to undertake AIMS related activities. The only information required of the State agencies by FNS is an update on the following areas:

1. How many 2-year cycle and 5-year cycle reviews meeting AIMS requirements of School Food Authorities has the State agency undertaken?
2. How many more such reviews are planned for the remainder of the school year?
3. How much money has been assessed and how much money has been collected as a result of AIMS reviews?
4. What are the names of all School Food Authorities that have received follow-up and final reviews?
5. What are the AIMS performance standard violations the State agency has observed during the reviews it has conducted?

XII. FNSRO Evaluation of State Agencies

FNSRO-conducted reviews and Office of Inspector General audits will be targeted to monitor State agency implementation of AIMS. In addition, as a part of the Management Evaluation, FNSRO will determine the State's progress in the following areas:

(1) meeting the annual review requirement;

(2) identifying deficiencies in the six performance standard areas;

(3) initiating and completing corrective action;

(4) assessing claims and recovering overpayments;

(5) paying claims only after comparing free and reduced price meals claimed to the number of validly approved applications on file;

(6) paying claims only after comparing total meals claimed to average daily attendance;

(7) limiting reimbursements paid for the fiscal year to the lesser of number of meals served times rates or allowable costs;

(8) having an effective accounting system;

(9) meeting AIMS' reporting requirements;

(10) meeting AIMS' record keeping requirements.

FNSRO, by reviewing a sample of the School Food Authorities in which the State has conducted reviews, as well as by reviewing a sample of the State's records of reviews, audits and corrective

actions, is responsible for validating the State agency's review system and the effectiveness of corrective actions.

XIII. Miscellaneous Provisions

There are several provisions built into the regulations to make the AIM System more effective.

1. The regulations require that State agencies failing to submit timely reports shall be subject to cancellation of a portion of State Administrative Expense fund payments.

2. The regulations also specify procedures to be taken in submitting grant closeout reports.

3. The State agency shall not pay for any Claims for Reimbursement submitted more than 90 days after the end of the fiscal year in which the claim is filed with the exception of amended claims resulting from audits and/or investigations.

4. FNS shall have the option to reimburse a State agency by Treasury Check. The Letter of Credit method of advancing funds to a State agency is the preferred method.

However, to respond to special conditions which result from audit and/or investigation, the preferred method can be set aside in favor of payment by Treasury Check at the option of FNS or the Department of Treasury.

XIV. Funding

a. *Background of State Administrative Expense Funds (SAE) Funding.*—State agencies which administer the school feeding programs and the Child Care Food Program have been receiving SAE funding since fiscal year 1970. These funds were provided at first to assist States in administering the expanding National School Lunch Program, as well as the School Breakfast Program, the Nonfood Assistance Program (now the Food Service Equipment Assistance Program) and the Special Food Service Program for Children (now the Child Care Food Program and the Summer Food Service Program for Children), all of which, except the NSLP, came into existence or were initially funded between 1966 and 1970. The amounts of SAE funds appropriated has increased substantially from $2.8 million in fiscal year 1970 to $31.1 million in fiscal year 1979.

From the beginning, SAE funds have been provided to assist States in meeting the overall expenses associated with program administration. As set forth in this Part, SAE funds may be used by State agencies to pay salaries, including employee benefits and travel expenses for administrative and supervisory personnel, for support services, for office equipment, and for staff development . . . . (and) to supervise, improve management and give technical assistance to School Food Authorities. . . ." The intended benefits to be derived from the use of these funds include the operation of programs at the local level which are successful in reaching those eligible for program benefits and are operated within the standards and guidelines found in applicable law and regulations.

Studies conducted by the Department's Office of the Inspector General and the General Accounting Office have pointed to a number of serious problems in the administration of school nutrition programs (the National School Lunch, School Breakfast and Special Milk Programs) at the State and local levels. Reflecting the concern of the Congress in this regard, Public Law 95–627, enacted in November 1978, authorized the expenditure of SAE funds "for the improvement in the States of the administration of the (child nutrition) programs . . . including, but not limited to, improved program integrity and the quality of meals served to children." The fiscal year 1979 Agriculture, Rural Development and Related Agencies Appropriations Act earmarked $4 million in SAE funds for program improvement.

In response to the foregoing, the Department has developed the AIM System to deal with problems which include: (1) Free and reduced price meal applications that are improperly approved or denied, (2) claims for free and reduced price meals that exceed the number of currently enrolled children approved for such meals, (3) meals that are claimed in excess of average daily attendance, (4) reimbursement claims that are based on inaccurate counts of free, reduced price and paid meals, (5) expenditure records that do not support reimbursements claimed, and (6) meals claimed for reimbursement that lack required components or component quantities. The System and the proposed funding formulae are designed to address those problem areas.

b. *AIMS Sanctions.*—(1) *Use of Funds.* The problems set forth above which the proposed AIM System is intended to address are potentially serious violations of fundamental principles of program administration. State agencies have the responsibility to ensure the proper expenditure of program funds by each School Food Authority.

The Department feels that the problems to be addressed by AIMS are present in each State to a greater or lesser degree and that each State must participate in their resolution. Any State which does not make the effort to systematically and completely eliminate the problems will in effect be allowing them to continue to exist and will be failing to adequately carry out its administrative responsibilities. Since States receive a large part of their SAE funds to properly administer school nutrition programs and will receive additional funds in order to help eliminate certain specified problems which exist in those programs and cause program funds to be misused, the Department feels that appropriate sanctions on all school nutrition SAE funds should be imposed where significant failures have occurred.

(2) *Sanction Areas.* In addition to providing general sanction authority for failure to carry out the provisions of Part 235, the Department in these proposed regulations, has identified five specific areas within the AIM System where failure to perform by State agencies would constitute grounds for the imposition of specific sanctions. These potential deficiencies are:

1. Outright failure to initiate and carry out AIMS review requirements.

2. Failure to conduct the required number of School Food Authority and school reviews required under the System.

3. Failure, to cover the six performance standards in AIMS reviews and, where necessary, to take specific corrective action including the assessment and recovery of claims.

4. Substantial failure to detect existing violations of the six performance standards during the conduct of reviews when it is determined, through FNS monitoring, that such failure is the result of not performing thorough reviews.

5. Failure by the State agency to provide timely program reporting and fiscal information.

These five deficiencies address major State agency responsibilities under AIMS and failure in any one of them would indicate substantial noncompliance that would seriously affect the overall success of the System. As experience is gained with the AIM System, the Department through the regulatory process may amend or add to this list of specific failure areas and the sanctions associated with them.

(3) *Sanctions for Noncompliance.* The Department proposes to apply sanctions appropriate to indicated deficiencies in a fair and judicious manner. Under this proposal, sanctions would not be fixed but instead would be individually determined within specified ranges. This would allow the Department flexibility in evaluating the seriousness of deficiencies, the number of times such deficiencies have occurred, and any mitigating circumstances which may have a bearing on the deficiencies. The

Department believes that this approach would result in the most equitable application of sanctions should sanctions be necessary.

Under this proposal, sanctions would be imposed within specific percentage ranges against SAE funds allocated to the State during the failure year. For failure to carry out provisions of Part 235 and for AIMS deficiency 1, this proposal provides a sanction range of up to 100 percent of all applicable SAE funds allocated to a State. For AIMS deficiencies 2 through 4, a sanction range of up to 33⅓ percent of SAE funds allocated to a State is provided. For deficiency 5, a sanction range of up to 20 percent of SAE funds allocated to a State is provided. In AIMS deficiencies, the sanctionable SAE funds are those earned on the basis of school nutrition programs, whereas for failure to carry out provisions of Part 235, the sanctionable SAE funds are the total amount of funds earned.

For a State which historically does not use the entire SAE allocation available to it, the appropriate sanction percentage will be assessed against the amount of SAE funds needed, based on past usage, and a 100% sanction will be assessed against funds not needed, based on amounts returned to the Department in prior years. In determining past usage, FNS will consider no year earlier than fiscal year 1980 since that is the first year in which States will have the full opportunity to utilize all SAE funds earned under the amendments contained in Pub. L. 95–627. In determining past usage, FNS will look at both total SAE funds used by a State in prior years and the rate at which a State is using SAE funds at the time a sanction is imposed. For example, a sanction of 20% against a State which by allocation formula would earn $1,000,000 in SAE funds but which historically only used $200,000 would be assessed as follows:

Use rate	$200,000
20 percent sanction	×.20
Sanction on funds normally used	$40,000
SAE allocation not needed based on amounts returned to Department in prior years	$800,000
100 percent sanction	×1.00
Sanction on funds not needed	800,000
Total amount sanctioned	840,000

The percentages selected for these sanction ranges were chosen for the following reasons: Deficiency 1 represents a situation in which no part of the AIMS review requirements would be implemented. Since AIMS seeks to improve compliance with basic program requirements through a structured review system, the Department believes that the widest possible sanction range (i.e., up to 100 percent of SAE funds earned on the basis of school nutrition programs) should be available to deal with this possible fundamental failure in AIMS implementation. A sanction range of up to 33⅓ percent was chosen for deficiencies 2, 3 and 4 since these deficiencies deal with review performance which is central to the AIM System and will account for a large part of the actual overall State effort under the proposed system. In view of this, the Department feels that a fairly wide sanction range should be available to deal with such deficiencies. A range of up to 20 percent was selected for deficiency 5 to emphasize the importance of program reporting. Unfortunately, program reporting has been relegated to a position of minor importance in some States. As a result, the Department has often been deprived of the timely and accurate program participation and fiscal information that it needs to monitor the performance of school nutrition programs and to make the decisions that govern the operation of these programs. This is particularly evident in the area of funding where such information is crucial to budget preparation and fund control. The monthly Report of Child Nutrition Operations (FNS–10) and the quarterly Financial Status Report (SF–269) are the primary State agency reports for school nutrition programs and for that reason were selected for inclusion in deficiency 5. The semi-annual report from State agencies concerning AIMS related activities is also included in deficiency 5 since that report is considered crucial to effective FNS monitoring of the overall AIM System.

(4) *Funds Sanctioned.* In most cases, the full extent of any State agency failure will not be ascertainable until late in or after the end of the fiscal year to which is pertains. Therefore, in imposing a sanction, the Department retains the options of (1) recovering SAE funds that have been used during the failure year, or (2) withholding SAE fund allocations in whole or in part during the balance of the failure year and, if necessary, during the following year until the full amount of the sanction has been realized. With respect to option 2, such sanctions will be imposed only if imposition will not impair the accomplishment of the objectives of the child nutrition programs. Furthermore, it is proposed that any State under sanction will not be eligible to participate in any SAE fund reallocation for any fiscal year during which sanctions are being carried out or any fiscal year to which such sanctions are being applied. This would preclude States from recovering sanctioned SAE funds through the reallocation process.

(5) *Corrective Action Plans.* Under this proposal, State agencies will have the opportunity to correct any noted deficiencies prior to the imposition of sanctions. When deficiencies are identified, and the State notified, the State will have the opportunity to draw up a corrective action plan with FNS setting forth the actions necessary to correct those deficiencies and time frames for completion of all such actions. A letter would be sent to the Chief State School Officer or equivalent advising this official of the noted deficiencies, any corrective action plan developed, the sanctions that will be imposed if the corrective action plan is not followed, and that technical assistance is available from FNS to assist in complying with the plan. FNS will monitor the corrective action taken by the State agency and, if necessary, will conduct a follow-up review of the State agency to determine if deficiencies have been corrected. If an acceptable corrective action plan is not developed or if compliance with the corrective action plan is not achieved within the time limits established in the plan, FNS would impose sanctions and issue a notice of action to the Chief State School Officer. Under this proposal, FNS may return some or all of any sanctioned SAE funds to a State agency if it subsequently determines that the noted deficiencies have been resolved and that the school nutrition programs are being operated in an acceptable manner.

(6) *Sanction Review Procedure.* Finally, this proposal establishes an appeal procedure under which a State agency may request a review of any sanction action taken by the Department. Under this procedure, a State agency would have 10 days after receiving the notice of action to file a written request for review. The written request would be sent to an address designated by FNS and the envelope would be prominently marked "REQUEST FOR REVIEW OR HEARING." The State agency would have the option of requesting a hearing before a designated review authority or a review by that authority of the record and any additional written information submitted by the State agency. FNS would acknowledge the State agency's request for a hearing or review in writing within ten (10) days of receipt of the request. At that time, the Secretary of Agriculture would also designate the review authority. It is FNS's intention that the review authority would not

include the FNS official directly involved in the original sanction decision.

The State agency would have 30 days from receipt of FNS's acknowledgement to submit additional written information in support of its position. If a review of the record is requested, the review authority would have 30 days from receipt of that information to make a final determination. If a hearing is requested, it would be conducted within 60 days of receipt of the State agency's information with a final determination of the reviewing authority due within 30 days after the hearing date.

In either case, the final determination would take effect upon receipt by the State agency of written notice of final decision.

For fiscal year 1979, $4 million in SAE funds has been set aside to support AIMS related activities, and it is envisioned that funds will be set aside annually for the States to support AIMS related activities. Forty percent of the SAE–AIMS funds for fiscal year 1979 is being allocated in equal shares to State agencies which administer the school feeding programs. Additional AIMS funding is being allocated based on the total number of School Food Authorities in the State, the number of larger School Food Authorities in the State and the number of free and reduced price meals served within the State. A more detailed description of AIMS funding for fiscal year 1979 is included in the interim amendments to Part 235, State Administrative Expense Funds, a copy of which is contained in this issue of the **Federal Register.**

XV. Special Areas in Need of Public Comment

In addition to general concerns, comments addressing the following subject areas and questions will be especially helpful in the development of final regulations.

1. Timing of AIMS implementation.
2. Selection of performance standards.
3. Staffing needs for AIMS.
4. Alternative systems to ensure meal claims, counts, costs and integrity.
5. School Food Authorities on 2-year review cycle.
6. State review requirements.
7. The sanctionable deficiencies.
8. The percentage ranges assigned to each sanctionable deficiency.
9. The use of sanctions as an integral part of the overall AIM System.
10. Proposed funding allocation method—factors used and percentages applied.
11. Alternative funding methods.
12. Do the allocation formulas as currently constructed provide for putting SAE funds where they are most needed?
13. If not, should the percentages be changed? Should they be based on other factors (either different factors or factors in addition to one or more of those already included?)
14. Is there some method of allocating these funds outside of the percentage/factor approach?
15. Would a more simple allocation method, such as a prorated allocation tied to expenditures in the National School Lunch Program, be as good or better than the proposed system?
16. Other specific concerns and, if problematic, proposed solutions.

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-33537 Filed 10-29-79; 8:45 am]

BILLING CODE 3410-30-M

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7 CFR Part 210

National School Lunch Program; Assessment, Improvement and Monitoring System

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule

SUMMARY: This proposed rule would amend Part 210, National School Lunch Program, to provide for improved administrative procedures as a part of the Department's comprehensive Assessment, Improvement and Monitoring System (AIMS).

DATE: Comments must be received on or before January 2, 1980 to be assured of consideration.

ADDRESS: Comments should be sent to: Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447–8130.

FOR FURTHER INFORMATION CONTACT: Stan Garnett or Barbara Hallman, School Programs Division, USDA, FNS, Washington, D.C. 20250, (202) 447–9069.

SUPPLEMENTARY INFORMATION: The amendment presented below is one of three amendments appearing jointly in the **Federal Register** which are designed to provide the control necessary to improve the administration of the school nutrition programs as a part of the Department's comprehensive Assessment, Improvement and Monitoring System (AIMS). A detailed explanation of the AIM system precedes this proposed amendment. The amendment presented below proposes to revise Part 210 to provide for:

(1) A definition of AIMS;

(2) Inclusion in the State Plan of a description of the State's review system, its criteria for choosing schools to be reviewed for the year the State Plan is in effect, the total number of School Food Authorities in the State, and a list of the largest School Food Authorities in the State;

(3) FNS to have the option to reimburse a State agency by Treasury Check;

(4) School Food Authorities to meet meal pattern requirements and maintain food production and student participation records;

(5) School Food Authorities to report to the State agency twice a year the number of currently enrolled children for whom applications for free and for reduced price meals are approved and maintained on file, and the average daily attendance. School Food Authorities shall also report to the State agency the number of days of operation for each reporting period.

(6) School Food Authorities to maintain current files on free and reduced price applications;

(7) A time limit on when Claims for Reimbursement may be submitted after the end of the fiscal year;

(8) State agencies to conduct program assistance reviews and/or audits to ensure compliance with regulations, which include compliance with AIMS performance standards;

(9) The frequency of State agency reviews to be dependent upon the size of the School Food Authority;

(10) Reviews of School Food Authorities to determine compliance with AIMS performance standards. Reviews include: (a) On a 2-year cycle the review of the two largest School Food Authorities in a State with the exception of any such School Food Authority with an enrollment of less than 2,000 and all School Food Authorities with an enrollment of 40,000 or more students. Such School Food Authorities shall be initially reviewed between October 1 and December 31. A follow-up (second) review is required if an error tolerance level based on a dollar total or a percentage of meals improperly claimed, is surpassed.

If on the follow-up review a more restrictive error tolerance level is surpassed, the School Food Authority must employ an independent auditor. The auditor shall certify claims and audit the School Food Authority concerning its performance standard deficiency. After the independent auditor has certified claims for 3 consecutive months, a final (third) review must be performed by the State agency by December 31 of the year

following the first review. On the final review 50 percent of the schools or a statistically valid sample of schools from the School Food Authority shall be reviewed. Claims shall be assessed only on the schools reviewed when 50 percent of the schools in a School Food Authority are reviewed. If a statistical sample is used, overclaims shall be projected across the School Food Authority.

(b) The review of all other School Food Authorities in the State on a 5-year review cycle. On the 5-year cycle reviews the State agency must recover overpayments and take documented corrective action on any violation it finds of an AIMS performance standard. The State agency shall perform random follow-up reviews of 25 percent of the School Food Authorities reviewed on a 5-year review cycle which have performance standard violations discovered during a first review and on which they exceeded an error tolerance level;

(11) a system for reviewing and taking action on a different performance standard violation that had not been noted on a previous review;

(12) A State agency's Letter of Credit to be reduced if it fails to collect overpayments from School Food Authorities;

(13) The suspension of reviews and superceding of them by corrective action if serious problems are found during the first review;

(14) The number of schools to be visited on State agency reviews to be dependent upon the size of the School Food Authority;

(15) A method by which the State agency is to select schools to be visited on reviews;

(16) The minimum information that must be collected during a review by a State agency;

(17) A listing of the types of review related records that must be kept on file at the State agency;

(18) A requirement that prior to the payment of any claim a State agency must compare (a) the product of the number of currently enrolled children approved for free and for reduced price meals times the days of operation to the total number of free and reduced price meals claimed and (b) the School Food Authority's average daily attendance times the days of operation to the total number of meals claimed for the reporting period;

(19) State agencies to report in November and April to FNS the statewide number of children approved for free and for reduced price meals based on its most recent reports from School Food Authorities;

(20) State agencies to submit a report by January 31 and July 31 concerning progress made by the State in carrying out AIMS related activities;

(21) State agencies failing to meet reporting deadlines set forth in these regulations, to be subject to cancellation of a portion of State Administrative Expense funds;

(22) State agencies to recover overpayments, disallow overclaims and correct unfiled Claims for Reimbursement when a School Food Authority does not comply with regulations. There are specific methods of calculating overpayments and disallowing overclaims for violations of each of the AIMS performance standards;

(23) A provision which allows a School Food Authority to challenge a fiscal action by the State;

(24) FNS Regional Offices to include in their Management Evaluation of the State agencies each State's progress in carrying out AIMS. The State agency will be evaluated in such AIMS related subject areas as meeting annual review requirements, identifying performance standard deficiencies in School Food Authorities, taking corrective action, and recovering overpayments;

(25) Controls on State agency grant closeout reporting procedures.

The Department believes that these amendments will provide the incentives and controls necessary to improve the administration of the Programs.

Comment Period

These regulations are published in proposed form. Comments are especially encouraged on the section entitled "Special Areas in Need of Public Comment" which is a part of the detailed explanation of the AIM System preceeding this proposed amendment. Comments must be received on or before January 2, 1980, to be assured of consideration.

Commentors should identify the provision(s) which are being addressed in their remarks. A full range of comments will be helpful to the Department in developing a final amendment to the program regulations. All written submissions received will be made available for public inspection at the School Programs Division, Food and Nutrition Service, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) (7 CFR 1.27(b)).

Accordingly, Part 210 would be amended as follows:

1. Section 210.2 is amended by adding a new paragraph (b) as follows:

§ 210.2 Definitions.

* * * * *

(b) "AIMS" means the Assessment, Improvement and Monitoring System.

* * * * *

2. Section 210.4a is amended by adding new sentences to paragraph (b)(7) and by adding new paragraphs (b)(8) and (b)(9) as follows:

§ 210.4a State plan of child nutrition operations.

* * * * *

(b) * * *

(7) * * * A program assistance plan to monitor and improve program performance must include: (i) Specific objectives; (ii) reasons for setting these objectives; (iii) methods to achieve these objectives; and (iv) evaluation methods to determine if the objectives are being met. The program assistance plan shall specifically include: (A) a description of the State's program to meet the annual review requirements of AIMS; and (B) the State's criteria for choosing School Food Authorities to be reviewed for that year which would ensure that School Food Authorities with the largest identified problems or potential problems be reviewed first. Reviews and documentation shall be in accordance with § 210.14(a)(3) (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (a)(4) of this Part.

(8) The number of School Food Authorities in the State.

(9) A list of the two largest School Food Authorities in the State based on enrollment except for any such School Food Authority with an enrollment of less than 2,000 students and all School Food Authorities with an enrollment of 40,000 or more students which the State plans to review during the upcoming school year.

* * * * *

3. Section 210.5 is amended by revising the first sentence of paragraph (a) and adding a new sentence at the end of paragraph (a) as follows:

§ 210.5 Methods of payment to States.

(a) Funds to be paid to any State for general cash-for-food assistance or special cash assistance may be made available by means of Letters of Credit issued by FNS in favor of the State agency. * * * FNS may, at its option, reimburse a State agency by Treasury Check. FNS shall pay by Treasury Check in settlement of a valid claim submitted in connection with the disposition of an audit or investigation if payment for that claim cannot be made within the grant closeout period specified in § 210.19(b).

* * * * *

4. In section 210.8 paragraph (e)(3) is amended and new paragraphs (e)(18) and (e)(19) are added as follows:

§ 210.8 Requirements for participation.

* * * * *

(e) * * *

(3) Serve lunches which meet the minimum requirements prescribed in § 210.10 during a period designated as the lunch period by the School Food Authority and maintain food production and student participation records.

* * * * *

(18) Report to the State agency, or FNSRO where applicable, for the months of October and March, or more often as the State agency or FNSRO where applicable determines: (i) The number of currently enrolled children approved for (A) free meals, and (B) reduced price meals, respectively, on the basis of approved applications on file, and; (ii) the average daily attendance. The School Food Authority may for any month submit updated reports on the number of currently enrolled children approved for free and reduced price meals or the average daily attendance. School Food Authorities shall also report to the State agency the number of days of operation for each reporting period.

(19) Maintain current files of (1) free and (2) reduced price applications, respectively, to reflect current enrollment. If applications are maintained at the School Food Authority level, they shall either be separated by school or lists must be kept by school of children approved for (1) free and (2) reduced price meals respectively. Such lists shall be maintained in confidence and allowed to be examined only by appropriate local, State and Federal officials.

5. In § 210.10, a new paragraph (j) is added to read as follows:

§ 210.10 Requirements for lunches.

* * * * *

(j) Production and participation records shall be maintained to demonstrate adherence to meal pattern requirements.

6. Section 210.13, paragraph (b) is amended by inserting after the second sentence the following:

§ 210.13 Reimbursement procedures.

* * * * *

(b) * * * The State agency, or FNSRO where applicable, shall not pay for any original or amended Claim for Reimbursement for any period during the fiscal year submitted more than 90 days after the end of the fiscal year in which the claim is filed with the exception of amended claims resulting from audits and/or investigations. * * *

* * * * *

7. In § 210.14, paragraph (a)(2) is deleted and reserved and paragraphs (a)(3), (a)(4), (a–2) and (g)(2) are revised and new paragraphs (g)(5), (g)(6), and (g)(7) are added as follows:

§ 210.14 Special responsibilities of State agencies.

(a) * * *

(3)(i) *Scope of Reviews:* Such assistance shall include reviews in the form of program assistance reviews and/or audits of participating schools to ensure compliance with program regulations, which includes the Assessment, Improvement and Monitoring System (AIMS) performance standards described in § 235.6(a–1), State Administrative Expense Funds, and the Department's civil rights and nondiscrimination regulations (Part 15 of this title issued under Title VI of the Civil Rights Act of 1964). To comply with AIMS performance standards the State agency in the course of its review of a School Food Authority and its schools shall: (A) analyze local approval procedures for free and reduced price meal applications and determine their adequacy by an examination of individual applications; (B) check the school's or School Food Authority's records to ensure that the approved free and reduced price applications that are kept on file correspond to current enrollment; (C) check individual school records used in compiling the most recent School Food Authority report submitted to the State agency which compares the School Food Authority's reported average daily attendance times the days of operation to the total number of meals claimed for the reporting period. This comparison shall be made for each school reviewed by the State agency; (D) evaluate the School Food Authority's system used for both recording and reporting meal counts, and compiling each school's meal count data into a consolidated claim for reimbursement so as to ensure that claims accurately reflect meal counts by category and observe the method of taking counts in schools to ensure that the system yields correct counts of meals by category (free, reduced price and paid); (E) evaluate the accounting system for documentation of costs, allowability of costs and accuracy of claims; and (F) evaluate the nutritional integrity of meals served, ensuring that all required food components are served.

(ii) *Frequency of reviews:* The State agency shall review the two largest School Food Authorities in the State and all School Food Authorities with an enrollment of more than 40,000 students at least once every two years. If one or both of the two largest School Food Authorities in a State has an enrollment of less than 2,000 students they shall not be included in the 2-year review cycle. The State agency shall review ½ of the School Food Authorities on the 2-year review cycle each year. In addition, the State agency shall review yearly at least ⅛ of the State's remaining School Food Authorities so that over a five year period every School Food Authority in the State is reviewed a minimum of one time.

(iii) *Timing and types of reviews required by AIMS:* (A) For School Food Authorities reviewed on a 2-year cycle (the 2 largest School Food Authorities in a State and all School Food Authorities with an enrollment of 40,000 or more students):

(*1*) *The first review* shall be undertaken by the State agency between October 1 and December 31. The State agency must take fiscal action as described in § 210.16, paragraphs (b)(1), (b)(2) and (b)(3) of this Part. If this first review results in overclaims and incorrect unfiled Claims for Reimbursement which in sum average more than $150 per school reviewed within the School Food Authority or indicates that more than 10% of the meals served within the schools reviewed are improperly claimed, the State agency shall undertake a follow-up review.

(*2*) *A follow-up review,* when required, shall begin within 90 days following the end of the first review. When the follow-up review results in average overclaims and incorrect unfiled Claims for Reimbursement which in sum average more than $100 per school reviewed or indicates that more than 7% of the meals served are improperly claimed: (*i*) the State agency must take fiscal action as described in § 210.16, paragraphs (b)(1), (b)(2) and (b)(3) of this Part; (*ii*) the School Food Authority shall contract with an independent auditor to have the next 3 month's claims certified prior to their submission to the State agency; and (*iii*) the State agency shall perform a final review prior to December 31 of the next school year.

(*3*) To have its claims certified, which is required when a School Food Authority reviewed on a 2-year cycle exceeds error tolerance levels established for follow-up reviews, the School Food Authority shall employ an independent auditor as defined in Part 210.17 paragraph (a)(3) of this Part. The independent auditor shall audit the School Food Authority concerning the performance standard deficiency revealed by the State agency review, conducting on-site reviews as necessary. The State agency shall not pay any claim from that School Food Authority until the claim is certified by the

independent auditor. If after 90 days following the date the claim is due the auditor is unable to certify the claim, audit findings shall be submitted to the State agency for the purpose of determining the correct amount claimable.

(4) A certification procedure is not required if the School Food Authority has exceeded the $100–7% error tolerance level of the follow-up review due to a performance standard deficiency concerning meal patterns.

(5) *A final review*, is required, on all School Food Authorities which exceed the error tolerance level established for follow-up reviews. The final review must be performed by the State agency by December 31 of the year following the first review of the School Food Authority. A final review shall include a minimum of 50% of the schools within the School Food Authority or shall include a statistically valid sample of schools within the School Food Authority based upon FNS guidance. The State agency must take fiscal action as described in § 210.16, paragraph (b)(1), (b)(2) and (b)(3) of this Part.

(B) For School Food Authorities reviewed on a 5-year cycle (all School Food Authorities other than the State's two largest School Food Authorities and those School Food Authorities with an enrollment of 40,000 or more students):

(1) *The first review* may be made by the State agency at any time during the year. If the State agency discovers a violation of an AIMS performance standard, it must take fiscal action as described in § 210.16 paragraphs (b)(1) and (b)(2) of this Part and take whatever other corrective action it considers appropriate.

(2) *Follow-up reviews* of a random selection of 25% of the School Food Authorities with performance standard violations discovered in a first review which resulted in an overclaim and incorrect unfiled Claim for Reimbursement average of more than $150 per school reviewed within the School Food Authority or indicated that more than 10% of the meals served within the schools reviewed were improperly claimed, shall begin within 180 days following the end of the first review. If the State agency discovers a violation of an AIMS performance standard, it must take fiscal action as described in § 210.16 (a–1), (a–2) and (a–3) of this Part and take whatever other corrective action it considers appropriate.

If a follow-up review or final review is necessary for a School Food Authority reviewed on either a 2-year or 5-year cycle, the State agency shall, as a minimum, review the School Food Authority for the performance standard(s) found violated in previous reviews. If during the course of a follow-up or final review a performance standard violation is found that has not been noted on a previous review, the State agency shall recover overpayments, disallow unpaid overclaims and correct unfiled Claims for Reimbursement for the newly discovered performance standard violation at the same fiscal level as the fiscal action taken for a performance standard violation on a first review. Additionally, the State agency shall take appropriate corrective action and must document such action within 90 days of the review. The State agency does not have to apply error tolerance levels nor carry out additional reviews as part of the corrective action of the newly discovered performance standard violations.

(iv) *Sanctions against State agencies:* If a State agency fails to collect an overpayment from a School Food Authority, as described in § 210.16 paragraphs (b)(1), (b)(2) and (b)(3) of this Part, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action it has taken to collect the overpayment. Unless FNS determines that the State agency has exerted reasonable efforts to recover the improper payment, FNS shall recover overpayments from the State agency for the amount of the overpayment made to the School Food Authority. The State agency's subsequent Letter of Credit will be reduced by the sum of the uncollected overpayment and the State agency must provide the funds necessary to maintain program participation at the level of operation reached prior to the Letter of Credit reduction. These funds must come from State and local sources and be reported as cash on hand in the State's financial reports to FNS.

(v) *Suspension of review:* When the State agency is conducting a first review in any School Food Authority and finds serious problems before visiting the required number of schools, the review may be suspended and superceded by corrective action. For violations found, any overpayments shall be recovered, unclaims disallowed and unfiled Claims for Reimbursement corrected. A full follow-up review shall be undertaken.

(vi) *Number of Schools the State agency shall review:* The number of schools within the School Food Authority which must be included in a review is dependent upon the number of schools in the School Food Authority. The number of schools to review for first and follow-up reviews is illustrated in the table below.

Number of schools in the school food authority	Minimum number of schools to be reviewed on first and follow-up reviews by the State agency
1 to 5	1
6 to 10	2
11 to 20	3
21 to 40	4
41 to 60	6
61 to 80	8
81 to 100	10
101 or more	12 + 5% of the number of schools over 100. Fractions shall be rounded to the nearest whole number

For final reviews, the State agency must review either 50% of the schools or a statistically valid sample of schools within a School Food Authority.

(vii) *Method of selecting Schools to review:* On the first review, the State agency shall select as equal a number of schools as possible to review from each type of attendance unit (elementary school, middle school, high school, etc.). Schools with the largest average daily participation of free and reduced price students from each type of attendance unit shall be selected for review first. On a follow-up review the State agency shall select as equal a number of schools as possible to review from each type of attendance unit. Within the attendance unit groupings, the State agency shall choose schools on a random basis using guidance provided by FNS. On a final review the State agency shall review 50% of the schools in the School Food Authority chosen on a random basis, or enough schools to have a statistically valid sample. FNS shall provide guidelines for the State agency to determine a statistically valid sample.

(viii) *Review records:* (A) The State agency must document within 90 days of the first review that corrective action was taken. The State agency shall keep records of all reviews, which as a minimum, include the following basic information: (1) Name of School Food Authority reviewed; (2) name of school(s) reviewed; (3) date of review; (4) findings for each review which show whether the School Food Authority and its schools are meeting or violating the

performance standards; (5) planned corrective action; (6) date, findings and corrective action taken for the follow-up review and final review; and (7) fiscal action taken against the School Food Authority.

(B) The State agency review record shall include, as a minimum, information on these subject areas for each School Food Authority and its schools reviewed: (1) Average daily attendance; (2) records of number of children approved for free and for reduced price meals; (3) records of numbers of free, reduced price, and paid meals served; (4) records of numbers of free, reduced price, and paid meals claimed; (5) accuracy of daily meal counts; (6) food production records; (7) documentation of costs; (8) allowability of costs; (9) compliance or non-compliance with meal patterns on date of review; (10) approval procedures for determining eligibility for free and reduced price meals; (11) maintenance of application files; (12) accuracy of meal costs claimed.

* * * * *

(4) Records of State agency reviews, corrective actions, and independent audit reports must be kept on file at the State agency for three years after the year in which problems have been resolved.

* * * * *

(a–2) *Payment of claims.* The State agency, or FNSRO where applicable, shall compare for each School Food Authority, prior to the payment of any claim, (1) The product of the number of currently enrolled children which the School Food Authority reports are approved for free and for reduced price meals, respectively, times the days of operation to (2) the total number of free and of reduced price meals claimed by type of meal. The State agency, or FNSRO where applicable, shall also compare prior to the payment of any claim, the School Food Authority's reported average daily attendance times the days of operation to the total number of meals claimed for the reporting period. In no event shall a Claim for Reimbursement be paid if the number of free and reduced price meals claimed, respectively, exceed the number of currently enrolled children approved for free and reduced price meals, respectively, times the days of operation for the reporting period. In no event shall a Claim for Reimbursement be paid if the total number of meals claimed exceed the average daily attendance times the days of operation for the reporting period. Full or partial reimbursements may be made on a Claim for Reimbursement without prior administrative approval of the correctness of the claim. However, the State or FNSRO where applicable, shall make any adjustments in such payments as are necessary following the administrative approval of such claim.

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(g) * * *

(2) Each State agency shall report information on the use of program funds to FNS on a form provided by FNS.

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(5) Each State agency, or FNSRO where applicable, shall submit reports by November 30 and April 30 to FNS on the number of currently enrolled children approved for free meals and reduced price meals by type of meal. The reports shall be based on October and March data received by the State agency from its School Food Authorities.

(6) Each State agency, or FNSRO where applicable, shall submit by January 31 and July 31 to FNS a report supplying the following AIMS related information for the school year:

(i) The number of School Food Authority reviews of schools on a 2-year review cycle, meeting AIMS requirements, which the State agency has undertaken;

(ii) The number of School Food Authority reviews of schools on a 5-year review cycle, meeting AIMS requirements, which the State agency has undertaken;

(iii) The number of reviews of each type (2-year and 5-year cycle reviews) that are planned for the remainder of the school year;

(iv) The amount of overpayments requested from School Food Authorities;

(v) The sum of: (A) overpayments recovered; (B) unpaid overclaims disallowed, and; (C) the difference between incorrect unfiled Claims for Reimbursement and corrected unfiled Claims for Reimbursement;

(vi) A list of School Food Authorities reviewed by the State agency on follow-up and final reviews;

(vii) A narrative description of the AIMS performance standard violations that the State agency has observed during reviews.

(7) State agencies shall meet the reporting deadlines contained in this Part and shall be subject to cancellation of a portion of State Administrative Expense fund payments under the terms of § 235.11, paragraph (b)(2)(v) if FNS determines that the State agency has failed to submit reports on a timely basis.

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8. In § 210.16, new paragraphs (b), with sub-paragraphs (b)(1), (b)(2), (b)(3) and (b)(4) are added and paragraph (h) is deleted and reserved.

§ 210.16 Claims against school food authorities.

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(b) For any regulatory noncompliance found in a school, a State agency shall take fiscal action which must include: (1) Recovery of overpayments already made; (2) disallowance of overclaims as reflected in unpaid Claims for Reimbursement, and; (3) correction of records to ensure that unfiled Claims for Reimbursement will be corrected when filed. Fiscal actions taken in relation to AIMS performance standard violations are described below.

(1) Fiscal action for each performance standard for schools not previously visited on a first review, a follow-up review or a final review: The fiscal action to be taken for violations of the performance standards related to FNS' AIM System shall be determined in the following way.

(i) Performance standard 1—For all invalid applications approved, the amount of overpayments to be recovered and the amount of unpaid overclaims to be disallowed shall be computed back from the day of the review to either October 15 or to the date the applications were approved, if the date of approval can be documented by the School Food Authority. Any unfiled Claim for Reimbursement shall be corrected before being submitted.

(ii) Performance standards 2 and 3—For free and reduced price meals claimed in excess of the number of currently enrolled children properly approved for free and reduced price meals, by type, times the days of operation for the reporting period, the amount of the overpayments to be recovered and the amount of unpaid overclaims to be disallowed shall be computed back from the day of the review to either October 15 or to the date the applications were approved, if the date of approval can be documented by the School Food Authority. The School Food Authority shall correct any unfiled Claims for Reimbursement before submitting it to the State agency. For meals claimed in excess of the average daily attendance times the days of operation for the reporting period, the amount of the overpayments to be recovered and the amount of unpaid overclaims to be disallowed shall be computed back from the day of the review to the beginning of the school year. Any unfiled Claims for Reimbursement shall be corrected before being submitted.

(iii) Performance standard 4—For meals claimed based on invalid meal

counts, due to an improper School Food Authority or individual school system for counting and recording meals claimed, the amount of the overpayment to be recovered and the amount of unpaid overclaims to be disallowed shall be computed back from the day of the review to the beginning of the school year. The School Food Authority shall correct any unfiled Claims for Reimbursement before submitting it to the State agency. The State agency shall project overpayments over the entire School Food Authority when the School Food Authority's meal count system is found to be improper. An assessment for overpayments shall be limited to an individual school when the school's meal count system is found to be improper.

(iv) Performance standard 5—For reimbursements claimed based on nonallowable or undocumented costs, the amount of the overpayment to be recovered and the amount of unpaid overclaims to be disallowed shall be computed back from the day of the review to the first day of the current accounting period. The School Food Authority shall correct any unfiled Claims for Reimbursement before submitting it to the State agency.

(v) Performance standard 6—For meals claimed not containng all required food components, the unfiled Claim for Reimbursement shall be corrected for a minimum of the day of the review to totally disallow claims for incomplete meals before the School Food Authority submits it to the State agency. A State agency may extend an assessment over a longer period of time if it can determine through School Food Authority meal service records that a specific number of meals served over a longer period of time where not in compliance with regulations.

(2) Fiscal action for each performance standard on follow-up and final reviews of schools previously reviewed: The fiscal actions to be taken for violations of the AIMS performance standards noted during follow-up and final reviews for a school that has been previously reviewed shall be determined in the following manner.

(i) Performance standards 1–4—The amount of the overpayments to be recovered and the amount of unpaid overclaims to be disallowed shall be computed back from the day of the follow-up or final review to the date of the first or follow-up review, as appropriate. The School Food Authority shall collect any unfiled Claims for Reimbursement before submitting it to the State agecny.

(ii) Performance standards 5 and 6—The amount of the overpayments to be recovered and the amount of unpaid overclaims to be disallowed shall be computed as described in § 210.16, paragraph (b)(1) of this Part. Any unfiled Claim for Reimbursement shall be corrected before being submitted.

(3) *Extent of fischal action:* On first and follow-up reviews and final reviews in which 50% of the schools in the School Food Authority are reviewed, the amount of overpayments to be recovered, the amount of unpaid overclaims to be disallowed and the corrections of unfiled Claims for Reimbursement to be made shall be limited to regulatory violations documented by the State agency in only those schools reviewed with the exception noted in paragraph (b)(1) of this section under performance standard 4. For final reviews which include a statistically valid sample of schools within the School Food Authority, the amount of overpayments to be recovered, the amount of upaid overclaims to be disallowed, and the corrections of unfiled Claims for Reimbursement to be made shall be statistically projected across the entire School Food Authority for the period of the sample.

(4) *Challenging a fiscal action:* A School Food Authority may challenge any fiscal action by the State. To challenge projected overclaims a School Food Authority must present written evidence to the State agency to support its contention that a computed assessment as projected by the State agency goes beyond the actual extent of the problem. In demonstrating that the projected assessment should be projected at a lower level, the School Food Authority shall prove its contention to the satisfaction of the State agency. The State agency shall obtain approval of FNS prior to its adjustment of any assessment against a School Food Authority reduced by more than $1,000.

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9. In § 210.17 new paragraph (f) is added to read as follows:

§ 210.17 Management evaluations and reviews.

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(f) As a part of its Management Evaluation of the State agencies, FNSRO shall determine each State's progress in the following areas: (1) Meeting the annual review requirement including follow-up and final reviews; (2) identifying deficiencies in the six AIMS performance standard areas; (3) initiating and completing corrective action; (4) recovering overpayments, disallowing unpaid overclaims, and correcting unfiled Claims for Reimbursement as appropriate; (5) paying claims only after comparing free and reduced price meals claimed to the number of validly approved applications on file; (6) paying claims only after comparing total meals claimed to average daily attendance; (7) limiting reimbursements paid for the fiscal year to the lesser of number of meals served times rates or allowable costs; (8) having an effective accounting system; (9) meeting AIMS' reporting and recordkeeping requirements.

10. In § 210.19 paragraph (a) is amended as follows:

§ 210.19 Miscellaneous provisions.

(a) *Grant closeout procedures*—(1) General. Grant closeout procedures for the Program shall be in accordance with Federal Management Circular A–102, Attachment L. State agencies shall submit final grant closeout reports for each fiscal year or part thereof that the State agency administered the programs. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur.

(2) *Grant closeout report. State agencies:* (1) Shall submit to FNS, within 150 days after the end of the fiscal year, final fiscal year closeout reports; and (2) may submit revised closeout reports at any time. However, FNS shall not be responsible for reimbursing unpaid obligations later than 150 days after the close of the fiscal year in which they were incurred except for those obligations incurred under the Food Service Equipment Assistance Program and State Administrative Expense Funds Program and adjusted claims resulting from audits and/or investigation.

(3) *Termination for cause.* FNS may terminate a State agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this Part, and in FNS guidelines and instructions. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency or any recoveries by FNS from the State agency, shall be in conformance with the legal right and liabilities of the parties.

(4) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

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(Catalog of Federal Domestic Assistance No. 10.555)

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant". An approved Draft Impact Analysis is available from the Office of the Director, School Programs Division, USDA–FNS, 201 14th Street, SW., Room 4122, Washington, D.C. 20250. (Tel: (202) 447–8130).

(Sec. 7(a), Pub. L. 95–627, 92 Stat. 3622, 42 U.S.C. 1751)

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 79–33538 Filed 10–29–79; 8:45 am]

BILLING CODE 3410–30–M

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7 CFR Part 235

State Administrative Expense Funds; Proposed Amendment, AIMS Sanctions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the termination for cause provision of 7 CFR Part 235, State Administrative Expense (SAE) Funds, and establish a specific set of actions to be taken when State agencies fail to implement fully and properly the proposed Assessment, Improvement and Monitoring System (AIMS). A full description of the AIM System is contained in a proposed amendment to 7 CFR Part 210, National School Lunch Program, also appearing in this issue of the **Federal Register.**

DATE: Comments must be received on or before January 2, 1980 to be assured of consideration.

ADDRESS: Comments should be addressed to Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250. Comments received in response to this proposed rule will be available for inspection in Room 4300B, Auditors Building, 14th and Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION, CONTACT: Stanley C. Garnett at the above address or by phone at (202) 447–9065.

SUPPLEMENTARY INFORMATION: This proposed amendment is one of three issued by the Department dealing with the AIM System. The others are a proposed amendment to 7 CFR Part 210, National School Lunch Program, which outlines the AIM System and an interim amendment to this part which sets out State administrative expense fund allocation formulae as a proposed system under which funds would be provided to assist States in implementing AIMS. (This latter rule appeared in the **Federal Register** of September 14 at FR Vol. 44, No. 180 as an interim rule in order to allocate FY 1979 funds to States.)

A detailed explanation of the AIM System precedes the proposed amendment to Part 210. This proposal contains actions to be taken by the Departmnent when it determines that State agencies are not meeting their responsibilities under AIMS. In order to more fully understand this proposal, it is recommended that the detailed explanation preceding the proposed amendment to Part 210, the proposed AIMS amendment to Part 210 and the interim amendment to this part be reviewed as well.

Background

SAE Funding—State agencies which administer the school feeding programs and the Child Care Food Program have been receiving SAE funding since fiscal year 1970. These funds were provided at first to assist States in administering the expanding National School Lunch Program, as well as the School Breakfast Program, the Nonfood Assistance Program (now the Food Service Equipment Assistance Program) and the Special Food Service Program for Children (now the Child Care Food Program and the Summer Food Service Program for Children), all of which, except the NSLP, came into existence or were initially funded between 1966 and 1970. The amounts of SAE funds appropriated has increased substantially from $2.8 million in fiscal year 1970 to $31.1 million in fiscal year 1979.

From the beginning, SAE funds have been provided to assist States in meeting the overall expenses associated with program administration. As set forth in this Part, SAE funds may be used by State agencies to pay salaries, including employee benefits and travel expenses for administrative and supervisory personnel, for support services, for office equipment, and for staff development . . . (and) to supervise, improve management and give technical assistance to School Food Authorities. . . . The intended benefits to be derived from the use of these funds include the operation of programs at the local level which are successful in reaching those eligible for program benefits and are operated within the standards and guidelines found in applicable law and regulations.

Studies conducted by the Department's Office of the Inspector General and the General Accounting Office have pointed to a number of serious problems in the administration of school nutrition programs (the National School Lunch, School Breakfast and Special Milk Programs) at the State and local levels. Reflecting the concern of the Congress in this regard, Public Law 95–627, enacted in November 1978, authorized the expenditure of SAE funds "for the improvement in the States of the administration of the (child nutrition) programs . . . including, but not limited to, improved program integrity and the quality of meals served to children." The fiscal year 1979 Agriculture, Rural Development and Related Agencies Appropriations Act earmarked $4 million in SAE funds for program improvement.

In response to the foregoing, the Department has developed the AIM System to deal with problems which include: (1) free and reduced price meal applications that are improperly approved or denied, (2) claims for free and reduced price meals that exceed the number of currently enrolled children approved for such meals, (3) meals that are claimed in excess of average daily attendance, (4) reimbursement claims that are based on inaccurate counts of free, reduced price and paid meals, (5) expenditure records that do not support reimbursements claimed, and (6) meals claimed for reimbursement that lack required components or component quantities. The System and the proposed funding formulae are designed to address those problem areas.

AIMS Sanctions

Use of Funds

The problems set forth above which the proposed AIM System is intended to address are potentially serious violations of fundamental principles of program administration. State agencies have the responsibility to ensure the proper expenditure of program funds by each School Food Authority.

The Department feels that the problems to be addressed by AIMS are present in each State to a greater or lesser degree and that each State must participate in their resolution. Any State which does not make the effort to systematically and completely eliminate the problems will in effect be allowing them to continue to exist and will be failing to adequately carry out its administrative responsibilities. Since States receive a large part of their SAE funds to properly administer school nutrition programs and will receive additional funds in order to help eliminate certain specified problems which exist in those programs and cause program funds to be misused, the Department feels that appropriate sanctions on all school nutrition SAE funds should be imposed where significant failures have occurred.

Sanction Areas

In addition to providing general sanction authority for failure to carry out the provisions of Part 235, the Department in these proposed regulations, has identified five specific areas within the AIM System where failure to perform by State agencies would constitute grounds for the imposition of specific sanctions. These potential deficiencies are:

1. Outright failure to initiate and carry out AIMS review requirements.

2. Failure to conduct the required number of School Food Authority and school reviews required under the System.

3. Failure to cover the six performance standards in AIMS reviews and, where necessary, to take specific corrective action including the assessment and recovery of claims.

4. Substantial failure to detect existing violations of the six performance standards during the conduct of reviews when it is determined, through FNS monitoring, that such failure is the result of not performing thorough reviews.

5. Failure by the State agency to provide timely program reporting and fiscal information.

These five deficiencies address major State agency responsibilities under AIMS and failure in any one of them would indicate substantial noncompliance that would seriously affect the overall success of the System. As experience is gained with the AIM System, the Department through the regulatory process may amend or add to this list of specific failure areas and the sanctions associated with them.

Sanctions for Noncompliance

The Department proposes to apply sanctions appropriate to indicated deficiencies in a fair and judicious manner. Under this proposal, sanctions would not be fixed but instead would be individually determined within specified ranges. This would allow the Department flexibility in evaluating the seriousness of deficiencies, the number of times such deficiencies have occurred, and any mitigating circumstances which may have a bearing on the deficiencies. The Department believes that this approach would result in the most equitable application of sanctions should sanctions be necessary.

Under this proposal, sanctions would be imposed within specific percentage ranges against SAE funds allocated to the State during the failure year. For failure to carry out provisions of Part 235 and for AIMS deficiency 1, this proposal provides a sanction range of up to 100 percent of all applicable SAE funds allocated to a State. For AIMS deficiencies 2 through 4, a sanction range of up to 33⅓ percent of SAE funds allocated to a State is provided. For deficiency 5, a sanction range of up to 20 percent of SAE funds allocated to a State is provided. These deficiencies are described in § 235.11 as amended by this proposed rule. In AIMS deficiencies, the sanctionable SAE funds are those earned on the basis of school nutrition programs, whereas for failure to carry out provisions of Part 235, the sanctionable SAE funds are the total amount of funds earned.

For a State which historically does not use the entire SAE allocation available to it, the appropriate sanction percentage will be assessed against the amount of SAE funds needed, based on past usage, and a 100% sanction will be assessed against funds not needed, based on amounts returned to the Department in prior years. In determining past usage, FNS will consider no year earlier than fiscal year 1980 since that is the first year in which States will have the full opportunity to utilize all SAE funds earned under the amendments contained in P.L. 95–627. In determining past usage, FNS will look at both total SAE funds used by a State in prior years and the rate at which a State is using SAE funds at the time a sanction is imposed. For example, a sanction of 20% against a State which by allocation formula would earn $1,000,000 in SAE funds but which historically only used $200,000 would be assessed as follows:

Use rate	$200,000
20 percent sanction	×.20
Sanction on funds normally used	40,000
SAE allocation not needed based on amounts returned to Department in prior years	800,000
100 percent sanction	×1.00
Sanction on funds not needed	800,000
Total amount sanctioned	840,000

The percentages selected for these sanction ranges were chosen for the following reasons: Deficiency 1 represents a situation in which no part of the AIMS review requirements would be implemented. Since AIMS seeks to improve compliance with basic program requirements through a structured review system, the Department believes that the widest possible sanction range (i.e., up to 100 percent of SAE funds earned on the basis of school nutrition programs) should be available to deal with this possible fundamental failure in AIMS implementation. A sanction range of up to 33⅓ percent was chosen for deficiencies 2, 3 and 4 since these deficiencies deal with review performance which is central to the AIM System and will account for a large part of the actual overall State effort under the proposed system. In view of this, the Department feels that a fairly wide sanction range should be available to deal with such deficiencies. A range of up to 20 percent was selected for deficiency 5 to emphasize the importance of program reporting. Unfortunately, program reporting has been relegated to a position of minor importance in some States. As a result, the Department has often been deprived of the timely and accurate program participation and fiscal information that it needs to monitor the performance of school nutrition programs and to make the decisions that govern the operation of these programs. This is particularly evident in the area of funding where such information is crucial to budget preparation and fund control. The monthly Report of Child Nutrition Operations (FNS–10) and the quarterly Financial Status Report (SF–269) are the primary State agency reports for school nutrition programs and for that reason were selected for inclusion in deficiency 5. The semi-annual report from State agencies concerning AIMS related activities is also included in deficiency 5 since that report is considered crucial to

effective FNS monitoring of the overall AIM System.

Funds Sanctioned

In most cases, the full extent of any State agency failure will not be ascertainable until late in or after the end of the fiscal year to which it pertains. Therefore, in imposing a sanction, the Department retains the options of 1) recovering SAE funds that have been used during the failure year, or 2) withholding SAE fund allocations in whole or in part during the balance of the failure year and, if necessary, during the following year until the full amount of the sanction has been realized. With respect to option 2, such sanctions will be imposed only if imposition will not impair the accomplishment of the objectives of the child nutrition programs. Furthermore, it is proposed that any State under sanction will not be eligible to participate in any SAE fund reallocation for any fiscal year during which sanctions are being carried out or any fiscal year to which such sanctions are being applied. This would preclude States from recovering sanctioned SAE funds through the reallocation process.

Corrective Action Plans

Under this proposal, State agencies will have the opportunity to correct any noted deficiencies prior to the imposition of sanctions. When deficiencies are identified, and the State notified, the State will have the opportunity to draw up a corrective action plan with FNS setting forth the actions necessary to correct those deficiencies and time frames for completion of all such actions. A letter would be sent to the Chief State School Officer or equivalent advising this official of the noted deficiencies, any corrective action plan developed, the sanctions that will be imposed if the corrective action plan is not followed, and that technical assistance is available from FNS to assist in complying with the plan. FNS will monitor the corrective action taken by the State agency and, if necessary, will conduct a follow-up review of the State agency to determine if deficiencies have been corrected. If an acceptable corrective action plan is not developed or if compliance with the corrective action plan is not achieved within the time limits established in the plan, FNS would impose sanctions and issue a notice of action to the Chief State School Officer. Under this proposal, FNS may return some or all of any sanctioned SAE funds to a State agency if it subsequently determines that the noted deficiencies have been resolved and that the school nutrition programs are being operated in an acceptable manner.

Sanction Review Procedure

Finally, this proposal establishes an appeal procedure under which a State agency may request a review of any sanction action taken by the Department. Under this procedure, a State agency would have 10 days after receiving the notice of action to file a written request for review. The written request would be sent to an address designated by FNS and the envelope would be prominently marked "REQUEST FOR REVIEW OR HEARING." The State agency would have the option of requesting a hearing before a designated review authority or a review by that authority of the record and any additional written information submitted by the State agency. FNS would acknowledge the State agency's request for a hearing or review in writing within ten (10) days of receipt of the request. At that time, the Secretary of Agriculture would also designate the review authority. It is FNS's intention that the review authority would not include the FNS official directly involved in the original sanction decision.

The State agency would have 30 days from receipt of FNS's acknowledgement to submit additional written information in support of its position. If a review of the record is requested, the review authority would have 30 days from receipt of that information to make a final determination. If a hearing is requested, it would be conducted within 60 days of receipt of the State agency's information with a final determination of the reviewing authority due within 30 days after the hearing date.

In either case, the final determination would take effect upon receipt by the State agency of written notice of final decision.

The Department is particularly interested in public comment on (1) the sanctionable deficiencies identified in this proposal, (2) the percentage ranges assigned to each deficiency, and (3) the use of sanctions as an integral part of the overall AIM System.

Accordingly, the Department is proposing to amend 7 CFR Part 235 to read as follows:

1. Section 235.11 is amended by amending paragraph (b) and adding a new paragraph (e) to read as follows:

§ 235.11 Other provisions.

* * * * *

(b) *Sanctions imposed.* (1) FNS may recover or withhold from a State agency up to one hundred (100) percent of the funds payable to and needed by the State agency under this Part, as determined by FNS, whenever it is determined that the State agency has failed to comply with the requirements contained in this Part.

(2) In addition to the general provision found in paragraph (b)(1) of this section, FNS shall impose the following sanctions on a State agency which is deficient in implementing the administrative activities described in § 210.14 and § 210.16 of this title.

(i) For any fiscal year, when FNS determines that a State agency has failed to implement the requirements of § 210.14(a) of this title, FNS shall recover or withhold up to one hundred (100) percent of the funds payable to and needed by the State agency under § 235.4(a) and § 235.4(b–1) for administration of school nutrition programs, as determined by FNS.

(ii) In any fiscal year, when FNS determines that a State agency has failed to or will be unable to meet the numbers of reviews required in § 210.14(a)(3)(ii) of this title, FNS shall recover or withhold up to thirty-three and one-third (33⅓ percent of the funds payable to and needed by the State agency under § 235.4(a) and § 235.4(b–1) for administration of the school nutrition programs, as determined by FNS.

(iii) In any fiscal year, when FNS determines that a State agency has failed to cover the performance standards set forth in § 235.6 in the conduct of reviews, carry out corrective action and assess and recover claims in the manner and to the extent prescribed under § 210.14(a)(3) (i), (iii), (vi), (vii), (viii) and § 210.16 (a–1), (a–3) and (a–4) FNS shall recover or withhold up to thirty-three and one-third (33⅓) percent of the funds payable to and needed by the State agency under § 235.4(a) and § 235.4(b–1) for administration of school nutrition programs, as determined by FNS.

(iv) In any fiscal year, when FNS determines that a State agency has not conducted thorough reviews of School Food Authorities, as shown by the substantial failure of the reviews to uncover existing violations of the performance standards found in § 235.6(a–1), FNS shall recover or withhold up to thirty-three and one-third (33⅓) percent of the funds payable to and needed by the State agency under § 235.4(a) and § 235.4(b–1) for administration of school nutrition programs, as determined by FNS.

(v) In any fiscal year, when a State agency fails to meet specified reporting deadlines, FNS shall recover or withhold up to twenty (20) percent of the funds payable to and needed by the State agency under § 235.4(a) and § 235.4(b–1)

for administration of school nutrition programs, as determined by FNS, as follows

(A) For repeated failure to meet the deadline prescribed for the form (FNS–10) required under § 210.14(g)(1) of this title;

(B) For failure to meet the deadline prescribed for the form (SF–269) required under § 210.14(g)(2) of this title; and

(C) For failure to meet the reporting deadlines prescribed in § 210.14 (g)(5) and (g)(6) of this title.

(vi) In establishing the amounts of funds to be recovered or withheld under paragraphs (b)(2) (ii) through (v) of this section, FNS shall first recover all funds allocated under § 235.4(a) and § 235.4(b–1) not needed by the State based on amounts returned to the Department in prior years and on the current rate of funds usage by the State and then shall consider the extensiveness and severity of the individual deficiencies in determining the amount of additional funds allocated under § 235.4(a) and § 235.4(b–1) to be sanctioned.

(vii) Before carrying out sanctions against a State agency in accordance with paragraph (b) the following procedures shall be followed:

(A) FNS shall notify the Chief State School Officer or equivalent of the deficiencies found and of its intention to impose sanctions unless an acceptable corrective action plan is submitted within 30 days.

(B) The State agency shall develop a corrective action plan with specific time frames to correct the deficiencies and/or prevent their future recurrence. The plan will include dates by which the State agency will accomplish such corrective action.

(C) FNS shall review the corrective action plan. If it is acceptable, FNS shall issue a letter to the Chief State School Officer or equivalent approving the corrective action plan, and detailing the technical assistance that is available to the State agency to correct the deficiencies. The letter shall advise the Chief State School Officer or equivalent of the specific sanctions to be imposed if the corrective action plan is not implemented.

(D) Upon advice from the State agency that corrective action has been taken, FNS shall assess such action and, if necessary, shall perform a follow-up review to determine if the noted deficiencies have been corrected. FNS shall then advise the State agency if the actions taken are in compliance with the corrective action plan or if additional corrective action in needed.

(E) If an acceptable corrective action plan is not submitted within 30 days, or if corrective action is not completed within the time limits established in the corrective action plan, FNS shall withhold funds by a reduction in the State agency Letter of Credit (LOC) or shall recover funds by assessing a claim against the State agency shall so notify the Chief State School Officer or equivalent.

(F) If, subsequent to the imposition of any sanction, FNS determines that the noted deficiencies have been resolved and that the school nutrition programs are being operated in an acceptable manner, FNS may return to the State agency or restore to the State agency's Letter of Credit (LOC) some or all of any sanctioned SAE funds.

(viii) In carrying out sanctions under paragraphs (b) for any fiscal year, FNS may withhold allocated SAE funds in whole or in part during such fiscal year and during following fiscal years if necessary. Prior to withholding SAE funds in any following fiscal year, FNS shall determine that the accomplishment of the objective of the child nutrition programs will not be impaired by the imposition of such sanction.

(ix) Any State agency which has a sanction imposed against it in accordance with paragraph (b) shall not be eligible to participate in any reallocation of SAE funds for any fiscal year in which such sanction is being carried out, or any fiscal year to which such sanction is being applied.

* * * * *

(e) *Administrative Review Process.* When FNS asserts a sanction against a State agency under the provisions of paragraph (b) above, the State agency may appeal the case and be afforded a review by an authority designated by the Secretary of USDA. A State agency shall have the option of requesting a hearing before the designee of the Secretary to present its position or a review by that authority of the record and any additional written submission to be prepared by the State agency. The request shall be sent to an address designated by FNS and the envelope shall be prominently marked "Request for Review or Hearing."

(1) FNS shall provide a written notice to and ensure its receipt by State agencies when asserting sanctions against State agencies.

(2) State agencies aggrieved by sanctions asserted against them may file a written request with the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250, for a hearing or a review of the record within 10 days of the date of delivery of the notice. If the State agency does not request a review or hearing within 10 days of delivery of the notice, the administrative decision on the sanctions shall be final.

(3) Within 10 days of receipt by the Secretary of a request for review, or hearing, FNS shall provide the State agency with a written acknowledgement of the request.

(i) The acknowledgement shall include the name and address of the authority designated by the Secretary to review the sanction;

(ii) The acknowledgement shall also notify the State agency that within 30 days of the receipt of the acknowledgement, the State agency shall submit information in support of its position.

(4) When a hearing is requested pursuant to this paragraph, FNS has up to 60 days of receipt of the State agency's information to schedule and conduct the hearing and shall advise the State agency of the time, date, and location of the hearing at least 10 days in advance.

(5) When a hearing is requested, the authority designated by the Secretary shall make a final determination within 30 days after the hearing, and the final determination shall take effect upon delivery of the written notice of this final decision to the State agency.

(6) When a review is requested, the authority designated by the Secretary shall review information presented by a State agency and shall make a final determination within 30 days after the receipt of that information. The final determination shall take effect upon delivery of the written notice of this final decision to the State agency.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.560)

Note.—This proposal has been reviewed under USDA criteria established to implement Executive Order 12044, "Improving Government Regulations" and has been classified "significant." An approved Draft Impact Analysis is available from the Office of the Director, School Program Division, Food and Nutrition Service, USDA, Washington, D.C. 20250.

(Sec. 7(a), Pub. L. 95–627, 92 Stat. 3622, 42 U.S.C. 1751)

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

Interim Regulation

Note.—Below is a copy of an interim regulation concerning AIMS funds that was published in the **Federal Register** on September 14, 1979 (44 FR 53487). This interim regulation is still in effect. However, the comment period on this interim regulation will be open until January 2, 1980 to coincide with the comment period of the proposals of Parts 210 and 235.

7 CFR Part 235

School Nutrition Programs; State Administrative Expense Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule; request for comments.

SUMMARY: This regulation amends 7 CFR Part 235, State Administrative Expense (SAE) Funds. It will serve as the interim authority for and guidelines under which a specified portion of discretionary funds will be allocated to State agencies for their use in improving school nutrition program management. This regulation will also be issued as a proposal setting forth a proposed system under which a portion of discretionary SAE Funds will be allocated to and utilized by State agencies in implementing the Assessment, Improvement and Monitoring System (AIMS), when AIMS regulations are proposed for public comment.

DATES: Effective September 7, 1979. Comments are due on or before November 13, 1979.

ADDRESS: Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, FNS–USDA, Washington, D.C. 20250. Comments received in response to the issuance of this regulation will be available for inspection by interested parties in Room 4300B, Auditors Building, 14th Street and Independence Avenue, S.W., Washington, D.C. during regular business hours (8:30 a.m. to 5:00 p.m.).

FOR FURTHER INFORMATION, CONTACT: Margaret O'K. Glavin, at the above address or by phone (202) 447–8130.

SUPPLEMENTARY INFORMATION: This regulatory amendment is one of three which will be issued by the Department which are related to the AIM System.

The others, a proposed amendment to 7 CFR Part 210, National School Lunch Program, which will outline AIMS and the procedures under which AIMS will be carried out and a proposed amendment to this part which will set forth sanctions to be imposed for failure in implement AIMS, will appear in a future edition of the **Federal Register.** A detailed explanation of the AIM System will accompany those proposals. This interim amendment sets out the Department's plan for providing fiscal assistance in the form of SAE funds to State agencies, which will bear the greatest responsibility for the management improvement process.

Background

Public Law 95–627, enacted on November 10, 1978, made several changes in the method by which SAE funds are to be allocated to State agencies which administer the child nutrition programs. It provides for an annual allocable amount equal to one and one-half percent of all program funds expended during the second preceding fiscal year in those programs (except for the Summer Food Service Program for Children). From that amount, the Department is to allocate to each State agency which administers the school feeding programs (the National School Lunch, School Breakfast, Special Milk and Food Service Equipment Assistance Programs) one percent of the program funds expended in those programs within the State during the second preceding fiscal year. A second allocation to State agencies which administer the Child Care Food Program is based on the application of a specified formula to the program funds expended in that program during the same time period. The funds which remain after these allocations have been made are, as the law provides, to be allocated to States by the Department "in amounts (it) determines necessary for the improvement in the States of the administration of the (child nutrition) programs * * * including, but not limited to, improved program integrity and the quality of meals served to children."

The fiscal year 1979 Agriculture, Rural Development and Related Agencies Appropriation Act (Pub. L. 95–448), in language contained in U.S. Senate Appropriation Report No. 95–1058, also makes reference to improvement of program management. The Report earmarks $4 million of the fiscal year 1979 SAE fund appropriation "for activities, including audits, to identify and take any needed corrective action concerning administrative problems in the school feeding programs—such as noncompliance with meal standards or (standards for implementation of) elegibility criteria and the submission of reimbursement claims which exceed actual meal costs."

Both laws reflect the concern of Congress and others concerning a number of areas of child nutrition program administration at the State and local levels. Studies conducted by the Department's Office of the Inspector General and the General Accounting Office have pointed to serious problems. The problems include, specifically, (1) free and reduced price meal applications being improperly approved or denied, (2) claims for free and reduced price meals exceeding the number of currently enrolled children approved for such meals, (3) meals being claimed in excess of average daily attendance, (4) inaccurate counting of free, reduced price and paid meals, (5) expenditure records not supporting reimbursements claimed, and (6) meals claimed for reimbursement lacking required components or quantities of components.

AIM System

Sharing the concern reflected in the referenced legislation and in response to the direction provided by it, the Department has worked over the past several months to develop a proposed system which it believes will resolve these problems. The system, known as AIMS is designed to assist States to identify management and operational problems and to develop effective corrective action procedures. Regulations to propose the AIM System will be publicly annouced so that the public will be able to review the system and provide comments to the Department to assist in refining the proposed system. The objectives of AIMS are (1) to analyze current State agency program management; (2) to foster improved State agency program administration; (3) to monitor the use of Federal funds; and (4) to protect the nutritional integrity of meals served under the child nutrition programs.

Funding for Management Improvement

In order to assist State agencies to meet the cost of dealing with these problems, the Department has set aside the $4 million of SAE fund discretionary money referred to above and will make it available to States for this purpose for fiscal year 1979. In subsequent fiscal years, the Department will continue to use a portion of discretionary SAE funds in this manner in amounts that are necessary to operate the system in an effective manner. This interim regulation sets out the formulae for the management improvement fund allocations which will be used for fiscal year 1979 and until such time as public comment both on the formulae and the AIM System which FNS will soon propose, have been evaluated and a final rule issued. The Department believes that given the time required to carry out the rulemaking process, to propose the formulae and subject them to comment and possible change for fiscal year 1979 would only impede the task of dealing with the problems cited above. In addition, the Department wishes to provide fiscal year 1979 funds under these conditions to States so that they can benefit from them while developing their comments based upon actual operating experiences.

Four allocation formulae have been established and function in the manner described below. In developing these formulae, the Department attempted to measure the workload that the anticipated AIM System would have on the individual States, linking the formulae to the problem areas with which the proposal would deal.

First, 40 percent of the management improvement funds will be allocated in equal shares to State agencies which administer the school feeding programs. This basic payment recognizes the fact that, other variables aside, implementation of management improvement activity will cause all States to incur additional administrative personnel costs.

Second, a percentage factor will be assigned to each State agency, based on a comparison of the number of School Food Authorities in the State to all School Food Authorities. The amounts allocated to the States will be determined by applying the percentage factor against an amount equal to 20 percent of the total management improvement SAE funds. This allocation is tied to the need under the proposed system to conduct specified numbers of reviews and audits of School Food Authorities each year. A State with a large number of School Food Authorities will obviously have a greater workload than one with relatively few.

Third, an additional percentage factor for each State agency will be developed, based on the number of free and reduced price meals served within the State compared to the number of free and reduced price meals served in all States. Each State's share will be derived by applying the factor to 20 percent of the total funds. This formula points out the fact that a major portion of the anticipated AIM System is directed at ensuring accurate and timely management of free and reduced price meal applications and accountability. The system envisions a comprehensive review of free and reduced price applications in a school. Thus, the

burden on State agency personnel will be dependent upon the numbers of free and reduced price applications involved.

Fourth, the remaining 20 percent will be allocated to State agencies as follows. Each State agency will be allocated one equal share for each School Food Authority in the State with an enrollment of 40,000 or more.

In States where there are two or fewer such School Food Authorities, the State agency will receive an equal share for each of the two largest, as long as each has an enrollment of more than 2,000. If either of the two has less than 2,000 enrollment, a share will not be provided for it. Finally, a State with only one School Food Authority regardless of size will receive one share. This last allocation is used because the anticipated AIM System would require more frequent reviews of and visits to the larger School Food Authorities on the grounds that generally speaking, large School Food Authorities are more likely to encounter the type of problem which AIMS addresses.

The percentages utilized under these allocations were chosen on the following basis. As suggested above, the base allocations representing 40 percent of total available funds, are provided in anticipation of increased personnel costs. The 40 percent figure was chosen because the dollar amount represented by its application to total available management improvement funds, divided equally among all States (approximately $30,000) is the amount FNS estimates is necessary to employ one administrative staff person for one year, including salary, benefits, support staff, travel and other related expenses. The remaining 60 percent was divided equally into three 20-percent allocation formulae because each of the factors (i.e., numbers of School Food Authorities, numbers of large School Food Authorities or numbers of free and reduced price meals) is significant and, at present, there is no evidence to warrant weighting one factor more heavily than the others. Given that fact, the Department is particularly interested in public comment on (1) the factors on which the formulae are based, (2) the percentages assigned to each factor, (3) the proposed allocation methodology itself, and (4) the methodology in light of the proposed AIM System. With regard to the last point, the Department believes that this system for providing management improvement funds must be analyzed as part of an overall analysis of the AIM System, when proposed for public comment.

Other Provisions

Current regulations provide that, in general, SAE funds are to be used by State agencies to pay salaries, including employee benefits and travel expenses; for support services; for office equipment; and for staff development, particularly for monitoring and training of local level food service personnel. Funds provided under this amendment are to be expended within the same guidelines. However, these funds must be used to establish systems for auditing, monitoring, technical assistance and follow-up.

This activity should center around the problems that will be suggested by the performance standards of the AIMS proposal. We anticipate that these will include analyzing approval procedures for free and reduced price meal applications; checking to determine whether or not approved free and reduced price meal applications reflect current enrollment; evaluating systems for recording and reporting meal counts; evaluating the validity of claims for reimbursement, including the number of meals reported by the category (i.e., free, reduced price and paid); evaluating the documentation and allowability of costs; and evaluating the nutritional integrity of meals, including the amounts of food served under required components.

Interim Fund Usage

At this time, the Department; is aware that implementation the AIM System cannot be expected until at least the second quarter of the 1979-80 school year, given the need to propose the AIM System for comment, evaluate comments, issue final rulemaking and allow States time to prepare for implementation. With this interim regulation, however, the Department intends to allocate management improvement SAE payments to State agencies according to the formulae found in this interim amendment until the anticipated AIMS regulation and this amendment are finalized. Until such time as AIMS is formally implemented, the Department is requiring that State agencies use management improvement SAE funds to establish systems for auditing, monitoring, technical assistance, and follow-up activity related to the six areas set forth above. The Department is taking this approach because it believes that the problems are sufficiently serious and widespread as to merit immediate attention. As part of the development of AIMS, discussions were held with representative State agency personnel and, as a result, the Department believes that there is agreement as to the areas where problems exist and that States can make meaningful use of these funds.

Prior to the allocation of funds to be made available under this amendment, each State agency will be advised of the amount of funds it will receive under the formulae for fiscal year 1979. At the same time, each will be asked to determine to what extent it can obligate the finds for the current fiscal year. Funds which cannot be obligated will be removed from the individual State's allocation and be made available to other States where they can be used on the same formulae basis. The amounts each State agency will earn in fiscal year 1979 under the formulae are set forth below.

Connecticut	$56,304
Maine	52,403
Massachusetts	95,246
New Hampshire	48,953
Rhode Island	45,331
Vermont	49,387
Delaware	42,191
District of Columbia	36,874
Maryland	62,439
New Jersey	64,033
New York	159,857
Pennsylvania	109,987
Puerto Rico	63,911
Virginia	70,142
Virgin Islands	35,841
West Virginia	53,700
Alabama	50,023
Florida	128,196
Georgia	62,889
Kentucky	64,525
Mississippi	68,828
North Carolina	85,866
South Carolina	64,019
Tennessee	66,162
Illinois	132,138
Indiana	70,947
Michigan	101,608
Minnesota	74,111
Ohio	136,730
Wisconsin	95,452
Arkansas	64,602
Louisiana	83,045
New Mexico	52,367
Oklahoma	73,572
Texas	165,260
Colorado	53,520
Iowa	71,489
Kansas	80,117
Missouri	89,633
Montana ED	51,789
Montana HD	28,308
Nebraska	59,283
North Dakota	51,216
South Dakota	51,488
Utah	45,041
Wyoming	42,744
Alaska	42,106
American Samoa	34,505
Arizona	73,338
California	206,115
Guam	34,595
Hawaii	37,022
Idaho	45,857
Nevada	41,836
Oregon	61,870
Trust Territory (including No. Marianas)	42,300
Washington	58,889
Total	4,000,000

Final Regulation Issuance

Robert Greenstein, Administrator, FNS, has determined that the issuance of this regulation in an interim, rather than proposed, form is necessary and in the best interest of the public, the programs, and the persons served by the programs. This is because the Department is interested in issuing funds earmarked for management improvement which are currently available for use in fiscal year 1979 as soon as possible so that State may use these additional funds to design and implement their own review and monitoring system at this time, in anticipation of the establishment of a formal AIM System in the future. It was originally planned that this regulation would be issued at the same time the AIM System was proposed, and that it would be a part of the total AIM System package. However, the Department now believes the AIM System needs further review and study, including a complete review of Regional and State comments received over the past year, prior to its issuance as a proposal for public comment. It was therefore determined that this part of the AIM System governing fund allocations should be extracted out and allowed to be published for the purpose of immediate funds release for fiscal year 1979 AIMS funding and until such times as the AIMS regulations are finalized. The public is encouraged to comment on this interim rule. Comments on the allocation formula are welcomed from State agencies, who by actual operations have received the benefits of this experience and can provide especially meaningful input into the development of a final AIMS allocation formula. For added public understanding of the AIM System and to encourage additional comments, this regulation will again be published in the **Federal Register** when the entire AIM System

regulations are proposed (expected in the near future).

The Department expects to finalize this amendment when the entire AIMS package, having been proposed, is finalized. In the interval, until such time as the funding formulae are issued in final regulatory form, the formulae in this amendment will remain in effect.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

Accordingly, 7 CFR Part 235 is amended on an interim basis as follows:

1. § 235.4 is amended by adding a new paragraph (b–1) as follows:

§ 235.4 Allocations of funds to States.

* * * * *

(b–1) For the fiscal year ending September 30, 1979, and for each succeeding fiscal year, FNS shall allocate to each State agency amounts derived by application of the following formulae. Funds issued under this paragraph shall be subject to the recall and reallocation provision of paragraph (e) of this section, except that for the fiscal year ending September 30, 1979, funds shall be allocated to States only to the extent that FNS determines that they can be obligated by the States during the fiscal year.

(1) One equal share of the forty (40) percent of the funds designated by FNS for use in program management improvement.

(2) The ratio of the number of School Food Authorities within the State to School Food Authorities in all States times twenty (20) percent of the funds designated by FNS for use in program management improvement.

(3) The ratio of the number of free and reduced price meals served within the State during the second preceding fiscal year to free and reduced price meals served in all States in the second preceding fiscal year times twenty (20) percent of the funds designated by FNS for use in program management improvement.

(4) Equal shares of twenty (20) percent of the funds designated by FNS for use in program management improvement for each School Food Authority which has an enrollment of 40,000 or more; *Provided, however,* That in States where there are fewer than two School Food Authorities with enrollments of 40,000, or more, an equal share shall be provided to the State agency, for either, or both of the two largest School Food Authorities which have enrollments of more than 2,000 and: *Provided further,* That States with only one School Food Authority, regardless of size, shall be provided with one equal share.

* * * * *

2. § 235.6 is amended by adding a new paragraph (a–1) as follows:

§ 235.6 Use of funds.

* * * * *

(a–1) State Administrative Expense Funds paid to any State agency under § 235.4(b–1) shall be available for activities associated with improving program management, and shall be used for administrative expenses in connection with auditing, monitoring and carrying out corrective actions to ensure adherence to the following program performance standards.

(1) All applications for free and reduced price meals are validly approved or correctly denied.

(2) Free and reduced price meals claimed for reimbursement are less than or equal to the number of currently enrolled children approved for (i) free and (ii) reduced price meals respectively, times the days of operation for the reporting period.

(3) The total number of meals claimed for reimbursement is equal to or less than the average daily attendance for days of operation times the days of operation for the reporting period.

(4) The system for counting and recording meal totals for paid, free and reduced price meals claimed for reimbursement at both School Food Authority and school levels yields correct claims.

(5) Reimbursement claimed for meals is limited to allowable costs, as documented by reviewable records.

(6) Meals claimed for reimbursement contain food components and quantities as required by regulations and as documented by reviewable production records.

* * * * *

This proposal has been reviewed under USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Draft Impact Analysis is available from the Office of the Director, School Programs Division, USDA, FNS, Washington, D.C. 20250.

Dated: September 7, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79–33539 Filed 10–29–79; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 235

School Nutrition Programs; State Administrative Expense Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of comment period for interim rule.

SUMMARY: Notice is hereby given that the period for receipt of comments on the interim rule published September 14, 1979 (44 FR 53487) is extended from November 13, 1979 to January 2, 1980.

DATES: Effective September 7, 1979 as an interim. Comments are due on or before January 2, 1980.

ADDRESS: Comments should be sent to Margaret O'K. Glavin, Director, School Programs Division, USDA, FNS, Washington, D.C. 20250. Comments received in response to the issuance of this regulation will be available for inspection by interested parties in Room 4300B, Auditors Building, 14th Street and Independence Avenue, S.W., Washington, D.C. during regular business hours (8:30 a.m. to 5:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett or Barbara Hallman at the above address or by phone (202) 447-9069.

SUPPLEMENTARY INFORMATION: This interim regulatory amendment is reprinted following exactly as it appeared in the **Federal Register** at 44 FR 53487 for the convenience of the reader. Complete supplementary information is available therein.

Dated: October 25, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-33540 Filed 10-29-79: 8:45 am]

BILLING CODE 3410-30-M

federal register

Tuesday
October 30, 1979

Part IV

Department of the Interior

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Determination That Various Plants Are Endangered

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That Three Hawaiian Plants Are Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that *Stenogyne angustifolia* var. *angustifolia*, *Haplostachys haplostachya* var. *angustifolia* and *Lipochaeta venosa* are Endangered species. All three plants are confined to Kipuka Kalawamauna, an area on the Island of Hawaii, Hawaii, and have declined as the result of grazing by feral animals, competition with exotic vegetation, and human disturbance of their habitat. The present action will afford these three taxa the protection provided by the Endangered Species Act of 1973, as amended.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (703/235–1975).

SUPPLEMENTARY INFORMATION:

Background

The three plants treated in the present rule are definitely known at the present time only from populations within Kipuka Kalawamauna, on the Island of Hawaii, Hawaii, although all were once more widely distributed on the island. A kipuka is a vegetated area surrounded by relatively recent lava flows. The extirpation of historic populations of these taxa has apparently been due to human disturbance and the impact of feral animals and introduced weedy vegetation, rather than volcanic activity.

Section 12 of the Endangered Species Act of 1973 (hereinafter, the Act) directed the Secretary of the Smithsonian Institution to conduct a review of species of plants which were then or might become Endangered or Threatened according to the criteria set forth in the Act. That review led to the publication of House Document 94–51, Report on Endangered and Threatened Plant Species of the United States, which included a list of those plant species of the United States considered by the Smithsonian Institution to qualify for Endangered or Threatened status as defined in the Act. That report was accepted by the Service as a petition within the context of the Act, and was the principal basis for a notice published by the Service in the **Federal Register** of July 1, 1975 (40 FR 27824–27924), indicating that over 3,000 plant taxa were being considered by the Service for listing as Endangered or Threatened.

Subsequently, in the June 16, 1976 **Federal Register** (41 FR 24524–24572), the Service published a proposal advising that sufficient evidence was then on file to support determinations that 1,783 plant taxa were Endangered species as defined by the Act. That proposal indicated that each of the included taxa was in danger of extinction over all or a significant portion of its range because of one or more of the factors set forth in Section 4(a) of the Act as appropriate grounds for a determination of Endangered status; specified prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from all interested persons. A public hearing regarding the proposal was held on July 14, 1976, in Honolulu, Hawaii. Notification of the proposal and a solicitation for comments or suggestions were sent on July 1, 1976 to the Governor of Hawaii and other interested parties. *Haplostachys haplostachya* var. *angustifolia*, *Lipochaeta venosa*, and *Stenogyne angustifolia* var. *angustifolia*, were among the taxa included in House Document 94–51, the July 1, 1975 notice and the June 16, 1976 proposal.

In the June 24, 1977 **Federal Register**, the Service published a final rule (43 FR 32373–32381, codified at 50 CFR, Part 17) detailing regulations to protect Endangered and Threatened plant species. The rule established prohibitions and a permit procedure to grant exemptions to the prohibitions under certain circumstances.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Summary of Comments and Recommendations

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any species to the List of Endangered and Threatened Wildlife and Plants. In keeping with the spirit of this requirement, such summaries are also included in rules listing plant species as Endangered or Threatened.

All comments received during the period from June 16, 1976 to September 1, 1979 were considered in formulating the present final rule. Most comments did not address themselves to particular plant taxa, but rather expressed general points of view regarding plant conservation. Such general comments were summarized in the **Federal Register** of April 26, 1978 (43 FR 17910–17916).

The State of Hawaii provided a list of species it considered to qualify for Endangered status in the state. Of the taxa treated in the present rule, only *Lipochaeta venosa* appeared on the list provided by the State. At that time, *Haplostachys haplostachya* var. *angustifolia* was believed to be extinct and was presumably omitted for that reason. No reason was stated for the absence of *Stenogyne angustifolia* var. *angustifolia* from the list; but from comments provided by the State, it appears that the taxon was considered ineligible because of its taxonomic status as a variety, rather than a species or subspecies. The Service has previously explained its policy of treating the ranks of subspecies and varieties of plants as interchangeable for purposes of the Act (43 FR 17910–17916).

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Haplostachys haplostachya* (Gray) St. John var. *angustifolia* (Sherff) St. John, *Stenogyne angustifolia* Gray var. *angustifolia*, and *Lipochaeta venosa* Sherff are in danger of becoming extinct throughout all or a significant portion of their known ranges due to the factors enumerated in Section 4(a) of the Act, as amplified below:

1. *The present or threatened destruction, modification, or curtailment of habitat or range.* Suitable habitats within the confirmed range of these taxa have been adversely affected by the grazing and browsing of feral sheep and goats and by trampling by military units using the Pohakuloa training area. Accidental fires set by hunters or military ordnance have also destroyed native vegetation in the area. Sites disturbed by burning, trampling or grazing are often invaded by exotic weedy plants, to the exclusion of native species. All three taxa have apparently been extirpated in portions of their historic ranges by similar factors.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not known to affect these taxa.

3. *Disease or Predation.* Direct exploitation as a food source by feral goats and sheep has undoubtedly had a

serious impact on these plants, as it has generally on native plants in Hawaii.

4. *The inadequacy of regulatory mechanisms.* The army prohibits the removal of native vegetation on the Pohakuloa Training Area. With respect to the subject taxa, listing as Endangered would tend to reinforce this existing restriction.

5. *Other natural or manmade factors affecting continued survival.* It is possible that material of these taxa has been cut and used as camouflage for military vehicles and personnel during maneuvers. It is common practice for vegetation in the area to be used indiscriminately for such purposes.

Effect of the Rulemaking

Section 7(a) of the Act, as amended, provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consulatation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for interagency cooperation were published on January 4, 1978, in the **Federal Register** (43 FR 870–876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. The present rule requires Federal agencies to satisfy these statutory and regulatory obligations with respect to the plants treated herein. Endangered species regulations in Title 50 Part 17 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations which pertain to Endangered plants are found at Section 17.61–17.63 (42 FR 32373–32381).

With respect to these plants, all pertinent prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR Part 17.61 will apply. These prohibitions, in general, make it illegal for any person subject to the jurisdiction of the United States to import or export Endangered plants; deliver, receive, carry, transport, or ship them in interstate commerce in the course of a commercial activity; or to sell or offer them for sale in interstate or foreign commerce.

Section 10 of the Act and the regulations referred to above provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

In addition to the protection provided by the Act, the Service will review these plants to determine whether they should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix (ices) to that Convention or whether they should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation [to determine a species to be Endangered or Threatened] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

The three species treated in this rule are known at present to occur only in one small portion of the Pohakuloa Training Area, adjacent to and easily accessible from a jeep road that is open to the public. It is not considered prudent at the present time to specify an area of Critical Habitat for these species because of the threat of vandalism. All three occur in such small numbers that any picking or cutting would seriously jeopardize their survival.

The primary authors of this rule are Dr. Derral Herbst, U.S. Fish and Wildlife, Service, 300 Ala Moana Blvd., Room 5302, Honolulu, Hawaii 96850, and Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Regulation Promulgation

Accordingly, § 17.12 of Part 17 Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order, by family genus, and species, the following plants:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Asteraceae—Aster family:						
Lipochaeta venosa	None	U.S.A. (HI)	Entire	E	69	NA
* *	*	*	*	*	*	*
Lamiaceae—Mint Family:						
Haplostachys haplostachya var. *angustifolia*	None	U.S.A. (HI)	Entire	E	69	NA
Stenogyne angustifolia var. *angustifolia*	None	U.S.A. (HI)	Entire	E	69	NA
* *	*	*	*	*	*	*

Dated: October 23, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-33572 Filed 10-29-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That *Kokia cookei* Is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines that *Kokia cookei* (Cooke's kokio) is an Endangered species. This plant has been extirpated from the wild in its native range on the island of Molokai, Hawaii and now survives as a single specimen in an arboretum. The disappearance of the wild population of this species was due to destruction of its native habitat by the activities of domestic livestock. The present action will afford this species the protection provided by the Endangered Species Act of 1973, as amended.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703/235–2771,

SUPPLEMENTARY INFORMATION:

Background

The precise original range of *Kokia cookei* (Cooke's kokio) is unknown, but it was presumably a constituent of open lowland dry forest or scrub vegetation on western Molokai, County of Maui, Hawaii. Extensive habitat modification brought about principally by the activities of grazing animals resulted in its reduction to a single specimen in the early part of this century. Repeated attempts at propagating *K. cookei* have met with very limited success, so that at the present time the species is again represented by a single specimen, this one growing in an arboretum on the island of Oahu. In addition, tissue culture material of this species is maintained in a laboratory in Japan. The genus *Kokia* is confined to the Hawaiian islands and is related to *Gossypium*, which includes the cultivated cottons.

Section 12 of the Endangered Species Act of 1973 (hereinafter, the Act) directed the Secretary of the Smithsonian Institution to conduct a review of species of plants which were then or might become Endangered or Threatened according to the criteria set forth in the Act. That review led to the publication of House Document 94–51, Report on Endangered and Threatened Plant Species of the United States, which included a list of those plant species of the United States considered by the Smithsonian Institution to qualify for Endangered or Threatened status as defined in the Act. That report was accepted by the Service as a petition within the context of the Act, and was the principal basis for a notice published by the Service in the **Federal Register** of July 1, 1975 (40 FR 27824–27924), indicating that over 3000 plant taxa were being considered by the Service for listing as Endangered or Threatened.

Subsequently, in the June 16, 1976 **Federal Register** (41 FR 24524–24572), the Service published a proposal advising that sufficient evidence was then on file to support determinations that 1783 plant taxa were Endangered species as defined by the Act. That proposal indicated that each of the included taxa was in danger of extinction over all or a significant portion of its range because of one or more of the factors set forth in Section 4(a) of the Act as appropriate grounds for a determination of Endangered status; specified prohibitions which would be applicable if such a determination were made; and solicited comments, suggestions, objections, and factual information from all interested persons. A public hearing regarding the proposal was held on July 14, 1976, in Honolulu, Hawaii. Notification of the proposal and a solicitation for comments or suggestions were sent on July 1, 1976, to the Governor of Hawaii and other interested parties. *Kokia cookei* was among the taxa included in House Document 94–51, the July 1, 1975 notice, and the June 16, 1976 proposal.

In the June 24, 1977 **Federal Register**, the Service published a final rule (43 FR 32373–32381, to be codified at 50 CFR, Part 17) detailing regulations to protect Endangered and Threatened plant species. The rule established prohibitions and a permit procedure to grant exemptions to the prohibitions under certain circumstances.

The Department has determined that this is not a significant rule and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR 14.

Summary of Comments and Recommendations

Section 4(b)(1)(c) of the Act requires that a summary of all comments and recommendations received be published in the **Federal Register** prior to adding any resident species of wildlife to the list of Endangered and Threatened Wildlife. In keeping with the spirit of this requirement, such a summary is also included in any final rule listing a plant species as Endangered or Threatened.

All comments received during the period from June 16, 1976 to October 1, 1979 were considered in formulating the present final rule. Most comments did not address themselves to particular plant taxa, but rather expressed general points of view regarding plant conservation. Such general comments were summarized in the **Federal Register** of April 26, 1978 (43 FR 17910–17916).

The State of Hawaii provided a list of species it considered to qualify for Endangered status in the state. *Kokia cookei* was included in the list provided by the State. No other comments were received that specifically addressed this species.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Kokia cookei* Degener (Cooke's kokio) is in danger of becoming extinct throughout all of its range due to the factors described in Section 4(a) of the Act, as amplified below.

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The native habitat of *Kokia cookei* has been extensively modified, principally as a result of the activity of introduced cattle. Native Hawaiian vegetation is not adapted to the pressure of grazing by large herbivorous mammals and is extremely sensitive to such disturbance. Weedy exotic plants such as *Lantana camara* L., various species of *Stachytarpheta, Mimosa pudica* L. and various grasses, which are more resistant to grazing, have become the dominant vegetation in many of the drier parts of the state.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The bark of another species of *Kokia* was the source of a dye formerly used on fishnets. Similar use of *K. cookei* may have contributed to its decline, but this has not been confirmed.

3. *Disease or predation.* Livestock are reported to have eaten both leaves and bark of this species in the wild. Its rate of reproduction may have been reduced by insect larvae, which reportedly ate a large proportion of the seeds produced by the plants on Molokai.

4. *The inadequacy of regulatory mechanisms.* This species has never before been subjected to protective regulation.

5. *Other natural or manmade factors affecting its continued survival.* The showy red flowers of *Kokia* species may be adapted to pollination by birds.

Hawaiian honeycreepers, the principal native nectar-feeding birds, are presently extirpated in the native range of *Kokia cookei*, and this may have contributed to its decline. Seed set and seed viability have been low in cultivated specimens of this species, possibly as a result of repeated inbreeding and concomitant loss of genetic variability.

Effect of the Rulemaking

Section 7(a) of the Act, as amended, provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for interagency cooperation were published on January 4, 1978, in the **Federal Register** (43 FR 870–876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7(a) of the Act. The present rule requires Federal agencies to satisfy these statutory and regulatory obligations with respect to *Kokia cookei*. Endangered species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. The regulations which pertain to Endangered and Threatened species of plants are found at § 17.61–17.63 (42 FR 32373–32381).

With respect to this plant, all pertinent prohibitions of Section 9(a)(2) of the Act, as implemented by 50 CFR Part 17.61 would apply. These prohibitions, in general, make it illegal for any person subject to the jurisdiction of the United States to import or export Endangered plants; deliver, receive, carry, transport, or ship them in interstate commerce in the course of a commercial activity; or to sell or offer them for sale in interstate or foreign commerce.

Section 10 of the Act and the regulations referred to above provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Effect Internationally

In addition to the protection provided by the Act, the Service will review this plant to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate appendix to that Convention or whether it should be considered under other appropriate international agreements.

National Environmental Policy Act

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation [to determine a species to be Endangered or Threatened] is proposed, the Secretary shall by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Kokia cookei is presently known only from a single specimen in cultivation and tissue culture maintained in a laboratory. Because it has been extirpated from its natural range, it is not prudent at this time to designate an area of Critical Habitat for this species. Critical Habitat may be determined at a future date in connection with eventual efforts to re-introduce the species on Molokai.

The primary author of this rule is Dr. John J. Fay, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235–1975).

Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Section 17.12 is amended by adding, in alphabetical order, by family, genus, and species, the following plant:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Malvaceae—Mallow family:						
Kokia cookei	Cooke's kokio	U.S.A. (HI)	Entire	E	70	NA

Dated: October 23, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-33573 Filed 10-29-79 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That *Sclerocactus mesae-verdae* Is a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Sclerocactus mesae-verdae* (Mesa Verde cactus), a native plant of New Mexico and Colorado, to be a Threatened species. The plants are in demand by cactus collectors despite the fact that wild specimens usually die in cultivation, and removal by commercial

suppliers and private collectors continue to cause a decline in the natural populations. Populations also have been damaged by highway construction and right-of-way development for overhead transmission lines. Off-road vehicle activity is another current threat. This action will extend to this plant the protection provided by the Endangered Species Act of 1973, as amended.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C., 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant taxa to Congress on January 9, 1975. This report, designated as House Document No. 94–51, contained lists of over 3,100 U.S. vascular plant taxa considered by the Smithsonian Institution to be Endangered, Threatened, or extinct. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition to list these species under Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within, as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant taxa to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plants was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the above mentioned **Federal Register** publication.

Sclerocactus mesae-verdae was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. A public hearing on this proposal was held on July 22, 1976, in El Segundo, California. A second public hearing was held on July 12, 1979, in Albuquerque, New Mexico for five New Mexico cacti proposed as Endangered species, including this *Sclerocactus.*

In the June 24, 1977, **Federal Register** the Service published a final rule (42 FR 32373–32381, codified at 50 CFR Part 17) detailing the permit regulations to protect Endangered and Threatened plant species. The rule established prohibitions and permit procedures to grant exception to the prohibitions under certain circumstances.

The Department has determined that this listing rule does not meet the criteria for significance in the Department Regulations implementing Executive Order 12044 (43 CFR Part 14) or require the preparation of a regulatory analysis.

Summary of Comments and Recommendations

In keeping with the general intent of Section 4(b)(1)(C) of the Act, a summary of all comments and recommendations received is published in the **Federal Register** prior to adding any plant species to the List of Endangered and Threatened Wildlife and Plants.

Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature, in that they did not address individual plant species. Most comments addressed the progam or the concept of Endangered and Threatened Plants and their protection and regulation. These comments are summarized in the April 26, 1978, **Federal Register** publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909–17916). Some of these comments had addressed the general problems of conservation of cacti.

Additionally, many comments on the cactus trade were received in response to the June 7, 1976, proposed rule (41 FR 22915) on prohibitions and permit provisions for plants under Sections 9(a)(2) and 10 of the Act. These comments are summarized in the June 24, 1977, **Federal Register** final rule (42 FR 32373–32381) on plant trade prohibitions and permit provisions. Several persons at the recent public hearing in New Mexico indicated lack of familiarity with these prohibitions and permit provisions. Requests for copies of these final trade regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

With the July 2,1979, **Federal Register** notice (44 FR 38611) for the second public hearing on certain proposed southwestern cacti, comments on the species were again solicited, with an official comment period of July 2 through July 23, 1979. The Governors of New Mexico, Colorado and Arizona were notified of the proposal to list *Sclerocactus mesae-verdae* as an Endangered species. No reply regarding the species has been received from the states of Colorado and Arizona. Although the Governor of New Mexico himself submitted no comment on the proposed action, the New Mexico Natural Resources Department recommends the species be listed as Endangered, without Critical Habitat, indicating collectors are the most serious threat. The New Mexico Department of Agriculture briefly reported on the survival status of the cactus, and also indicated specific areas for the species should not be designated. It indicated that before listing the cactus as Endangered, the possible inadequacy of the laws and their implementation should be considered, and that listing might increase threats to the species. The Service is aware that listing under the Act might be harmful; however, in balance, it considers that providing the provisions of the Act to this species is more likely to prove beneficial than allowing continued inadequate management for the cactus.

Six other written comments were received concerning this species. The Navajo Nation, and the U.S. Forest Service, Region 3, recommend the cactus be listed as Endangered. The Southwest Region Office of the Bureau of Reclamation indicated concern that there was a lack of supporting data for the listing, and a lack of detailed information on Critical Habitat for the cactus. Extensive information on the cactus is on file and available in the Service's Albuquerque Regional Office and Washington Office of Endangered Species; it is not prudent to determine Critical Habitat for the cactus because it would increase threats to it, as explained further below. Two professional botanists and the Chairman of the Conservation Committee of the Cactus and Succulent Society of America supported the listing.

The Service has determined that this species should be listed as Threatened rather than Endangered because of its total population size and range, and because wider knowledge that field-collected specimens do not do well in cultivation should discourage taking and increase efforts to propagate the species horticulturally.

At the July 12, 1979, public hearing in Albuquerque, New Mexico, three persons knowledgeable on New Mexico cacti expressed support for listing this cactus as Threatened rather than Endangered; none opposed the listing.

When the plant regulations implementing Sections 9(a)(2) and 10 of the Act were proposed (41 FR 22915), many comments questioned the lack of any taking prohibition, and some suggested that the lack of such a prohibition may be a reason for keeping information on the localities of some

taxa secret. When these regulations were made final on June 24, 1977, the summary of comments included the following (42 FR 32376):

> The "taking" of plants is not prohibited by Section 9(a)(2) of the Act and, therefore, cannot be included within these regulations. However, the "taking" of plants is sometimes regulated by local, State, or Federal agencies under other legislation, and the Federal responsibilities under Section 7 apply if taking of individual plants would jeopardize the continued existence of the Endangered or Threatened species.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Sclerocactus mesae-verdae* (Boissevain ex Hill et Salisbury) L. Benson (mesa Verde cactus; synonyms: *Coloradoa mesae-verdae, Echinocactus mesae-verdae, Pediocactus mesae-verdae)* is likely to become in danger of extinction in the foreseeable future throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Sclerocactus mesae-verdae* are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The plant is known in southwestern Colorado from a possible location in Montrose County and primarily in Montezuma County, and from adjacent New Mexico in San Juan County. A 1963 report from northeastern Arizona has never been documented. The cactus is found in barren areas of the desert grasslands ecosystem. Populations have been damaged by highway construction, and right-of-way development for overhead transmission lines. Off-road vehicle activity is a current threat. The proposed Bureau of Reclamation pipeline for the Gallup-Navajo Indian Water Supply Project would threaten less than one percent of the individuals known. Uranium exploration is proposed south of the majority of the known populations, that is to the south of Shiprock, New Mexico.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* This species' major threat remains repeated taking by commercial and private collectors, despite the fact that it does poorly in cultivation. Wild plants have been offered for sale nationally and internationally.

3. *Disease or predation* (including grazing). An insect larva hollows out and kills significant numbers of plants in some populations. Cattle, sheep and horses graze in the general area, but it is not known whether they cause trampling damage to the species.

4. *The inadequacy of existing regulatory mechanisms.* Colorado has no law which protects this cactus. New Mexico State Law, Chapter 76, Article 8, Sections 1–4, affords limited protection within 400 yards of any highway to all plants, and mentions that all species of *Sclerocactus* are among the protected plants. The protection includes limited prohibitions against destruction, mutilation or removal of living plants (except seeds) on State or private land. Some populations of this species may be within 400 yards along roads in the Four Corners area. New Mexico State Law, Chapter 76, Article 5, Section 21, requires an application to sell collected wild plants, and designation of the wild source area.

In addition, all native cacti are on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, this Convention only regulates export of the cactus and, therefore, does not regulate interstate or intrastate trade in the cactus, or habitat destruction.

Although the Bureau of Land Management regulations (43 CFR 6010.2) prohibit the removal, destruction, and disturbance of vegetative resources unless such activities are specifically allowed or authorized, they do not address this cactus directly. Indian Reservations have the authority through tribal resolutions to restrict the taking of plants on their lands as well. The Endangered Species Act, as amended, will now offer additional protection for the species.

5. *Other natural or man-made factors affecting its continued existence.* The cactus appears to be generally restricted to a particular soil type in the area. This restriction has made it difficult to maintain in cultivation, and resulted in repeated removals of wild plants to fulfill hobby interests in the species.

Effect of the Rulemaking

Section 7(a) of the Act, as amended in 1978, provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any Endangered species or Threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for Interagency Cooperation were published on January 4, 1978, in the **Federal Register** (43 FR 870–876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. This rulemaking requires Federal agencies to satisfy these statutory and regulatory obligations with respect to this species. New rules implementing the 1978 Amendments to Section 7 of the Act are being prepared now by the Service.

Endangered and Threatened species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all such species. The principal regulations which pertain to Threatened plant species are found at §§ 17.71 and 17.72 (43 FR 32380–32381). All provisions of Section 9(a)(2) of the Act, as implemented by § 17.71, will apply. With respect to any species of plant listed as Threatened, it is, in general, illegal for any person subject to the jurisdiction of the United States to import or export such species; deliver, receive, carry, transport, or ship such species in interstate or foreign commerce by any means and in the course of a commercial activity; or sell or offer such species for sale in interstate or foreign commerce. Certain exceptions apply to agents of the Service and State conservation agencies.

Section 10 of the Act and regulations published in the **Federal Register** of June 24, 1977 (42 FR 32373–32381, 50 CFR Part 17), provide for the issuance of permits, under certain circumstances, to carry out otherwise prohibited activities involving Threatened plants, such as trade in specimens of cultivated origin.

Effect Internationally

In addition to the protection provided by the Act, all native cacti are on Appendix II of the Convention of International Trade in Endangered Species of Wild Fauna and Flora, which requires a permit for export of this plant. The Service will review whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western

Hemisphere or other appropriate international agreements.

National Environmental Policy Act

A final Environmental Assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which significantly affects the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation [to determine a species to be an Endangered or Threatened species] is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Sclerocactus mesae-verdae has been and is threatened by taking, and the taking of plants is not directly prohibited by the Endangered Species Act of 1973. The State of New Mexico and the Bureau of Land Management would have increased burdens to enforce their general prohibitions on removal of plants. Indian tribal authority also has not halted collecting. Publication of Critical Habitat maps would make this species more vulnerable to taking and therefore it would not be prudent to determine Critical Habitat.

Sclerocactus mesae-verdae was proposed for listing as an Endangered species on June 16, 1976 (41 FR 24536). Since it has been determined not to be prudent to designate Critical Habitat for this species at this time, and all other listing requirements of the Act have been satisfied, the Service now proceeds with the final rule to determine this species to be Threatened under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; 87 Stat. 884).

The primary author of this rule is Dr. Bruce MacBryde, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Add, in alphabetical order by family, genus, and species, the following plant:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion endangered			
Cactaceae—Cactus family:						
Sclerocactus mesae-verdae	Mesa Verde cactus	U.S.A. (CO, NM)	Entire	T	71	NA

Dated: October 24, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-33574 Filed 10-29-79; 8:45 am]

BILLING CODE 4310-55-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner, Office of Assistant Secretary for Housing—

56608 10–1–79 / Management and Disposition of HUD-owned multifamily housing projects

List of Public Laws

Last Listing October 26, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 567 / Pub. L. 96–91 To amend title 28 of the United States Code to allow the United States attorney and assistant United States attorneys for the Eastern District of New York to reside within twenty miles of the district. (Oct. 25, 1979; 93 Stat. 700) Price $.75.

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WASHINGTON, D.C.

WHEN: Nov. 16* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235 or Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

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